

*Status: Point in time view as at 26/12/2023.*  
*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 16

#### INTERIM POWER OF SECRETARY OF STATE TO GRANT LICENCES

- 1 (1) Sections 7 to 12 are to have effect with the following modifications until the end of the interim period.
- (2) In this Schedule “the interim period” means the period beginning when this Schedule comes into force and ending with whatever day the Secretary of State specifies by regulations.
- (3) Regulations under this paragraph are subject to the negative procedure.

#### Commencement Information

**I1** Sch. 1 para. 1 in force at 26.12.2023, see s. 334(3)(a)

- 2 In section 7 (power to grant licences)—
  - (a) in subsection (1) for “economic regulator” substitute “Secretary of State”;
  - (b) after subsection (2) insert—

“(3) As soon as practicable after granting a licence, the Secretary of State must send a copy of the licence to the economic regulator.”

#### Commencement Information

**I2** Sch. 1 para. 2 in force at 26.12.2023, see s. 334(3)(a)

- 3 In section 9 (procedure for licence applications)—
  - (a) in subsection (1), in the words before paragraph (a), for “Secretary of State, or the economic regulator with the approval of the Secretary of State,” substitute “Secretary of State”;
  - (b) in subsection (4), for “economic regulator”, in each place it occurs, substitute “Secretary of State”;
  - (c) for subsection (5) substitute—

“(5) A notice under subsection (4) must be given by—
    - (a) sending a copy of the notice to the economic regulator and any appropriate devolved authority, and
    - (b) publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence.”
  - (d) after subsection (10) insert—

“(10A) For the purposes of subsection (5), the “appropriate devolved authorities” are—

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- (a) the Scottish Ministers, if provision granting the licence in question would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- (b) the Welsh Ministers, if provision granting the licence in question would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
- (c) the Department for the Economy in Northern Ireland, if provision granting the licence in question—
  - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
  - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.”

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

- 4 In [section 12](#) (standard conditions of licences)—
- (a) in [subsection \(7\)\(b\)](#) omit “and the Secretary of State”;
  - (b) omit [subsection \(9\)](#).

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

SCHEDULE 2 U.K.

Section 21

PROCEDURE FOR APPEALS UNDER SECTION 20

*Application for permission to bring appeal*

- 1 (1) An application for permission to bring an appeal may be made—
- (a) only by sending a notice to the CMA requesting the permission, and
  - (b) only by a person entitled under [section 20](#) to bring the appeal if permission is granted.
- (2) Where the economic regulator publishes a decision to modify the conditions of any licence under [section 13\(8\)](#), any application for permission to appeal is not to be made after the end of 20 working days beginning with the first working day after the day on which the decision is published.

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- (3) An application for permission to appeal must be accompanied by all such information as may be required by appeal rules.
- (4) Appeal rules may require information contained in an application for permission to appeal to be verified by a statement of truth.
- (5) A person who applies for permission to bring an appeal in accordance with this paragraph is referred to in this Schedule as the appellant.
- (6) The appellant must send the economic regulator—
  - (a) a copy of the application for permission to appeal at the same time as it is sent to the CMA, and
  - (b) such other information as may be required by appeal rules.
- (7) The CMA’s decision whether to grant permission to appeal is to be taken by an authorised member of the CMA.
- (8) Before the authorised member decides whether to grant permission under this paragraph, the economic regulator must be given an opportunity to make representations or observations, in accordance with [paragraph 3\(2\)](#).
- (9) The CMA’s decision on an application for permission must be made—
  - (a) where the economic regulator makes representations or observations in accordance with [paragraph 3\(2\)](#), before the end of 10 working days beginning with the first working day after the day on which those representations or observations are received;
  - (b) in any other case, before the end of 14 working days beginning with the first working day after the day on which the application for permission is received.
- (10) The grant of permission may be made subject to conditions, which may include—
  - (a) conditions which limit the matters that are to be considered on the appeal in question,
  - (b) conditions for the purpose of expediting the determination of the appeal, and
  - (c) conditions requiring that appeal to be considered together with other appeals (including appeals relating to different matters or decisions and appeals brought by different persons).
- (11) Where a decision is made to grant or to refuse an application for permission, an authorised member of the CMA must notify the decision, giving reasons—
  - (a) to the appellant, and
  - (b) to the economic regulator.
- (12) A decision of the CMA under this paragraph must be published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is made.
- (13) Section [25\(2\)](#) applies to the publication of a decision under [sub-paragraph \(12\)](#) as it does to the publication of a decision under [section 25](#).

**Commencement Information**

**I5** Sch. 2 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

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### *Suspension of decision*

- 2 (1) The CMA may direct that, pending the determination of an appeal against a decision of the economic regulator—
- (a) the decision is not to have effect, or
  - (b) the decision is not to have effect to such extent as may be specified in the direction.
- (2) The power to give a direction under this paragraph is exercisable only where—
- (a) an application for its exercise has been made by the appellant at the same time that the appellant made an application (in accordance with [paragraph 1](#)) for permission to bring an appeal against a decision of the economic regulator;
  - (b) the economic regulator has been given an opportunity of making representations or observations, in accordance with [paragraph 3\(2\)](#);
  - (c) a person bringing the appeal who falls within [section 20\(2\)\(a\)](#) or (b) would incur significant costs if the decision were to have effect before the determination of the appeal, and
  - (d) the balance of convenience does not otherwise require effect to be given to the decision pending that determination.
- (3) The CMA’s decision on an application for a direction under this paragraph must be made—
- (a) where the economic regulator makes representations or observations in accordance with [paragraph 3\(2\)](#) before the end of 10 working days beginning with the first working day after the day on which those representations or observations are received;
  - (b) in any other case, before the end of 14 working days beginning with the first working day following the day on which the application under [sub-paragraph \(2\)\(a\)](#) is received.
- (4) The appellant must send the economic regulator a copy of the application for a direction under this paragraph at the same time as it is sent to the CMA.
- (5) The CMA’s decision whether to give a direction is to be taken by an authorised member of the CMA.
- (6) A direction under this paragraph must be—
- (a) given by an authorised member of the CMA, and
  - (b) published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is given.
- (7) [Section 25\(2\)](#) applies to the publication of a direction under [sub-paragraph \(6\)](#) as it does to the publication of a decision under [section 25](#).

#### **Commencement Information**

**I6** Sch. 2 para. 2 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

### *Time limit for representations and observations by the economic regulator*

- 3 (1) Sub-paragraph (2) applies where the economic regulator wishes to make representations or observations to the CMA in relation to—

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- (a) an application for permission to bring an appeal under [paragraph 1](#);
  - (b) an application for a direction under [paragraph 2](#).
- (2) The economic regulator must make the representations or observations in writing before the end of 10 working days beginning with the first working day after the day on which it received a copy of the application under [paragraph 1\(6\)](#) or [2\(4\)](#) as the case may be.
- (3) Sub-paragraph (4) applies where an application for permission to bring an appeal has been granted and the economic regulator wishes to make representations or observations to the CMA in relation to—
- (a) the economic regulator’s reasons for the decision in relation to which the appeal is being brought, or
  - (b) any grounds on which that appeal is being brought against that decision.
- (4) The economic regulator must make the representations or observations in writing before the end of 15 working days beginning with the first working day after the day on which permission to bring the appeal was granted.
- (5) The economic regulator must send a copy of the representations and observations it makes under this paragraph to the appellant.

**Commencement Information**

**I7** Sch. 2 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Determination of matter on appeal*

- 4 (1) A group constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the CMA with respect to an appeal under [section 20](#) must consist of three members of the CMA panel.
- (2) A decision of the group is effective if, and only if—
- (a) all the members of the group are present when it is made, and
  - (b) at least two members of the group are in favour of the decision.

