



# Energy Act 2023

## 2023 CHAPTER 52

### PART 12

#### CORE FUEL SECTOR RESILIENCE

VALID FROM 11/01/2024

### CHAPTER 3

#### ENFORCEMENT

#### *Offences*

#### **280 False statements etc**

- (1) It is an offence for a person to make a statement which the person knows is false or materially misleading—
  - (a) in responding to a requirement imposed by the Secretary of State—
    - (i) under [section 273](#) (power to require information),
    - (ii) under [section 274\(4\)](#) (duty to report incidents), or
    - (iii) under regulations under [section 276](#) (provision of information at specified intervals), or
  - (b) in making any other statement to the Secretary of State in connection with any of the Secretary of State's functions under this Part.
- (2) 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);

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- (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).

#### Commencement Information

**II** S. 280 not in force at Royal Assent, see [s. 334\(1\)](#)

### 281 Offences under regulations

- (1) This section applies to regulations under—
  - (a) [section 272](#) (corresponding powers to make regulations);
  - (b) [section 276](#) (provision of information at specified intervals).
- (2) Regulations to which this section applies may provide for an offence under the regulations to be triable—
  - (a) only summarily, or
  - (b) either summarily or on indictment.
- (3) Regulations to which this section applies may provide for an offence under the regulations that is triable either way to be punishable—
  - (a) on summary conviction in England and Wales with imprisonment for a term not exceeding the period specified or a fine (or both);
  - (b) on summary conviction in Scotland or Northern Ireland with imprisonment for a term not exceeding the period specified or a fine not exceeding the statutory maximum (or both);
  - (c) on conviction on indictment, with imprisonment for a term not exceeding the period specified, which may not exceed two years, or a fine (or both).
- (4) A period specified under [subsection \(3\)\(a\)](#) may not exceed the general limit in a magistrates' court.
- (5) A period specified under [subsection \(3\)\(b\)](#) may not exceed—
  - (a) in relation to Scotland, 12 months;
  - (b) in relation to Northern Ireland, 6 months.
- (6) Regulations to which this section applies may provide for a summary offence under the regulations to be punishable—
  - (a) with imprisonment for a term not exceeding the period specified,
  - (b) with—
    - (i) in England and Wales, a fine (or a fine not exceeding an amount specified, which must not exceed level 4 on the standard scale), or
    - (ii) in Scotland or Northern Ireland, a fine not exceeding the amount specified, which must not exceed level 5 on the standard scale, or
  - (c) with both.
- (7) A period specified under [subsection \(6\)\(a\)](#) may not exceed—
  - (a) in relation to England and Wales—
    - (i) 6 months, in relation to offences committed before the date on which [section 281\(5\)](#) of the Criminal Justice Act 2003 comes into force, or

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- (ii) 51 weeks, in relation to offences committed on or after that date,
  - (b) in relation to Scotland, 12 months,
  - (c) in relation to Northern Ireland, 6 months.
- (8) In this section “specified” means specified in the regulations.

#### Commencement Information

**I2** S. 281 not in force at Royal Assent, see [s. 334\(1\)](#)

### 282 Proceedings for offences

Proceedings for an offence under this Part (including an offence created by regulations under [section 272](#) or [276](#))—

- (a) may not be brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) may not be brought in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

#### Commencement Information

**I3** S. 282 not in force at Royal Assent, see [s. 334\(1\)](#)

### 283 Liability of officers of entities

- (1) Where an offence under this Part committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of an officer of the body corporate, or
  - (b) to be attributable to neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) commits the offence and is liable to be proceeded against and dealt with accordingly.
- (2) In subsection (1) “officer”, in relation to a body corporate, means—
  - (a) any director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person purporting to act in any such capacity.
- (3) In subsection (2) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (4) Where an offence under this Part is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, or to be attributable to any neglect on the part of a partner, that partner (as well as the partnership) commits the offence and is liable to be proceeded against and dealt with accordingly.

