



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

Requirements relating to information and samples

108 Retention of information and samples

- (1) Regulations made by the Secretary of State may require—
 - (a) specified licensees to retain specified carbon storage information;
 - (b) specified licensees to retain specified carbon storage samples.
- (2) “Specified” means specified, or of a description specified, in regulations under this section.
- (3) Regulations under this section may include provision about—
 - (a) the form or manner in which information or samples are to be retained;
 - (b) the period for which information or samples are to be retained;
 - (c) the event that triggers the commencement of that period.
- (4) Regulations under this section may provide for requirements imposed by the regulations to continue following a termination of rights under the licensee’s carbon storage licence (whether by transfer, surrender, expiry or revocation and whether in relation to all or only part of the licence).
- (5) Regulations under this section may not impose requirements which have effect in relation to particular carbon storage information or particular carbon storage samples

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at any time when an information and samples plan dealing with the information or samples has effect.

- (6) Requirements imposed by regulations under this section are sanctionable in accordance with this Chapter.
- (7) Before making regulations under this section, the Secretary of State must consult each licensing authority that may under section 18(1) of the Energy Act 2008 grant a licence in respect of the carrying on, in a place to which the regulations would apply, of activities within section 17(2) of that Act.
- (8) Regulations under this section are subject to the negative procedure.

Commencement Information

II [S. 108](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

109 Preparation and agreement of information and samples plans

- (1) The responsible person must prepare an information and samples plan in connection with any of the following (each “a licence event”)—
 - (a) where a licensee is a company, a change in control of the company within the meaning of paragraph 6 of Schedule 1 to the Carbon Dioxide (Licensing etc.) Regulations 2010 ([S.I. 2010/2221](#)) (inserted by [Schedule 6](#) to this Act);
 - (b) a change in the identity of—
 - (i) the exploration operator under a carbon storage licence, or
 - (ii) where a storage permit has been granted under a carbon storage licence, the operator in relation to the storage permit (within the meaning of regulation 1(3) of the Carbon Dioxide (Licensing etc.) Regulations 2010);
 - (c) a transfer of rights under a carbon storage licence, whether in relation to all or part of the area in respect of which the licence was granted;
 - (d) a surrender of rights under a carbon storage licence in relation to all of the area in respect of which the licence was granted, or in relation to so much of that area in respect of which the licence continues to have effect;
 - (e) the expiry of a carbon storage licence;
 - (f) the termination of a carbon storage licence;
 - (g) the revocation of a storage permit.
- (2) “Responsible person”, in relation to a licence event, means the person who is or was, or the persons who are or were, the licensee in respect of the relevant licence immediately before the licence event.
- (3) “Relevant licence”, in relation to a licence event, means the carbon storage licence in respect of which the licence event occurs.
- (4) “Information and samples plan”, in relation to a licence event, means a plan dealing with what is to happen, following the event, to—
 - (a) carbon storage information held by the responsible person before the event, and
 - (b) carbon storage samples held by that person before the event.

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- (5) The responsible person must agree the information and samples plan with the OGA—
- (a) in the case of a licence event mentioned in [subsection \(1\)\(a\), \(b\), \(c\), \(d\) or \(e\)](#), before the licence event takes place, or
 - (b) in the case of a licence event mentioned in [subsection \(1\)\(f\) or \(g\)](#), within a reasonable period after the termination of the carbon storage licence or revocation of the storage permit.
- (6) An information and samples plan has effect once it is agreed with the OGA.
- (7) If an information and samples plan is not agreed with the OGA as mentioned in [subsection \(5\)\(a\) or \(b\)](#), the OGA—
- (a) may itself prepare an information and samples plan in connection with the licence event, and
 - (b) may require the responsible person to provide it with such information as the OGA may require to enable it to do so.
- (8) The OGA must inform the responsible person of the terms of any information and samples plan it prepares in connection with a licence event.
- (9) Where the OGA—
- (a) prepares an information and samples plan in connection with a licence event, and
 - (b) informs the responsible person of the terms of the plan,
- the plan has effect as if it had been prepared by the responsible person and agreed with the OGA.
- (10) Where an information and samples plan has effect in connection with a licence event, the responsible person must comply with the plan.
- (11) The requirements imposed by [subsection \(5\)](#) and [\(10\)](#), or under [subsection \(7\)\(b\)](#), are sanctionable in accordance with this Chapter.