**Commencement Information**

**I8** Sch. 2 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Matters to be considered on appeal*

- 5 (1) The CMA, if it thinks it necessary to do so for the purpose of securing the determination of an appeal within the period provided for by [section 24](#), may disregard—
- (a) any or all matters raised by an appellant that were not raised by that appellant at the time of the relevant application, and
  - (b) any or all matters raised by the economic regulator that were not contained in representations or observations made for the purposes of the appeal in accordance with [paragraph 3](#).

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(2) In this paragraph “relevant application” means an application under [paragraph 1](#) or [2](#).

**Commencement Information**

**I9** Sch. 2 para. 5 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Production of documents*

- 6 (1) For the purposes of this Schedule, the CMA may by notice require—
- (a) a person to produce to the CMA the documents specified or otherwise identified in the notice;
  - (b) any person who carries on a business to supply to the CMA such estimates, forecasts, returns or other information as may be specified or described in the notice in relation to that business.
- (2) The power to require the production of a document, or the supply of any estimate, forecast, return or other information, is a power to require its production or, as the case may be, supply—
- (a) at the time and place specified in the notice, and
  - (b) in a legible form.
- (3) No person is to be compelled under this paragraph to produce a document or supply an estimate, forecast, return or other information that the person could not be compelled to produce in civil proceedings in the High Court or Court of Session.
- (4) An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken of a document produced or an estimate, forecast, return or other information supplied under this paragraph.
- (5) A notice for the purposes of this paragraph—
- (a) may be issued on the CMA’s behalf by an authorised member of the CMA;
  - (b) must include information about the possible consequences of not complying with the notice (as set out in [paragraph 10](#)).

**Commencement Information**

**I10** Sch. 2 para. 6 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Oral hearings*

- 7 (1) For the purposes of this Schedule an oral hearing may be held, and evidence may be taken on oath—
- (a) by a person considering an application for permission to bring an appeal under [paragraph 1](#),
  - (b) by a person considering an application for a direction under [paragraph 2](#), or
  - (c) by a group with the function of determining an appeal;
- and, for that purpose, such a person or group may administer oaths.
- (2) The CMA may by notice require a person—

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- (a) to attend at a time and place specified in the notice, and
  - (b) at that time and place, to give evidence to a person or group mentioned in [sub-paragraph \(1\)](#).
- (3) At any oral hearing the person or group conducting the hearing may require—
  - (a) the appellant, or the economic regulator, if present at the hearing to give evidence or to make representations or observations, or
  - (b) a person attending the hearing as a representative of the appellant or of the economic regulator to make representations or observations.
- (4) A person who gives oral evidence at the hearing may be cross-examined by or on behalf of any party to the appeal.
- (5) If the appellant, the economic regulator, or the economic regulator’s representative is not present at a hearing—
  - (a) there is no requirement to give notice to that person under [sub-paragraph \(2\)](#), and
  - (b) the person or group conducting the hearing may determine the application or appeal without hearing that person’s evidence, representations or observations.
- (6) No person is to be compelled under this paragraph to give evidence which that person could not be compelled to give in civil proceedings in the High Court or Court of Session.
- (7) Where a person is required under this paragraph to attend at a place more than 10 miles from that person’s place of residence, an authorised member of the CMA must arrange for that person to be paid the necessary expenses of attendance.
- (8) A notice for the purposes of this paragraph may be issued on the CMA’s behalf by an authorised member of the CMA.

#### **Commencement Information**

**III** Sch. 2 para. 7 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Written statements*

- 8 (1) The CMA may by notice require a person to produce a written statement with respect to a matter specified in the notice to—
  - (a) a person who is considering, or is to consider, an application for a direction under paragraph 2, or
  - (b) a group with the function of determining an appeal.
- (2) The power to require the production of a written statement includes power—
  - (a) to specify the time and place at which it is to be produced, and
  - (b) to require it to be verified by a statement of truth, and a statement required to be so verified must be disregarded unless it is so verified.
- (3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which that person could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.



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- (4) A notice for the purposes of this paragraph may be issued on the CMA’s behalf by an authorised member of the CMA.

**Commencement Information**

**I12** Sch. 2 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Expert advice*

- 9 Where permission to bring an appeal is granted under [paragraph 1](#) the CMA may commission expert advice with respect to any matter raised by a party to that appeal.

**Commencement Information**

**I13** Sch. 2 para. 9 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Defaults in relation to evidence*

- 10 (1) If a person (“the defaulter”)—
- (a) fails to comply with a notice issued or other requirement imposed under [paragraph 6, 7 or 8](#),
  - (b) in complying with a notice under [paragraph 8](#), makes a statement that is false in any material particular, or
  - (c) in providing information verified in accordance with a statement of truth required by appeal rules, provides information that is false in a material particular,
- an authorised member of the CMA may certify the failure, or the fact that such a false statement has been made or such false information has been given, to the High Court or the Court of Session.
- (2) The High Court or Court of Session may inquire into a matter certified to it under this paragraph, and if, after having heard—
- (a) any witness against or on behalf of the defaulter, and
  - (b) any statement in that defaulter’s defence,
- it is satisfied that the defaulter did, without reasonable excuse, fail to comply with the notice or other requirement, or made the false statement, or gave the false information, that court may punish that defaulter as if the person had been guilty of contempt of court.
- (3) Where the High Court or Court of Session has power under this paragraph to punish a body corporate for contempt of court, it may so punish any director or other officer of that body (either instead of or as well as punishing the body).
- (4) A person who wilfully alters, suppresses or destroys a document which that person has been required to produce under [paragraph 6](#) is guilty of an offence and is to be 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);



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- (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).

#### **Commencement Information**

**I14** Sch. 2 para. 10 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Costs or expenses*

- 11 (1) A group that determines an appeal must make an order requiring the payment to the CMA of the costs or expenses incurred by the CMA in connection with the appeal.
- (2) An order under [sub-paragraph \(1\)](#) must require those costs or expenses to be paid—
- (a) where the appeal is allowed in full, by the economic regulator;
  - (b) where the appeal is dismissed in full, by the appellant;
  - (c) where the appeal is partially allowed, by one or more parties in such proportions as the CMA considers appropriate in all the circumstances.
- (3) The group that determines an appeal may also make such order as it thinks fit for requiring a party to the appeal to make payments to another party in respect of costs or expenses reasonably incurred by that other party in connection with the appeal.
- (4) A person who is required by an order under this paragraph to pay a sum to another person must comply with the order before the end of 28 days beginning with the day after the making of the order.
- (5) Sums required to be paid by an order under this paragraph but not paid within the period mentioned in [sub-paragraph \(4\)](#) are to bear interest at such rate as may be determined in accordance with provision contained in the order.
- (6) Any costs or expenses payable by virtue of an order under this paragraph and any interest that has not been paid may be recovered as a civil debt by the person in whose favour that order is made.

#### **Commencement Information**

**I15** Sch. 2 para. 11 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Appeal rules*

- 12 (1) The CMA Board may make rules of procedure regulating the conduct and disposal of appeals under [section 20](#).
- (2) Those rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing, power or requirement for which this Schedule provides, and that provision may, in particular, impose time limits or other restrictions on—

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- (a) the taking of evidence at an oral hearing, or
  - (b) the making of representations or observations at such a hearing.
- (3) The CMA Board must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.
- (4) Before making rules under this paragraph, the CMA Board must consult such persons as it considers appropriate.
- (5) Rules under this paragraph may make different provision for different cases.

#### Commencement Information

**I16** Sch. 2 para. 12 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Interpretation of Schedule

- 13 (1) In this Schedule—
- “appeal” means an appeal under [section 20](#);
  - “appeal rules” means rules of procedure under [paragraph 12](#);
  - “authorised member of the CMA”—
- (a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;
  - (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—
    - (i) any member of the CMA Board who is also a member of the CMA panel, or
    - (ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question;
- “CMA Board” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;
- “statement of truth”, in relation to the production of a statement or provision of information by a person, means a statement that the person believes the facts stated in the statement or information to be true;
- “working day” means any day other than—
- (a) Saturday or Sunday;
  - (b) Christmas Day or Good Friday;
  - (c) a day which is a bank holiday in England and Wales or Scotland under the Banking and Financial Dealings Act 1971.
- (2) References in this Schedule to a party to an appeal are references to—
- (a) the appellant, or
  - (b) the economic regulator.