#### Commencement Information

**I4** S. 283 not in force at Royal Assent, see [s. 334\(1\)](#)

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### *Enforcement undertakings*

#### **284 Enforcement undertakings**

- (1) Subsection (2) applies if—
  - (a) the Secretary of State has reasonable grounds to suspect that a person has committed an offence falling within [subsection \(5\)](#),
  - (b) the person offers to the Secretary of State an enforcement undertaking in respect of the relevant act or omission, and
  - (c) the Secretary of State accepts that undertaking.
- (2) Unless the person has failed to comply with the undertaking (or any part of it) the person may not at any time be convicted of that offence in respect of the relevant act or omission.
- (3) In this Part “enforcement undertaking” means an undertaking to take, within any period specified in the undertaking, action—
  - (a) for any of the purposes in [subsection \(4\)](#), or
  - (b) of a description specified in regulations made by the Secretary of State.
- (4) The purposes mentioned in [subsection \(3\)](#) are—
  - (a) to secure that the offence does not continue or recur,
  - (b) to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed, or
  - (c) to benefit any person affected by the offence.
- (5) The following offences fall within this subsection—
  - (a) an offence under—
    - (i) [section 271](#) (failure to comply with a direction),
    - (ii) [section 275](#) (contravention of requirement under [section 273](#) or [274](#)), or
    - (iii) [section 280](#) (false statements etc);
  - (b) an offence, other than an offence triable only summarily, that is created by regulations under—
    - (i) [section 272](#) (corresponding powers to make regulations), or
    - (ii) [section 276](#) (provision of information at regular intervals).
- (6) The reference in [subsection \(4\)\(c\)](#) to action to “benefit any person affected by the offence” includes action by way of the payment of a sum of money.
- (7) Where a person from whom the Secretary of State has accepted an enforcement undertaking has failed to comply fully with the undertaking but has complied with part of it, the partial compliance must be taken into account in any decision whether to institute any criminal proceedings in respect of the offence in question.
- (8) In this section “relevant act or omission” means an act or omission of the person to which the grounds mentioned in [subsection \(1\)\(a\)](#) relate.
- (9) Regulations under [subsection \(3\)\(b\)](#) are subject to the affirmative procedure.
- (10) [Schedule 20](#) contains further provision about enforcement undertakings, including provision about—
  - (a) procedure;

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- (b) compliance certificates;
- (c) appeals.

#### Commencement Information

**I5** S. 284 not in force at Royal Assent, see [s. 334\(1\)](#)

### Guidance

#### 285 Guidance: criminal and civil sanctions

- (1) The Secretary of State must issue guidance as to—
  - (a) the sanctions (including criminal sanctions) to which a person who commits an offence under this Part may be liable,
  - (b) the action which the Secretary of State may take to enforce offences under this Part, whether by virtue of [section 284](#) and [Schedule 20](#) or otherwise, and
  - (c) the circumstances in which the Secretary of State is likely to take any such action.
- (2) The Secretary of State—
  - (a) must issue guidance about how the Secretary of State intends to exercise the Secretary of State’s functions under [section 284](#) and [Schedule 20](#);
  - (b) must have regard to the guidance in exercising the Secretary of State’s functions under those provisions.
- (3) Before issuing guidance under this section, the Secretary of State must—
  - (a) prepare a draft of the proposed guidance;
  - (b) consult such persons as the Secretary of State considers appropriate;
  - (c) comply with the requirements of [section 286](#).
- (4) The Secretary of State may from time to time revise guidance issued under this section and issue revised guidance.
- (5) Subsection (3) applies to revised guidance as it applies to the original guidance.
- (6) The Secretary of State must arrange for the publication of guidance (or revised guidance) issued under this section.

#### Commencement Information

**I6** S. 285 not in force at Royal Assent, see [s. 334\(1\)](#)

#### 286 Guidance: Parliamentary scrutiny

- (1) Before issuing guidance under [section 285](#), the Secretary of State must lay a draft of the proposed guidance before both Houses of Parliament.
- (2) The Secretary of State must not issue the guidance until after the period of 40 days beginning with—
  - (a) the day on which the draft is laid before both Houses of Parliament, or

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- (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.
- (3) If before the end of that period either House resolves that the guidance should not be issued, the Secretary of State may not issue it.
- (4) In reckoning any period of 40 days for the purposes of [subsection \(2\)](#), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.

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**Commencement Information**

**I7** S. 286 not in force at Royal Assent, see [s. 334\(1\)](#)

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**Changes to legislation:**

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