



# Energy Act 2023

## 2023 CHAPTER 52

### PART 12

#### CORE FUEL SECTOR RESILIENCE

### CHAPTER 2

#### POWERS FOR RESILIENCE PURPOSES

##### *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

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*Status: This is the original version (as it was originally enacted).*

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- 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
    - (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).