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### Commencement Information

**117** Sch. 2 para. 13 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

## SCHEDULE 3 **U.K.**

Section 32

### ENFORCEMENT OF OBLIGATIONS OF LICENCE HOLDERS

#### *Orders for securing compliance with certain provisions*

- 1 (1) Where the economic regulator is satisfied that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, the economic regulator must make an order (a “final order”) containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement (but this sub-paragraph does not apply if the economic regulator is required by [sub-paragraph \(2\)](#) to make a provisional order in respect of the contravention or likely contravention).
- (2) Where it appears to the economic regulator—
  - (a) that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and
  - (b) that it is appropriate to make an order under this sub-paragraph,the economic regulator must (instead of taking steps towards the making of a final order) make an order (a “provisional order”) containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement.
- (3) In determining for the purposes of sub-paragraph [\(2\)\(b\)](#) whether it is appropriate to make a provisional order, the economic regulator must have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything that is likely to be done (or omitted to be done) in contravention of the relevant condition or requirement before a final order may be made.
- (4) The economic regulator must confirm a provisional order, with or without modifications, if—
  - (a) the economic regulator is satisfied that the licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and
  - (b) the provision made by the order (with any modifications) is necessary for the purpose of securing compliance with that condition or requirement.
- (5) If a provisional order is not previously confirmed under sub-paragraph [\(4\)](#), it is to cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.
- (6) Sub-paragraphs [\(1\)](#) to [\(4\)](#) are subject to sub-paragraphs [\(7\)](#) to [\(9\)](#) and [paragraph 2](#).
- (7) The economic regulator—
  - (a) must, before making a final order or making or confirming a provisional order, consider whether it would be more appropriate to proceed under the Competition Act 1998 (see [section 37](#));

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- (b) must not make a final order, or make or confirm a provisional order, if the economic regulator considers that it would be more appropriate to proceed under that Act.
- (8) The economic regulator may not make a final order or make or confirm a provisional order if the economic regulator is satisfied that the duties imposed on the economic regulator by [section 1](#) preclude the making or, as the case may be, the confirmation of the order.
- (9) The economic regulator is not required to make a final order or make or confirm a provisional order if it is satisfied—
- (a) that the licence holder has agreed to take and is taking all such steps as appear to the economic regulator to be for the time being appropriate for the purpose of securing or facilitating compliance with the condition or requirement in question, or
  - (b) that the contraventions were, or the apprehended contraventions are, of a trivial nature.
- (10) Where the economic regulator decides that it would be more appropriate to proceed under the Competition Act 1998 or is satisfied as mentioned in sub-paragraphs (8) and (9), the economic regulator must—
- (a) give notice to the licence holder that the economic regulator has so decided or is so satisfied, and
  - (b) publish a copy of the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (11) A final or provisional order—
- (a) must require the licence holder (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified,
  - (b) must take effect at such time as is determined by or under the order, which must be the earliest practicable time, and
  - (c) may be revoked at any time by the economic regulator.
- (12) In this Schedule—
- “final order” means an order under [sub-paragraph \(1\)](#);
- “provisional order” means an order under [sub-paragraph \(2\)](#);
- “relevant condition”, in relation to a licence holder, means any condition of any licence (as defined in [section 7](#)) held by that person;
- “relevant requirement”, in relation to a licence holder, means any requirement imposed on the licence holder by or under this Part.

#### Commencement Information

**I18** Sch. 3 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Procedural requirements

- 2 (1) Before making a final order or confirming a provisional order, the economic regulator must give notice—

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- (a) stating that the economic regulator proposes to make or confirm the order and setting out its effect,
- (b) stating—
  - (i) the relevant condition or requirement,
  - (ii) the acts or omissions which, in the economic regulator’s opinion, constitute or would constitute contraventions of it, and
  - (iii) the other facts which, in the economic regulator’s opinion, justify the making or confirmation of the order, and
- (c) specifying the time (which must not be less than 21 days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,

and must consider any representations or objections which are duly made and not withdrawn.

- (2) A notice under [sub-paragraph \(1\)](#) is given—
  - (a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and
  - (b) by sending a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, to the licence holder.
- (3) The economic regulator must not make a final order with modifications, or confirm a provisional order with modifications, except with the consent of the licence holder or after complying with the requirements of [sub-paragraph \(4\)](#).
- (4) The requirements are that the economic regulator must—
  - (a) give to the licence holder such notice as the economic regulator considers necessary of the economic regulator’s proposal to make or confirm the order with modifications,
  - (b) specify the time (which must not be less than 21 days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made, and
  - (c) consider any representations or objections which are duly made and not withdrawn.
- (5) Where the economic regulator decides to proceed under the Competition Act 1998 in a case falling within [paragraph 1\(7\)\(b\)](#), the economic regulator must—
  - (a) inform the licence holder concerned of that decision, and
  - (b) publish the notice in a manner that the economic regulator thinks appropriate for bringing the notice to the attention of persons likely to be affected by the decision.
- (6) Before revoking a final order or a provisional order which has been confirmed, the economic regulator must give notice—
  - (a) stating that the economic regulator proposes to revoke the order and setting out its effect, and
  - (b) specifying the time (which must not be less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,

and must consider any representations or objections which are duly made and not withdrawn.

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- (7) A notice under [sub-paragraph \(6\)](#) is given—
- (a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and
  - (b) by sending a copy of the notice to the licence holder.
- (8) As soon as practicable after a final order is made or a provisional order is made or confirmed, the economic regulator must—
- (a) serve a copy of the order on the licence holder, and
  - (b) publish such a copy in such manner as the economic regulator considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

#### Commencement Information

**I19** Sch. 3 para. 2 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Validity and effect of orders

- 3 (1) If the licence holder is aggrieved by a final or provisional order and wishes to question its validity on the ground that the making or confirmation of it was not within the powers of [paragraph 1](#), or that any of the requirements of [paragraph 2](#) have not been complied with in relation to it, the licence holder may within 42 days from the date of service on the licence holder of a copy of the order make an application to the court under this paragraph.
- (2) On any such application the court, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the licence holder have been substantially prejudiced by a failure to comply with those requirements, may quash the order or any provision of the order.
- (3) Except as provided by this paragraph, the validity of a final or provisional order may not be questioned by any legal proceedings whatever.
- (4) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.
- (5) Where a duty is owed by virtue of [sub-paragraph \(4\)](#) to any person any breach of the duty which causes that person to sustain loss or damage is to be actionable at the suit or instance of that person.
- (6) In any proceedings brought against any person in pursuance of [sub-paragraph \(5\)](#), it is a defence for the person to prove that they took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (7) Without prejudice to any right which any person may have by virtue of [sub-paragraph \(5\)](#) to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order is to be enforceable by civil proceedings by the economic regulator for an injunction or interdict or for any other appropriate relief.
- (8) In this paragraph “the court” means—
- (a) in relation to England and Wales and Northern Ireland, the High Court;

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(b) in relation to Scotland, the Court of Session.

