



Energy Act 2023

2023 CHAPTER 52

PART 12

CORE FUEL SECTOR RESILIENCE

CHAPTER 2

POWERS FOR RESILIENCE PURPOSES

Directions

269 Directions to particular core fuel sector participants

- (1) The Secretary of State may, for the purpose of maintaining or improving core fuel sector resilience, direct a person to whom this section applies to do anything in relation to the person's relevant activities or assets (for example, to acquire and install specific equipment, or carry out specific works, at the person's own expense).
- (2) The Secretary of State may not give a direction under [subsection \(1\)](#) unless the Secretary of State considers that the persons to whom this section applies have failed to make sufficient progress with the steps that the Secretary of State considers necessary for maintaining or improving core fuel sector resilience.
- (3) Where there is disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may direct a person to whom this section applies to do anything in relation to the person's relevant activities or assets which the Secretary of State considers necessary or expedient for the purpose of—
 - (a) restoring continuity of supply of core fuels, or
 - (b) counteracting the disruption or failure, or its potential adverse impact.
- (4) If the Secretary of State considers that there is a significant risk of disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may direct a person to whom this section applies to do anything in relation to the person's relevant

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activities or assets which the Secretary of State considers necessary or expedient for the purpose of—

- (a) reducing the risk, or
 - (b) reducing the potential adverse impact of the disruption or failure.
- (5) The Secretary of State may not make a direction under subsection (1), (3) or (4) unless the Secretary of State considers—
- (a) that, the corresponding cases (if any) are not sufficiently numerous to justify making regulations under [section 272](#), or
 - (b) that, by reason of urgency, it is not practicable to achieve the aims of the direction by regulations under [section 272](#).
- (6) In [subsection \(5\)\(a\)](#) the reference to “corresponding cases” is to persons to whom this section applies in relation to whom the Secretary of State considers it would be appropriate to take action corresponding to the direction.
- (7) This section applies to the following persons—
- (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 500,000 tonnes;
 - (b) a [Part 12](#) facility owner if the owned facility has capacity in excess of 20,000 tonnes.
- (8) For the purposes of this Part—
- (a) a business “has capacity in excess of” a specified number of tonnes if in the most recently ended calendar year core fuel sector activities were carried on in that business in relation to more than that number of tonnes of core fuel;
 - (b) a facility or infrastructure “has capacity in excess of” a specified number of tonnes if in the most recently ended calendar year it was used for the purposes of core fuel sector activities in relation to more than that number of tonnes of core fuels.

270 Procedure for giving directions

- (1) Before giving a person a direction under [section 269](#) the Secretary of State must give the person a written notice accompanied by a draft of the proposed direction.
- (2) The notice under [subsection \(1\)](#) must—
- (a) state that the Secretary of State proposes to give the person a direction in the form of the accompanying draft;
 - (b) explain why the Secretary of State proposes to give the direction;
 - (c) state when it is intended that the direction will come into effect;
 - (d) specify a period within which the person may make written representations with respect to the proposal.
- (3) The period specified under [subsection \(2\)\(d\)](#) must begin with the date on which the notice is given to the person and must be not less than 14 days.
- (4) Before giving a direction under [section 269](#), the Secretary of State must consult—
- (a) so far as the direction relates to relevant activities or assets in England, Scotland or Wales, the Health and Safety Executive;
 - (b) so far as the direction relates to relevant activities or assets in England, the Environment Agency;

