

Status: Point in time view as at 31/01/2024.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 125

CARBON STORAGE INFORMATION AND SAMPLES: APPEALS

PART 1

APPEALS AGAINST DECISIONS RELATING TO INFORMATION AND SAMPLES

Appeals in relation to information and samples plans

- 1 (1) A person affected by any decision of the OGA to which effect is given by the preparation of an information and samples plan may appeal against it to the Tribunal—
 - (a) on the ground that the decision was not within the powers of the OGA, or
 - (b) on the ground that the plan is unreasonable.
- (2) On an appeal under this paragraph the Tribunal may—
 - (a) affirm, vary or quash the decision under appeal,
 - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
 - (c) substitute its own decision for the decision under appeal.

Commencement Information

II Sch. 8 para. 1 in force at 26.12.2023, see s. 334(3)(b)

Appeals against notices requiring provision of information or samples

- 2 (1) A person affected by any decision of the OGA to which effect is given by the giving of a notice requiring the provision of information or samples under [section 112](#) may appeal against it to the Tribunal—
 - (a) on the ground that the decision was not within the powers of the OGA, or
 - (b) on the ground that the length of time given to comply with the notice is unreasonable.
- (2) On an appeal under this paragraph the Tribunal may—
 - (a) affirm, vary or quash the decision under appeal,
 - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
 - (c) substitute its own decision for the decision under appeal.

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Commencement Information

I2 Sch. 8 para. 2 in force at 26.12.2023, see s. 334(3)(b)

PART 2

APPEALS RELATING TO ENFORCEMENT OF SANCTIONABLE REQUIREMENTS

Appeals in relation to sanction notices

- 3 (1) Where a sanction notice is given under [section 115](#) in respect of a failure to comply with a sanctionable requirement, an appeal may be made—
- (a) under [paragraph 4](#) (on the ground that there was no such failure to comply);
 - (b) under [paragraph 5](#) (against the sanction imposed by the notice).
- (2) Where an appeal is made in relation to a sanction notice, the notice ceases to have effect until a decision is made by the Tribunal to confirm, vary or cancel the notice.
- (3) Where, on an appeal made in relation to a sanction notice—
- (a) the Tribunal makes a decision to confirm or vary the notice, and
 - (b) an appeal is or may be made in relation to that decision,
- the Tribunal, or the Upper Tribunal, may further suspend the effect of the notice pending a decision which disposes of proceedings on such an appeal.

Commencement Information

I3 Sch. 8 para. 3 in force at 26.12.2023, see s. 334(3)(b)

Appeals against finding of failure to comply

- 4 (1) An appeal may be made to the Tribunal by the person, or by any of the persons, to whom a sanction notice is given in respect of a failure to comply with a sanctionable requirement, on the grounds that the person, or persons, did not fail to comply with the requirement.
- (2) On an appeal under this paragraph, the Tribunal may confirm or cancel the sanction notice.
- (3) Where sanction notices are given on more than one occasion in respect of the same failure to comply with a sanctionable requirement—
- (a) an appeal under this paragraph may be made only in relation to the sanction notice, or any of the sanction notices, given on the first of those occasions, and
 - (b) appeals in relation to sanction notices given on subsequent occasions in respect of that failure to comply may be made only under [paragraph 5](#).

Commencement Information

I4 Sch. 8 para. 4 in force at 26.12.2023, see s. 334(3)(b)

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Appeals against sanction imposed

- 5 (1) Where a sanction notice is given in respect of a failure to comply with a sanctionable requirement, a person mentioned in sub-paragraph (2) may appeal to the Tribunal against any of the decisions of the OGA mentioned in [sub-paragraph \(3\)](#) (as to the sanction imposed by the notice) on the grounds mentioned in [sub-paragraph \(4\)](#).
- (2) The persons who may appeal are—
- the person, or any of the persons, to whom the notice was given, and
 - in the case of an operator removal notice under [section 119](#), the licensee under whose carbon storage licence the exploration operator operates.
- (3) The decisions against which an appeal may be made are—
- where an enforcement notice has been given, the decision as to—
 - the measures that are required to be taken for the purposes of compliance with the sanctionable requirement, or
 - the period for compliance with the sanctionable requirement;
 - where a financial penalty notice has been given, the decision—
 - to impose a financial penalty, or
 - as to the amount of the financial penalty imposed;
 - where a revocation notice has been given, the decision to terminate the carbon storage licence or to revoke the storage permit;
 - where an operator removal notice has been given, the decision to require the removal of the exploration operator.
- (4) The grounds on which an appeal may be made are that the decision of the OGA—
- was unreasonable, or
 - was not within the powers of the OGA.
- (5) On an appeal under this paragraph against a decision made in relation to an enforcement notice, the Tribunal may—
- confirm or quash the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(a\)\(i\)](#) (remedial action), or
 - confirm or vary the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(a\)\(ii\)](#) (period for compliance),
- and confirm, vary or cancel the enforcement notice accordingly.
- (6) On an appeal under this paragraph against a decision made in relation to a financial penalty notice, the Tribunal may—
- confirm or quash the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(b\)\(i\)](#) (imposition of penalty), or
 - confirm or vary the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(b\)\(ii\)](#) (amount of penalty),
- and confirm, vary or cancel the financial penalty notice accordingly.
- (7) The Tribunal must have regard to any guidance issued by the OGA under [section 117\(6\)\(a\)](#) when deciding whether to confirm or vary a decision as to the amount of a financial penalty under [sub-paragraph \(6\)\(b\)](#).
- (8) On an appeal under this paragraph against a decision to terminate a carbon storage licence, to revoke a storage permit or to require the removal of an exploration operator the Tribunal may—

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- (a) confirm the decision,
 - (b) vary the decision by changing the revocation date or the removal date, as the case may be, or
 - (c) quash the decision,
- and confirm, vary or cancel the sanction notice in question accordingly.
- (9) Where a decision is quashed under [sub-paragraph \(5\)\(a\)](#), [\(6\)\(a\)](#) or [\(8\)](#), the Tribunal may remit the decision to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.

Commencement Information

15 [Sch. 8 para. 5](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

Appeals against information requirements

- 6 (1) A person to whom a notice is given under [section 124](#) may appeal against it to the Tribunal on the grounds that—
- (a) the giving of the notice is not within the powers of the OGA, or
 - (b) the length of time given to comply with the notice is unreasonable.
- (2) On an appeal under this paragraph the Tribunal may—
- (a) confirm, vary or cancel the notice, or
 - (b) remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.

Commencement Information

16 [Sch. 8 para. 6](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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