#### Commencement Information

**I20** Sch. 3 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Penalties

- 4 (1) Where the economic regulator is satisfied that a licence holder has contravened or is contravening any relevant condition or requirement, the economic regulator may, subject to [paragraph 6](#), impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.
- (2) Before imposing a penalty on a licence holder under [sub-paragraph \(1\)](#), the economic regulator must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (3) The economic regulator must not impose a penalty on a licence holder under [sub-paragraph \(1\)](#) if it considers that it would be more appropriate to proceed under the Competition Act 1998.
- (4) Before imposing a penalty on a licence holder under [sub-paragraph \(1\)](#) the economic regulator must give notice—
- (a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed,
  - (b) setting out the relevant condition or requirement,
  - (c) specifying the acts or omissions which, in the opinion of the economic regulator, constitute the contravention in question and the other facts which, in the opinion of the economic regulator, justify the imposition of a penalty and the amount of the penalty proposed, and
  - (d) specifying the period (which must not be less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (5) Before varying any proposal stated in a notice under [sub-paragraph \(4\)\(a\)](#) the economic regulator must give notice—
- (a) setting out the proposed variation and the reasons for it, and
  - (b) specifying the period (which must be at least 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (6) As soon as practicable after imposing a penalty, the economic regulator must give notice—
- (a) stating that it has imposed a penalty on the licence holder and its amount,
  - (b) setting out the relevant condition or requirement in question,
  - (c) specifying the acts or omissions which, in the opinion of the economic regulator, constitute the contravention in question and the other facts which,



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- in the opinion of the economic regulator, justify the imposition of the penalty and its amount, and
- (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty is required to be paid.
- (7) The licence holder may, within 21 days of the date of service on the licence holder of a notice under [sub-paragraph \(6\)](#), make an application to the economic regulator for it to specify different dates by which different portions of the penalty are to be paid.
- (8) Any notice required to be given under this paragraph must be given—
- (a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and
- (b) by serving a copy of the notice on the licence holder.
- (9) This paragraph is subject to [paragraph 10](#) (maximum amount of penalty that may be imposed).
- (10) Any sums received by the economic regulator by way of penalty under this paragraph must be paid into the Consolidated Fund.

#### Commencement Information

**I21** Sch. 3 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Statement of policy with respect to penalties*

- 5 (1) The economic regulator must prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.
- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention the economic regulator must have regard to its statement of policy most recently published at the time when the contravention occurred.
- (3) The economic regulator may revise its statement of policy and where it does so must publish the revised statement.
- (4) Publication under this paragraph must be in such manner as the economic regulator considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The economic regulator must undertake such consultation as it considers appropriate when preparing or revising its statement of policy.

#### Commencement Information

**I22** Sch. 3 para. 5 in force at 26.12.2023 see [s. 334\(3\)\(a\)](#)

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### *Time limits on the imposition of penalties*

- 6 (1) Where no final or provisional order has been made in relation to a contravention, the economic regulator may not impose a penalty in respect of the contravention later than the end of the period of five years from the time of the contravention, unless before the end of that period—
- (a) the notice under [paragraph 4\(4\)](#) relating to the penalty is served on the licence holder under [paragraph 4\(8\)](#), or
  - (b) a notice under [section 29\(2\)\(b\)](#) is served on the licence holder which specifies that the notice is served in connection with a concern on the part of the economic regulator that the licence holder may be contravening, or may have contravened, a relevant condition or requirement.
- (2) Where a final or provisional order has been made in relation to a contravention, the economic regulator may not impose a penalty in respect of the contravention unless the notice relating to the penalty under [paragraph 4\(4\)](#) was served on the licence holder under [paragraph 4\(8\)](#)—
- (a) within three months from the confirmation of the provisional order or the making of the final order, or
  - (b) where the provisional order is not confirmed, within six months from the making of the provisional order.

#### **Commencement Information**

**I23** Sch. 3 para. 6 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

### *Interest and payment of instalments*

- 7 (1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time is to carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838.
- (2) If an application is made under [paragraph 4\(7\)](#) in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (3) If the economic regulator grants an application under that sub-paragraph in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the economic regulator under that sub-paragraph, the economic regulator may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

#### **Commencement Information**

**I24** Sch. 3 para. 7 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

### *Appeals against penalties*

- 8 (1) If the licence holder on whom a penalty is imposed is aggrieved by—
- (a) the imposition of the penalty,
  - (b) the amount of the penalty, or

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- (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,  
the licence holder may make an application to the court under this paragraph.
- (2) An application under [sub-paragraph \(1\)](#) must be made—
- (a) within 42 days from the date of service on the licence holder of a notice under [paragraph 4\(6\)](#), or
  - (b) where the application relates to a decision of the economic regulator on an application by the licence holder under [paragraph 4\(7\)](#), within 42 days from the date the licence holder is notified of the decision.
- (3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within [sub-paragraph \(4\)](#), the court—
- (a) may quash the penalty,
  - (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case, or
  - (c) in the case of an application under [sub-paragraph \(1\)\(c\)](#), may substitute for the date or dates imposed by the economic regulator an alternative date or dates.
- (4) The grounds falling within this sub-paragraph are—
- (a) that the imposition of the penalty was not within the power of the economic regulator under [paragraph 4](#),
  - (b) that any of the requirements of [sub-paragraphs \(4\) to \(6\)](#) or [\(8\)](#) of [paragraph 4](#) have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance, or
  - (c) that it was unreasonable of the economic regulator to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.
- (5) If an application is made under this paragraph in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies, as a date by which the penalty or a portion of the penalty is to be paid, a date before the determination of the application under this paragraph it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.
- (8) Except as provided by this paragraph, the validity of a penalty is not to be questioned by any legal proceedings whatever.
- (9) In this paragraph “the court” means—
- (a) in relation to England and Wales or Northern Ireland, the High Court, and
  - (b) in relation to Scotland, the Court of Session.

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**Commencement Information**

**I25** Sch. 3 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Recovery of penalties*

- 9 Where a penalty imposed under [paragraph 4\(1\)](#), or any portion of it, has not been paid by the date on which it is required to be paid and—
- (a) no application relating to the penalty has been made under [paragraph 8](#) during the period within which such an application can be made, or
  - (b) an application has been made under that paragraph and determined, the economic regulator may recover from the licence holder, as a civil debt due to it, any of the penalty and any interest which has not been paid.

**Commencement Information**

**I26** Sch. 3 para. 9 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Maximum amount of penalty*

- 10 (1) The maximum amount of penalty that may be imposed on a licence holder in respect of a contravention may not exceed 10 per cent of the licence holder's turnover.
- (2) The Secretary of State may by regulations provide for how a person's turnover is to be determined for the purposes of this paragraph.
- (3) Regulations under [sub-paragraph \(2\)](#) are subject to the affirmative procedure.
- (4) In this paragraph "penalty" means a penalty imposed on a licence holder under [paragraph 4](#).

**Commencement Information**

**I27** Sch. 3 para. 10 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Application and commencement of scheme*

- 1 (1) A scheme may set out the property, rights and liabilities to be transferred in one or more of the following ways—
- (a) by specifying or describing them in particular;
  - (b) by identifying them generally by reference to, or to a specified part of, an undertaking from which they are to be transferred; or
  - (c) by specifying the manner in which they are to be determined.

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- (2) A scheme comes into force on the date appointed by the scheme.

#### Commencement Information

**I28** Sch. 4 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Property, rights and liabilities that may be transferred*

- 2 (1) The property, rights and liabilities that may be transferred by a scheme include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the transferor;
  - (b) property acquired in the period after the making of the scheme and before it comes into force and rights and liabilities arising in that period;
  - (c) rights and liabilities arising after the scheme comes into force in respect of matters occurring before it comes into force;
  - (d) property situated in the United Kingdom, otherwise in a controlled place, or elsewhere;
  - (e) rights and liabilities under the law of a part of the United Kingdom or of a place outside the United Kingdom;
  - (f) rights and liabilities under an enactment or subordinate legislation.
- (2) The transfers to which effect may be given by a scheme include transfers that are to take effect in accordance with the scheme as if there were—
- (a) no such requirement to obtain a person’s consent or concurrence,
  - (b) no such liability in respect of a contravention of any other requirement, and
  - (c) no such interference with any interest or right,
- as there would be, in the case of a transaction apart from this Act, by reason of a provision falling within [sub-paragraph \(3\)](#).
- (3) A provision falls within this sub-paragraph to the extent that it has effect (whether under an enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled or subject to anything to which the transfer relates.
- (4) [Sub-paragraph \(5\)](#) applies where (apart from that sub-paragraph) a person would be entitled, in consequence of anything done or likely to be done by or under this Act in connection with a scheme—
- (a) to terminate, modify, acquire or claim an interest or right to which the transferor is entitled or subject, or
  - (b) to treat such an interest or right as modified or terminated.
- (5) That entitlement is to be enforceable in relation to the interest or right—
- (a) in consequence of what is done or likely to be done by or under this Act, and
  - (b) in corresponding circumstances arising after the transfer,
- to the extent only that the scheme provides for it to be so enforceable.
- (6) [Sub-paragraphs \(2\) to \(5\)](#) have effect where shares in a subsidiary of the transferor are or are to be transferred—
- (a) as if the reference in [sub-paragraph \(3\)](#) to the terms on which the transferor is entitled or subject to anything to which the transfer relates included a

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- reference to the terms on which the subsidiary is entitled or subject to anything immediately before the transfer takes effect, and
- (b) as if the reference in [sub-paragraph \(4\)](#) to the transferor included a reference to the subsidiary.