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- (c) so far as the direction relates to relevant activities or assets in Scotland, the Scottish Environment Protection Agency;
 - (d) so far as the direction relates to relevant activities or assets in Wales, the Natural Resources Body for Wales;
 - (e) so far as the direction relates to relevant activities or assets in Northern Ireland—
 - (i) the Health and Safety Executive for Northern Ireland, and
 - (ii) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
 - (f) any other persons the Secretary of State thinks appropriate.
- (5) The Secretary of State must decide whether to give the person the proposed direction (with or without modifications), after considering any representations made by—
- (a) the person mentioned in [subsection \(1\)](#), and
 - (b) any person consulted in accordance with [subsection \(4\)](#).
- (6) The Secretary of State must give written notice of that decision to the person mentioned in [subsection \(1\)](#).
- (7) If the decision is to give the proposed direction, the notice must—
- (a) contain the direction, and
 - (b) state the time when the direction is to take effect.
- (8) Consultation under [subsection \(4\)](#) with the Environment Agency, the Scottish Environment Protection Agency or the Natural Resources Body for Wales must be with reference to that body’s functions under the Control of Major Accident Hazards Regulations 2015 ([S.I. 2015/483](#)).
- (9) Consultation under [subsection \(4\)](#) with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland must be with reference to the department’s functions under the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 325](#)).

271 Offence of failure to comply with a direction

Any person who, without reasonable excuse, fails to comply with a direction given to the person under [section 269](#) commits an offence and is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

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Corresponding powers to make regulations

272 Corresponding powers to make regulations

- (1) The Secretary of State may, for the purpose of maintaining or improving core fuel sector resilience, by regulations require persons of a class or description specified in the regulations to do anything in relation to their relevant activities or assets.
- (2) The Secretary of State may not make any provision by regulations under [subsection \(1\)](#) unless the Secretary of State considers that the persons mentioned in paragraphs [\(a\)](#) and [\(b\)](#) of [subsection \(5\)](#) have failed to make sufficient progress with the steps that the Secretary of State considers necessary for maintaining or improving core fuel sector resilience.
- (3) Where there is disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may by regulations require persons of a class or description specified in the regulations to do anything in relation to their relevant activities or assets which the Secretary of State considers necessary or expedient for the purpose of—
 - (a) restoring continuity of supply of core fuels, or
 - (b) counteracting the disruption or failure, or its potential adverse impact.
- (4) If the Secretary of State considers that there is a significant risk of disruption to, or a failure of, continuity of supply of core fuels, the Secretary of State may by regulations require persons of a class or description specified in the regulations to do anything in relation to their relevant activities or assets which the Secretary of State considers necessary or expedient for the purpose of—
 - (a) reducing the risk, or
 - (b) reducing the potential adverse impact of the disruption or failure.
- (5) A class or description specified for the purposes of [subsection \(1\)](#), [\(3\)](#) or [\(4\)](#) may not include persons other than—
 - (a) persons carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes, or
 - (b) [Part 12](#) facility owners whose owned facility has capacity in excess of 1,000 tonnes.
- (6) Regulations under this section may provide that any person who, without reasonable excuse, fails to comply with a requirement imposed by the regulations commits an offence.
- (7) Before making regulations under this section the Secretary of State must consult—
 - (a) so far as the regulations relate to relevant activities or assets in England, Scotland or Wales, the Health and Safety Executive;
 - (b) so far as the regulations relate to relevant activities or assets in England, the Environment Agency;
 - (c) so far as the regulations relate to relevant assets or activities in Scotland, the Scottish Environment Protection Agency;
 - (d) so far as the regulations relate to relevant activities or assets in Wales, the Natural Resources Body for Wales;
 - (e) so far as the regulations relate to relevant activities or assets in Northern Ireland—
 - (i) the Health and Safety Executive for Northern Ireland, and

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- (ii) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
 - (f) any other persons the Secretary of State thinks appropriate.
- (8) Regulations under this section are subject to the affirmative procedure.
- (9) Consultation under [subsection \(7\)](#) with the Environment Agency, the Scottish Environment Protection Agency or the Natural Resources Body for Wales must be with reference to that body’s functions under the Control of Major Accident Hazards Regulations 2015 ([S.I. 2015/483](#)).
- (10) Consultation under [subsection \(7\)](#) with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland must be with reference to the department’s functions under the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 325](#)).