Commencement Information

I2 [S. 109](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

110 Information and samples plans: supplementary

- (1) Where an information and samples plan has effect in relation to a licence event, the OGA and the responsible person may agree changes to the plan.
- (2) Once changes are agreed, the plan has effect subject to those changes.
- (3) Where—
 - (a) two or more persons are the responsible person in relation to a licence event, and
 - (b) those persons include a company that has, since the licence event, been dissolved,

the reference to the responsible person in [subsection \(1\)](#) does not include that company.
- (4) An information and samples plan, in relation to a licence event, may provide as appropriate for—

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- (a) the retention, by the responsible person, of any carbon storage information or carbon storage samples held by or on behalf of that person before the licence event,
 - (b) the transfer of any such information or samples to a new licensee, or
 - (c) appropriate storage of such information or samples.
- (5) Where an information and samples plan makes provision under [subsection \(4\)](#) for a person, other than the responsible person, to hold information or samples in accordance with the plan—
- (a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and
 - (b) any such requirements are sanctionable in accordance with this Chapter.
- (6) An information and samples plan prepared by the OGA under [section 109](#) may not include provision under [subsection \(4\)\(b\)](#) for the transfer of information or samples to another person without the consent of the responsible person.
- (7) An information and samples plan may provide for the storage of information or samples as mentioned in [subsection \(4\)\(c\)](#) to be the responsibility of the OGA.
- (8) Where a transfer of rights under a carbon storage licence relates to only part of the area in relation to which the licence was granted, the information and samples plan prepared in connection with the transfer is to relate to all carbon storage information and carbon storage samples held by the responsible person before the licence event, and not only information and samples in respect of that part of the area.
- (9) In this section, “licence event” and “responsible person” have the same meaning as in [section 109](#).

Commencement Information

I3 [S. 110](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

111 Information and samples coordinators

- (1) A person within [subsection \(2\)](#) (a “relevant person”) must—
- (a) appoint an individual to act as an information and samples coordinator, and
 - (b) notify the OGA of that individual’s name and contact details.
- (2) The following persons are within this subsection—
- (a) a licensee, and
 - (b) an exploration operator under a carbon storage licence.
- (3) The information and samples coordinator is to be responsible for monitoring the relevant person’s compliance with its obligations under this Chapter.
- (4) A relevant person must comply with [subsection \(1\)](#) within a reasonable period after—
- (a) the date on which this section comes into force, if the person is a relevant person on that date, or
 - (b) becoming a relevant person, in any other case.

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- (5) The relevant person must notify the OGA of any change in the identity or contact details of the information and samples coordinator within a reasonable period of the change taking place.
- (6) The requirements imposed by this section are sanctionable in accordance with this Chapter.

Commencement Information

I4 [S. 111](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

112 Power of OGA to require information and samples

- (1) The OGA may by notice in writing, for the purpose of carrying out any of its functions under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), require—
 - (a) a licensee to provide it with any carbon storage information, or a portion of any carbon storage sample, held by or on behalf of the licensee;
 - (b) a person who holds information or samples in accordance with an information and samples plan to provide it with any such information or a portion of any such sample.
- (2) The notice must specify—
 - (a) the form or manner in which the information or the portion of a sample must be provided;
 - (b) the time at which, or period within which, the information or the portion of a sample must be provided.
- (3) Information requested under [subsection \(1\)](#) may not include items subject to legal privilege.
- (4) Requirements imposed by a notice under this section are sanctionable in accordance with this Chapter.
- (5) Where a person provides information or a portion of a sample to the OGA in accordance with a notice under this section, any requirements imposed on the person in respect of that information or sample by regulations under [section 108](#) are unaffected.

Commencement Information

I5 [S. 112](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

113 Prohibition on disclosure of information or samples by OGA

- (1) Protected material must not be disclosed—
 - (a) by the OGA, or
 - (b) by a subsequent holder,except in accordance with [section 114](#) or [Schedule 7](#).
- (2) In this section and in [Schedule 7](#)—

“protected material” means information or samples which have been obtained by the OGA under [section 112](#) or [124](#);

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“subsequent holder”, in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with [Schedule 7](#).

- (3) References to disclosing protected material include references to making the protected material available to other persons (where the protected material includes samples).

Commencement Information

I6 [S. 113](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

114 Power of Secretary of State to require information and samples

- (1) The Secretary of State may require the OGA to provide the Secretary of State with such information or samples held by or on behalf of the OGA as the Secretary of State may require for the purpose of—
- (a) carrying out any function conferred by or under any Act,
 - (b) monitoring the OGA's performance of its functions, or
 - (c) any Parliamentary proceedings.
- (2) The Secretary of State may use information or samples acquired under [subsection \(1\)](#) (“acquired material”) only for the purpose for which it is provided.
- (3) Acquired material must not be disclosed—
- (a) by the Secretary of State, or
 - (b) by a subsequent holder,
- except in accordance with this section.
- (4) For the purposes of [subsection \(3\)\(b\)](#), “subsequent holder”, in relation to acquired material, means a person who receives acquired material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.
- (5) [Subsection \(3\)](#) does not prohibit the Secretary of State from disclosing acquired material so far as necessary for the purpose for which it was provided.
- (6) [Subsection \(3\)](#) does not prohibit a disclosure of acquired material if—
- (a) the disclosure is required by virtue of an obligation imposed by or under any Act, or
 - (b) the OGA consents to the disclosure and, where the acquired material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure.
- (7) References in this section to disclosing acquired material include references to making the acquired material available to other persons (where the acquired material includes samples).

Commencement Information

I7 [S. 114](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

Changes to legislation:

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