#### Commencement Information

**I29** Sch. 4 para. 2 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Dividing and modifying transferor's property, rights and liabilities*

- 3 (1) A scheme may contain provision—
- (a) for the creation, in favour of a transferor or transferee, of an interest or right in or in relation to property to be transferred in accordance with the scheme;
  - (b) for giving effect to a transfer to a person by the creation, in favour of that person, of an interest or right in or in relation to property to be retained by a transferor;
  - (c) for the creation of new rights and liabilities (including rights of indemnity and duties to indemnify) as between different transferees and as between a transferee and a transferor.
- (2) A scheme may contain provision for the creation of rights and liabilities for the purpose of converting arrangements between different parts of a transferor's undertaking which exist immediately before the coming into force of the scheme into a contract between different transferees, or between a transferee and a transferor.
- (3) A scheme may contain provision—
- (a) for rights and liabilities to be transferred so as to be enforceable by or against more than one transferee, or by or against both the transferee and the transferor, and
  - (b) for rights and liabilities enforceable against more than one person in accordance with provision falling within [paragraph \(a\)](#) to be enforceable in different or modified respects by or against each or any of them.
- (4) A scheme may contain provision for interests, rights or liabilities of third parties in relation to anything to which the scheme relates to be modified in the manner set out in the scheme.
- (5) In [sub-paragraph \(4\)](#) “third party”, in relation to a scheme, means a person other than the transferor and the transferee.
- (6) [Paragraph 2\(2\)](#) and (3) applies to the creation of interests and rights in accordance with a scheme as it applies to the transfer of interests and rights.

#### Commencement Information

**I30** Sch. 4 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Obligation to effect transfers etc. under a scheme*

- 4 (1) A scheme may contain provision for imposing on a transferee or a transferor an obligation—

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- (a) to enter into such agreements with another person on whom a corresponding obligation is, or could be or has been, imposed by virtue of [this paragraph](#) (whether in the same or a different scheme), or
  - (b) to execute such instruments in favour of any such person, as may be specified or described in the scheme.
- (2) An obligation imposed on a person by virtue of [sub-paragraph \(1\)](#) is enforceable by the relevant person in civil proceedings—
- (a) for an injunction,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.
- (3) The relevant person for the purposes of [sub-paragraph \(2\)](#) is the person with, or in favour of whom, the agreement or instrument is to be entered into or executed.

**Commencement Information**

**I31** Sch. 4 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Transfer of licences and permits*

- 5 (1) A scheme may include provision to transfer any licence or permit held by the transferor from the transferor to the transferee.
- (2) Such a transfer may relate to the whole or any part of the licence or permit.
- (3) Where such a transfer relates to a part of the licence or permit, the provision made under [sub-paragraph \(1\)](#) may include—
- (a) provision apportioning responsibility between the transferor and the transferee in relation to—
    - (i) the making of payments required by conditions included in the licence or (as the case may be) permit,
    - (ii) ensuring compliance with any other requirements of the conditions included in the licence or (as the case may be) permit, and
  - (b) provision making incidental modifications to the terms and conditions of the licence or permit.
- (4) References in [this paragraph](#) to a part of a licence or permit are references to one or both of—
- (a) a part of the activities authorised by the licence or (as the case may be) permit;
  - (b) a part of the area in relation to which the holder of the licence or (as the case may be) permit is authorised to carry on those activities.

**Commencement Information**

**I32** Sch. 4 para. 5 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)



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### *Powers and duties under statutory provisions*

- 6 (1) A scheme may contain provision for some or all of the powers and duties to which [this paragraph](#) applies—
- (a) to be transferred to the transferee,
  - (b) to become powers and duties that are exercisable, or must be performed, concurrently by two or more transferees, or
  - (c) to become powers and duties that are exercisable, or must be performed, concurrently by a transferor and a transferee.
- (2) Provision falling within [sub-paragraph \(1\)](#) may apply to powers and duties only in so far as they are exercisable or required to be performed in the area specified or described in the provision.
- (3) The powers and duties to which [this paragraph](#) applies are the powers and duties conferred or imposed upon the transferor by or under an enactment, so far as those powers and duties are connected with—
- (a) the undertaking of the transferor to the extent the scheme relates to that undertaking, or
  - (b) any property, rights or liabilities to be transferred in accordance with the scheme.
- (4) The powers and duties mentioned in [sub-paragraph \(3\)](#) include, in particular, powers and duties relating to the carrying out of works or the acquisition of land.

#### **Commencement Information**

**I33** Sch. 4 para. 6 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

### *Effect of scheme*

- 7 (1) Where a scheme provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities—
- (a) this Act has the effect that, at the time when the scheme comes into force, the property or interests, rights or liabilities vest, without further assurance, in the transferee, and
  - (b) the provisions of that scheme in relation to that property or those interests, rights or liabilities have effect from that time.
- (2) [Sub-paragraph \(1\)](#) is subject to so much of a scheme as provides for—
- (a) the transfer of property, rights or liabilities which are to be transferred in accordance with the scheme, or
  - (b) the creation of interests, rights and liabilities which are to be created in accordance with the scheme,
- to be effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of [paragraph 4\(1\)](#).
- (3) In its application to Scotland, [sub-paragraph \(1\)](#) has effect with the omission of the words “without further assurance”.

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### Commencement Information

**I34** Sch. 4 para. 7 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

### Supplementary provisions of schemes

- 8 (1) A scheme may—
- (a) make incidental, supplemental, consequential and transitional provision in connection with the other provisions of the scheme;
  - (b) make different provision for different purposes.
- (2) In particular, a scheme may make provision, in relation to transfers in accordance with the scheme—
- (a) for the transferee to be treated as the same person in law as the transferor;
  - (b) for agreements made, transactions effected or other things done by or in relation to the transferor to be treated, so far as may be necessary for the purposes of or in connection with the transfers, as made, effected or done by or in relation to the transferee;
  - (c) for references in an agreement, instrument or other document to the transferor, or to an employee or office holder of the transferor, to have effect, so far as may be necessary for the purposes of or in connection with a transfer, with such modifications as are specified in the scheme;
  - (d) that the effect of any transfer in accordance with the scheme in relation to contracts of employment with the transferor is not to terminate any of those contracts but is to be that periods of employment with the transferor are to count for all purposes as periods of employment with the transferee;
  - (e) for proceedings commenced by or against the transferor to be continued by or against the transferee.
- (3) [Sub-paragraph \(2\)\(c\)](#) does not apply to references in an enactment or in subordinate legislation.
- (4) A scheme may make provision for disputes as to the effect of the scheme between the transferor and the transferee to be referred to such arbitration as may be specified in or determined under the scheme.
- (5) Where a person is entitled, in consequence of a scheme, to possession of a document relating in part to the title to land or other property in England and Wales, or to the management of such land or other property—
- (a) the scheme may provide for that person to be treated as having given another person an acknowledgement in writing of the right of that other person to production of the document and to delivery of copies of it, and
  - (b) section 64 of the Law of Property Act 1925 (production and safe custody of documents) is to have effect accordingly, and on the basis that the acknowledgement did not contain an expression of contrary intention.
- (6) Where a person is entitled, in consequence of a scheme, to possession of a document relating in part to the title to land or other property in Scotland or to the management of such land or other property, subsection (1) of section 16 of the Land Registration (Scotland) Act 1979 (omission of certain clauses in deeds) is to have effect in relation to the transfer—
- (a) as if the transfer had been effected by deed, and

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(b) as if the words “unless specially qualified” were omitted from that subsection.