Information

273 Power to require information

- (1) The Secretary of State may by notice in writing require any of the following to provide the Secretary of State with information relating to their relevant activities or assets—
- (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes;
 - (b) a [Part 12](#) facility owner whose owned facility has capacity in excess of 1,000 tonnes.
- (2) The Secretary of State may by notice in writing require a relevant wetstock manager to provide the Secretary of State with information relating to the relevant activities or assets of a person carrying on core fuel sector activities to whom the relevant wetstock manager provides stock management services.
- (3) In this Part “relevant wetstock manager” means a person who provides to persons who make retail supplies of core fuels in the United Kingdom stock management services in respect of such supplies.
- (4) The Secretary of State may only require information under this section for the purpose of maintaining or improving core fuel sector resilience.
- (5) A notice under [subsection \(1\)](#) or [\(2\)](#) may—
- (a) specify the manner in which information is to be provided;
 - (b) specify time limits for providing information;
 - (c) require information to be provided at specified intervals.
- (6) Before giving a person a notice under [subsection \(1\)](#) or [\(2\)](#) the Secretary of State must—
- (a) notify the person in writing of the proposed contents of the notice and of the period within which the person may make written representations with respect to the proposed requirement, and
 - (b) consider any representations made by the person.
- (7) The period notified under [subsection \(6\)\(a\)](#) must begin on the date on which the notification is given and (subject to [subsection \(8\)](#)) must be not less than 14 days.

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- (8) The Secretary of State may notify a period under [subsection \(6\)\(a\)](#) that is less than 14 days but not less than 7 days if the Secretary of State considers that it is necessary to do so by reason of urgency.

274 Duty to report incidents

- (1) If at any time a person—
- (a) knows, or has reason to suspect, that a notifiable incident is occurring or has occurred, and
 - (b) meets the condition in [paragraph \(a\), \(b\) or \(c\) of subsection \(2\)](#),
- that person must notify the Secretary of State of the incident as soon as possible.
- (2) The conditions mentioned in [subsection \(1\)\(b\)](#) are that—
- (a) the person is carrying on core fuel sector activities in the course of a business which has capacity in excess of 500,000 tonnes;
 - (b) the person is a [Part 12](#) facility owner in whose case the owned facility has capacity in excess of 500,000 tonnes;
 - (c) the person is of a class or description specified in regulations made by the Secretary of State under this subsection.
- (3) In this section “notifiable incident”, in relation to a person, means an incident which affects the person’s relevant activities or assets in such a way as to create a significant risk of, or cause—
- (a) disruption to, or
 - (b) a failure of,
- the continuity of supply of core fuels.
- (4) The Secretary of State may by notice in writing require a person who has given a notice under [subsection \(1\)](#) to provide further information about the incident.
- (5) Before giving a person a notice under [subsection \(4\)](#) the Secretary of State must—
- (a) notify the person in writing of—
 - (i) the proposed contents of the notice, and
 - (ii) the period within which the person may make written representations with respect to the proposal, and
 - (b) consider any representations made by the person.
- (6) The period notified under [subsection \(5\)\(a\)\(ii\)](#) must begin on the date on which the notification is given and (subject to [subsection \(7\)](#)) must be not less than 14 days.
- (7) The Secretary of State may notify a period under [subsection \(5\)\(a\)\(ii\)](#) that is less than 14 days but not less than 7 days if the Secretary of State considers that it is necessary to do so by reason of urgency.
- (8) A notice under [subsection \(4\)](#) may specify—
- (a) the manner in which information is to be provided, and
 - (b) time limits for providing information.
- (9) Where a notification under [subsection \(1\)](#) is not made in writing, it must be confirmed in writing as soon as possible.

- (10) Regulations under [subsection \(2\)\(c\)](#) may specify the meaning that “relevant activities or assets” is to have in [subsection \(3\)](#) in relation to persons of a class or description of persons specified in the regulations.
- (11) Regulations under [subsection \(2\)\(c\)](#) are subject to the affirmative procedure.