(7) In [this paragraph](#) references to a transfer in accordance with a scheme include references to the creation in accordance with such a scheme of an interest, right or liability.

#### Commencement Information

**I35** Sch. 4 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Modification of scheme

- 9
- (1) The Secretary of State may modify a scheme.
  - (2) A modification may be made only for the purpose of achieving the objective with which the scheme was made (see [section 50\(2\)](#)).
  - (3) If a transfer under the scheme has taken effect, a modification under [sub-paragraph \(1\)](#) may be made only with the agreement of—
    - (a) the transferor or transferee affected by the modification (or, where both the transferor and transferee are affected, with the agreement of both of them);
    - (b) any employee who is a party to a contract of employment containing rights and liabilities to which the modification relates;
    - (c) any other person whose property or rights have been adversely affected by the modification.
  - (4) A modification takes effect from such date as the Secretary of State may specify (which may be the date when the original scheme came into effect).

#### Commencement Information

**I36** Sch. 4 para. 9 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Compensation for third parties

- 10
- (1) Where—
    - (a) an entitlement of a third party to an interest or right would, apart from a provision of a scheme under [paragraph 2\(4\)](#) and [\(5\)](#), become enforceable in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities,
    - (b) the provisions of that scheme or of [paragraph 2\(4\)](#) and [\(5\)](#) have the effect of preventing the third party’s entitlement to that interest or right from being enforced in respect of anything for which the scheme provides, and
    - (c) provision is not made by the scheme for securing that an entitlement to that interest or right, or to an equivalent interest or right, is preserved or created so as to arise and be enforceable in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,the third party is entitled to compensation in respect of the extinguishment of the third party’s entitlement.

*Status: Point in time view as at 26/12/2023.*

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

- (2) The amount of compensation to which a third party is entitled under [this paragraph](#) is the amount necessary for securing, to the extent that it is just to do so, that the third party does not suffer financial loss from the extinguishment of the entitlement.
- (3) A liability to pay compensation under [this paragraph](#) falls on the Secretary of State.
- (4) In the preceding provisions of [this paragraph](#) “third party”, in relation to a scheme, means a person other than the transferor and the transferee.
- (5) [This paragraph](#) has effect in relation to the provisions of an agreement or instrument entered into or executed in pursuance of an obligation imposed by a scheme as it has effect in relation to the scheme.

#### Commencement Information

**I37** Sch. 4 para. 10 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Provision relating to foreign property etc*

- 11 (1) Where there is a transfer in accordance with a scheme of—
- (a) any foreign property, or
  - (b) a foreign right or liability,
- the transferor and the transferee must each take all requisite steps to secure that the vesting of the foreign property, right or liability in the transferee is effective under the relevant foreign law.
- (2) Until the vesting of the foreign property, right or liability in the transferee in accordance with the scheme is effective under the relevant foreign law, the transferor must—
    - (a) hold the property or right for the benefit of the transferee, or
    - (b) discharge the liability on behalf of the transferor.
  - (3) The transferor must comply with any directions given to it by the transferee in relation to the performance of the obligations under [sub-paragraphs \(1\) and \(2\)](#) of the transferor.
  - (4) Nothing in [sub-paragraphs \(1\) to \(3\)](#) prejudices the effect under the law of a part of the United Kingdom of the vesting of any foreign property, right or liability in the transferee in accordance with a scheme.
  - (5) Where—
    - (a) any foreign property, right or liability is acquired or incurred in respect of any other property, right or liability by a person, and
    - (b) by virtue of [this paragraph](#), the person holds the other property or right for the benefit of the transferee or is required to discharge the liability on behalf of the transferee,

the property, right or liability acquired or incurred immediately becomes the property, right or liability of the transferee.
  - (6) The provisions of [sub-paragraphs \(1\) to \(5\)](#) have effect in relation to foreign property, rights or liabilities transferred to the transferee under [sub-paragraph \(5\)](#) as they have

*Status: Point in time view as at 26/12/2023.*

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effect in the case of property, rights and liabilities transferred in accordance with a scheme.

- (7) References in [this paragraph](#) to foreign property, or to a foreign right or liability, are references to any property, right or liability as respects which an issue arising in any proceedings would be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (8) Expenses incurred under [this paragraph](#) by a person as the person from which anything is transferred are to be met by the transferee.
- (9) An obligation imposed under [this paragraph](#) in relation to property, rights or liabilities is to be enforceable as if contained in a contract between the transferor and the transferee.

#### **Commencement Information**

**I38** Sch. 4 para. 11 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### *Provision of information to Secretary of State*

- 12 (1) If the Secretary of State proposes to make a scheme, the Secretary of State may direct—
  - (a) a proposed transferor, or
  - (b) a proposed transferee,to provide the Secretary of State with such information as the Secretary of State considers necessary to enable the Secretary of State to make the scheme.
- (2) If the Secretary of State proposes to modify a scheme, the Secretary of State may direct—
  - (a) a transferor, or
  - (b) a transferee,to provide the Secretary of State with such information as the Secretary of State considers necessary to enable the Secretary of State to modify the scheme.
- (3) A direction under [sub-paragraph \(1\)](#) or [\(2\)](#) must specify the period within which the information is to be provided.
- (4) The period specified in the direction must be not less than 28 days beginning with the day of the giving of the direction.
- (5) If a person fails to comply with such a direction, the Secretary of State may serve a notice on the person requiring the person—
  - (a) to produce to the Secretary of State any documents which are specified or described in the notice and are in the person's custody or under the person's control, or
  - (b) to provide to the Secretary of State such information as may be specified or described in the notice.
- (6) Documents or information to be produced or provided in accordance with such a notice must be produced or provided at the time and place, and in the form and manner, specified in the notice.

*Status: Point in time view as at 26/12/2023.*

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

- (7) No person may be required under [this paragraph](#)—
- (a) to produce a document which the person could not be compelled to produce in civil proceedings in the court, or
  - (b) to provide information which the person could not be compelled to give in evidence in such proceedings.
- (8) A person who intentionally alters, suppresses or destroys a document which the person has been required to produce by a notice under [sub-paragraph \(5\)](#) is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (9) If a person fails to comply with a notice under [sub-paragraph \(5\)](#), the court may, on the application of the Secretary of State, make such order as the court thinks fit for requiring the failure to be made good.
- (10) Any order under [sub-paragraph \(9\)](#) may include provision requiring all the costs or expenses of and incidental to the application to be borne by one or more of the following—
- (a) the person in default;
  - (b) any officers of a company or other association who are responsible for its default.
- (11) In [this paragraph](#)—
- (a) a reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form, and
  - (b) the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (12) In [this paragraph](#) “the court” means—
- (a) in England and Wales, the High Court;
  - (b) in Scotland, the Court of Session;
  - (c) in Northern Ireland, the High Court.

#### Commencement Information

**I39** Sch. 4 para. 12 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

#### Interpretation

- 13 (1) In [this Schedule](#)—
- “controlled place” has the meaning given by section 17(3) to (4) of the Energy Act 2008;
- “scheme” means a scheme under [section 50](#);
- “subsidiary” has the meaning given to it by section 1159 of the Companies Act 2006;
- “transferee”—

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- (a) in relation to a scheme, means a person to whom property, rights or liabilities are transferred in accordance with the scheme; and
  - (b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person to whom that property or those rights or liabilities are transferred or in whose favour, or in relation to whom, they are created;
- “transferor”—
- (a) in relation to a scheme, means the person from whom property, rights or liabilities are transferred in accordance with the scheme; and
  - (b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person from whom that property or those rights or liabilities are transferred or the person who or whose property is subject to the interest or right created by the scheme or for whose benefit the liability is created.

- (2) References in [this Schedule](#) to a right or to an entitlement to a right include references to an entitlement to exercise a right; and, accordingly, references to a right’s arising include references to its becoming exercisable.

**Commencement Information**

**I40** Sch. 4 para. 13 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

SCHEDULE 5 **U.K.**

Section 54

AMENDMENTS RELATED TO PART 1

*Utilities Act 2000*

- 1 The Utilities Act 2000 is amended as follows.

**Commencement Information**

**I41** Sch. 5 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

- 2 In section 4 (forward work programmes), at the end insert—
  - “(7) In this section—
    - (a) references to functions do not include functions under [Part 1](#) of the Energy Act 2023, and
    - (b) references to projects do not include projects with regard to the exercise of such functions.”

**Commencement Information**

**I42** Sch. 5 para. 2 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

- 3 In section 5 (annual and other reports of Authority), after subsection (10) insert—



*Status: Point in time view as at 26/12/2023.*

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

“(11) In this section—

- (a) references to functions of the Authority do not include functions under [Part 1](#) of the Energy Act 2023;
- (b) references to activities of the Authority do not include activities in the exercise of such functions;
- (c) the reference in subsection (1) to “references made by the Authority” does not include references made by virtue of [section 36\(1\)](#) of the Energy Act 2023.”

#### Commencement Information

**I43** Sch. 5 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

4 In section 5XA (laying of accounts before Scottish Parliament and Welsh Assembly)

- (a) in the heading, for “and Welsh Assembly” substitute “, Senedd Cymru or the Northern Ireland Assembly”;
- (b) after subsection (2) insert—
  - “(2A) The Authority must send to the Department for the Economy in Northern Ireland, in respect of each of its accounting years, a copy of the certified accounts and report of the Authority no later than 31 January of the financial year following that to which the accounts relate.”;
- (c) after subsection (3A) insert—
  - “(3B) The Department for the Economy in Northern Ireland must lay a copy of whatever is sent to it under subsection (2A) before the Northern Ireland Assembly.”;
- (d) for subsection (4) substitute—
  - “(4) In subsections (1) to (3) “certified accounts and report” means those accounts certified under sections 5 and 7 of the Government Resources and Accounts Act 2000, and the report issued by the Comptroller and Auditor General under section 6(3)(a) of that Act.”

#### Commencement Information

**I44** Sch. 5 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

5 In section 105 (general restrictions on disclosure of information)—

- (a) in subsection (1)(a), after “Energy Prices Act 2022” insert “or [Part 1](#) of the Energy Act 2023”;
- (b) in subsection (3), after paragraph (azc) insert—
  - “(azd) it is made for the purpose of facilitating the performance of any functions of the Authority under or by virtue of [Part 1](#) of the Energy Act 2023.”;
- (c) in subsection (6), at the end insert—
  - “(z1) [Part 1](#) of the Energy Act 2023.”

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I45** Sch. 5 para. 5 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**Commencement Information**

**I41** Sch. 5 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I42** Sch. 5 para. 2 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I43** Sch. 5 para. 3 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I44** Sch. 5 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I45** Sch. 5 para. 5 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Enterprise Act 2002*

6 The Enterprise Act 2002 is amended as follows.

**Commencement Information**

**I46** Sch. 5 para. 6 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

7 In section 136 (investigations and reports on market investigation references), in subsection (7)(b), for the words from “or” to the end substitute “, section 43 of the Electricity Act 1989 or (as the case may be) [section 36](#) of the Energy Act 2023;”.

**Commencement Information**

**I47** Sch. 5 para. 7 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

8 (1) Section 168 (regulated markets) is amended as follows.

(2) In subsection (3) (meaning of “relevant action”)—

(a) omit “or” at the end of paragraph (p);

(b) after paragraph (q) insert “; or

(r) modifying the conditions of a licence granted under [section 7](#) of the Energy Act 2023.”

(3) In subsection (4) (meaning of “relevant statutory functions”)—

(a) omit “and” at the end of paragraph (r);

(b) after paragraph (s) insert “, and

(t) in relation to a licence granted under [section 7](#) of the Energy Act 2023, the objectives and duties of the Gas and Electricity Markets Authority under [section 1](#) of that Act.”

(4) In subsection (6)—

(a) for “or section 6” substitute “, section 6”;

(b) before “would” insert “or [section 7](#) of the Energy Act 2023”.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I48** Sch. 5 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**Commencement Information**

**I46** Sch. 5 para. 6 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I47** Sch. 5 para. 7 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**I48** Sch. 5 para. 8 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

*Enterprise and Regulatory Reform Act 2013*

9 In Schedule 4 to the Enterprise and Regulatory Reform Act 2013, in paragraph 35(3) (membership of CMA panel), in the definition of “specialist utility functions”, after paragraph (b) insert—

“(ba) an appeal under [section 20](#) of the Energy Act 2023;”.

**Commencement Information**

**I49** Sch. 5 para. 9 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

VALID FROM 11/01/2024

SCHEDULE 6 U.K.

Section 103

CARBON DIOXIDE STORAGE LICENCES: LICENCE PROVISIONS

**Commencement Information**

**I50** Sch. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

In the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 ([S.I. 2010/2221](#)), in Schedule 1 (provisions to be included in a licence), after paragraph 5 insert—

**Change in control of licence holder**

“6 (1) This paragraph applies if—

- (a) the licence holder is a company, or
- (b) where two or more persons are joint licence holders, any of those persons is a company,

and references in this paragraph to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the authority.

*Status: Point in time view as at 26/12/2023.*

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

- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the authority for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The authority may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the authority proposes to grant consent subject to any condition or to refuse consent, the authority must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the authority must decide an application within three months of receiving it, but the authority may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in sub-paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by the licence, and
  - (c) financial conditions.
- (9) The authority’s decision on the application, and any conditions as mentioned in sub-paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this paragraph “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company is a joint licence holder with another person or other persons, that other person or those other persons.
- (11) For the purposes of this paragraph, “control” of a company is to be construed in accordance with sections 450(2) to (4) and 451(1) to (5) of the Corporation Tax Act 2010, but read as if—
  - (a) for the words “the greater part” wherever they occur in section 450(3), there were substituted “one-third or more”,
  - (b) in section 451(4) and (5), for “may” there were substituted “must”, and
  - (c) in section 451(4) and (5), any reference to an associate of a person included only—
    - (i) a relative (as defined in section 448(2) of that Act) of the person,
    - (ii) a partner of the person, and
    - (iii) a trustee of a settlement (as defined in section 620 of the Income Tax (Trading and Other Income) Act 2005) of which the person is a beneficiary.

*Status: Point in time view as at 26/12/2023.*

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

### Revocation of licence re change in control

- 7 (1) This paragraph applies in connection with a change in control of a licence holder which is a company (see paragraph 6).
- (2) In the event of—
- (a) any breach or non-observance by the company of any of the terms of paragraph 6,
  - (b) any breach of a condition (imposed in accordance with paragraph 6) subject to which the authority gave its consent to a change in control of the company, or
  - (c) any failure to provide full and accurate information in response to a notice given by the authority to the company under section 29A,
- the authority may, by giving the company and any joint licence holders notice in writing, revoke the licence with effect from the date specified in the notice.

### Partial revocation of licence re change in control

- 8 (1) This paragraph applies if two or more persons are joint licence holders and any of them is a company.
- (2) If an event mentioned in paragraph 7(2)(a), (b) or (c) occurs in connection with a change in control of the company, the authority may exercise the power in paragraph 7 to revoke the licence in so far as it applies to that company (without revoking it in so far as it applies to the other person or persons who are joint licence holders)."