275 Contravention of requirement under [section 273](#) or [274](#)

- (1) A person who, without reasonable excuse, fails to comply with a requirement imposed by a notice under [section 273\(1\)](#) or [\(2\)](#) or [274\(4\)](#) commits an offence.
- (2) A person who, without reasonable excuse, fails to comply with [section 274\(1\)](#) commits an offence.
- (3) A person who commits an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

276 Provision of information at specified intervals

- (1) The Secretary of State may by regulations require any of the following to provide to the Secretary of State, at intervals specified in the regulations, information relating to their relevant activities or assets—
- (a) a person carrying on core fuel sector activities in the course of a business which has capacity in excess of 1,000 tonnes;
 - (b) a [Part 12](#) facility owner whose owned facility has capacity in excess of 1,000 tonnes.
- (2) The Secretary of State may by regulations require a relevant wetstock manager to provide to the Secretary of State, at intervals specified in the regulations, information relating to the relevant activities or assets of a person carrying on core fuel sector activities to whom the relevant wetstock manager provides stock management services.
- (3) The power to make regulations under this section may only be exercised for the purpose of maintaining or improving core fuel sector resilience.
- (4) The regulations may make provision about—
- (a) the information to be provided;
 - (b) the manner in which information is to be provided;
 - (c) time limits for providing information.
- (5) Regulations under this section may provide that any person who, without reasonable excuse, fails to comply with a requirement imposed by the regulations commits an offence.
- (6) Regulations under this section are subject to the affirmative procedure.

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277 Disclosure of information held by the Secretary of State

- (1) Subsection (2) applies to information held by the Secretary of State which was provided to the Secretary of State under [section 273](#), [274](#) or [276](#).
- (2) The information may be disclosed—
 - (a) to any government department or devolved authority for the purpose of—
 - (i) maintaining or improving core fuel sector resilience, or
 - (ii) restoring, or counteracting a disruption to, or failure of, continuity of supply of core fuels (or counteracting the potential adverse impact of any such disruption or failure), or
 - (b) if the disclosure is necessary for the purpose of criminal proceedings.
- (3) Nothing in this section authorises the making of a disclosure which—
 - (a) contravenes the data protection legislation (as defined in section 3 of the Data Protection Act 2018), or
 - (b) is prohibited by any of Parts 1 to 7 of, or Chapter 1 of Part 9 of, the Investigatory Powers Act 2016.

In determining whether a disclosure would fall within paragraph (a) or (b), the powers conferred by this section are to be taken into account.

- (4) In subsection (2) “devolved authority” means—
 - (a) the Welsh Ministers,
 - (b) the Scottish Ministers, or
 - (c) a Northern Ireland department.

278 Disclosure of information by HMRC

- (1) His Majesty’s Revenue and Customs (or anyone acting on their behalf) may disclose information to the Secretary of State for the purpose of facilitating the exercise by the Secretary of State of functions relating to core fuel sector resilience.
- (2) A person who receives information as a result of this section may not—
 - (a) use the information for a purpose other than that mentioned in [subsection \(1\)](#), or
 - (b) further disclose the information,
 except with the consent of the Commissioners for His Majesty’s Revenue and Customs (which may be general or specific).
- (3) If a person discloses information in contravention of [subsection \(2\)\(b\)](#) which relates to a person whose identity—
 - (a) is specified in the disclosure, or
 - (b) can be deduced from it,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act.
- (4) This section does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.
- (5) Nothing in this section authorises the making of a disclosure which—

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- (a) contravenes the data protection legislation (as defined in section 3 of the Data Protection Act 2018), or
- (b) is prohibited by any of Parts 1 to 7 of, or Chapter 1 of Part 9 of, the Investigatory Powers Act 2016.

In determining whether a disclosure would fall within paragraph (a) or (b), the powers conferred by this section are to be taken into account.

Appeal against notice or direction

279 Appeal against notice or direction

- (1) A person to whom a direction under [section 269](#) or a notice under [section 273](#) or [274\(4\)](#) is given may appeal to the First-tier Tribunal against the direction or notice on the ground that the decision to give it—
 - (a) is based on an error of fact,
 - (b) is wrong in law, or
 - (c) is unfair or unreasonable.
- (2) On an appeal under this section the Tribunal may—
 - (a) confirm or cancel the direction or notice, or
 - (b) refer the matter back to the Secretary of State for reconsideration with such directions (if any) as the Tribunal considers appropriate.