## SCHEDULE 7 U.K.

Section 113

### PERMITTED DISCLOSURES OF MATERIAL OBTAINED BY OGA

#### *Disclosure by OGA to specified persons*

- 1 (1) Section 113 does not prohibit a disclosure of protected material by the OGA which—
- (a) is made to a person mentioned in column 1 of the table below,
  - (b) is made for the purpose of facilitating the carrying out of that person's functions, and
  - (c) is a disclosure of protected material obtained by the OGA under a provision mentioned in the corresponding entry of column 2 of the table.

<i>Column 1</i>	<i>Column 2</i>
A Minister of the Crown	<a href="#">Section 112</a> or <a href="#">124</a>
His Majesty's Revenue and Customs	<a href="#">Section 112</a> or <a href="#">124</a>
The Competition and Markets Authority	<a href="#">Section 112</a> or <a href="#">124</a>
The Scottish Ministers	<a href="#">Section 112</a>
The Welsh Ministers	<a href="#">Section 112</a>

*Status: Point in time view as at 26/12/2023.*

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

<i>Column 1</i>	<i>Column 2</i>
A Northern Ireland Department	Section 112
The Office for Budget Responsibility	Section 112
An enforcing authority	Section 112 or 124
The Statistics Board	Section 112 or 124
The GEMA	Section 112 or 124
The Crown Estate	Section 112
A manager of the Crown Estate in Scotland	Section 112

- (2) In the table—
- “enforcing authority” has the same meaning as in Part 1 of the Health and Safety at Work etc Act 1974 (see section 18(7)(a) of that Act);
- “manager of the Crown Estate in Scotland” means a person who for the time being is discharging functions in relation to the management of any property, rights or interests to which section 90B(5) of the Scotland Act 1998 applies;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.
- (3) Section 113 does not prohibit a disclosure of protected material by the OGA which—
- is a disclosure of protected material obtained by it under section 112,
  - is made to the Natural Environment Research Council, or any other similar body carrying on geological activities, and
  - is made for the purpose of enabling the body to prepare and publish reports and surveys of a general nature using information derived from the protected material.
- (4) A person to whom protected material is disclosed by virtue of sub-paragraph (1) or (3) may use the protected material only for the purpose mentioned in sub-paragraph (1)(b) or (3)(c) (as the case may be).
- (5) Section 113 does not prohibit a person mentioned in sub-paragraph (4) from disclosing the protected material so far as necessary for the purpose mentioned in that sub-paragraph.
- (6) The Secretary of State may by regulations amend the table in sub-paragraph (1)—
- to remove a person from column 1,
  - to add to column 1 a person to whom sub-paragraph (7) applies, or
  - to add, remove or change entries in column 2.
- (7) This sub-paragraph applies to—
- persons holding office under the Crown;
  - persons in the service or employment of the Crown;
  - persons acting on behalf of the Crown;
  - government departments;
  - publicly owned companies as defined in section 6 of the Freedom of Information Act 2000.

*Status: Point in time view as at 26/12/2023.*

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

(8) Regulations under [sub-paragraph \(6\)](#) are subject to the affirmative procedure.

**Commencement Information**

**I51** [Sch. 7 para. 1](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Disclosure required for returns and reports prepared by OGA*

- 2 (1) [Section 113](#) does not prohibit the OGA from using protected material obtained by the OGA under [section 112](#) for the purpose of—
- (a) preparing such returns and reports as may be required under obligations imposed by or under any Act;
  - (b) preparing and publishing reports and surveys of a general nature using information derived from the protected material.
- (2) [Section 113](#) does not prohibit the OGA from disclosing protected material so far as necessary for those purposes.

**Commencement Information**

**I52** [Sch. 7 para. 2](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Disclosure in exercise of certain OGA powers*

- 3 [Section 113](#) does not prohibit a disclosure of protected material if it is made in the exercise of the OGA's powers under [section 121](#) (publication of details of sanctions).

**Commencement Information**

**I53** [Sch. 7 para. 3](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Disclosure after specified period*

- 4 (1) [Section 113](#) does not prohibit protected material obtained by the OGA under [section 112](#) from being—
- (a) published, or
  - (b) made available to the public (where the protected material includes samples), by the OGA or a subsequent holder at such time as may be specified in regulations made by the Secretary of State.
- (2) Regulations under [sub-paragraph \(1\)](#) may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person.
- (3) Before making regulations under [sub-paragraph \(1\)](#), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) [Sub-paragraph \(3\)](#) does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the OGA in relation to what time should be specified in regulations under [sub-paragraph \(1\)](#).



*Status: Point in time view as at 26/12/2023.*

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

- (5) Regulations under [sub-paragraph \(1\)](#) are subject to the affirmative procedure.
- (6) In determining the time to be specified in respect of protected material in regulations under [sub-paragraph \(1\)](#), the Secretary of State must have regard to the following factors—
- (a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;
  - (b) any potential benefits to the carbon storage industry of protected material being published or made available at the specified time;
  - (c) any potential risk that the specified time may discourage persons from acquiring or creating carbon storage information or carbon storage samples;
  - (d) any other factors the Secretary of State considers relevant.
- (7) In balancing the factors mentioned in [sub-paragraph \(6\)\(a\) to \(d\)](#), the Secretary of State must take into account the principal objectives of the Secretary of State set out in [section 1\(1\)](#).
- (8) For the purposes of [sub-paragraph \(6\)\(a\)](#), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under [section 112](#).

#### Commencement Information

**I54** [Sch. 7 para. 4](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

#### *Disclosure with appropriate consent*

- 5 (1) [Section 113](#) does not prohibit a disclosure of protected material if it is made with the appropriate consent.
- (2) For this purpose a disclosure is made with the appropriate consent if—
- (a) in the case of disclosure by the OGA, the original owner consents to the disclosure;
  - (b) in the case of disclosure by a subsequent holder—
    - (i) the OGA consents to the disclosure, and
    - (ii) where the protected material in question was provided to the OGA under [section 112](#), the OGA confirms that the original owner of the material also consents to the disclosure.
- (3) For the purposes of [sub-paragraph \(2\)](#), the original owner of protected material provided to the OGA is the person by whom, or on whose behalf, the protected material was so provided.

#### Commencement Information

**I55** [Sch. 7 para. 5](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

*Status: Point in time view as at 26/12/2023.*

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

*Disclosure required by legislation*

- 6 **Section 113** does not prohibit a disclosure of protected material required by virtue of an obligation imposed by or under this or any other Act.

**Commencement Information**

**I56** Sch. 7 para. 6 in force at 26.12.2023, see s. 334(3)(b)

*Disclosure for purpose of proceedings*

- 7 (1) **Section 113** does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
- (a) civil proceedings, or
  - (b) arbitration proceedings.
- (2) **Section 113** does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
- (a) the investigation or prosecution of criminal offences, or
  - (b) the prevention of criminal activity.

**Commencement Information**

**I57** Sch. 7 para. 7 in force at 26.12.2023, see s. 334(3)(b)

SCHEDULE 8 **U.K.**

Section 125

CARBON STORAGE INFORMATION AND SAMPLES: APPEALS

**PART 1 U.K.**

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.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I58** 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.

**Commencement Information**

**I59** Sch. 8 para. 2 in force at 26.12.2023, see s. 334(3)(b)

**PART 2** **U.K.**

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**

**I60** Sch. 8 para. 3 in force at 26.12.2023, see s. 334(3)(b)

*Status: Point in time view as at 26/12/2023.*

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

### *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**

**I61** Sch. 8 para. 4 in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

### *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—
    - (a) the person, or any of the persons, to whom the notice was given, and
    - (b) 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—
    - (a) where an enforcement notice has been given, the decision as to—
      - (i) the measures that are required to be taken for the purposes of compliance with the sanctionable requirement, or
      - (ii) the period for compliance with the sanctionable requirement;
    - (b) where a financial penalty notice has been given, the decision—
      - (i) to impose a financial penalty, or
      - (ii) as to the amount of the financial penalty imposed;
    - (c) where a revocation notice has been given, the decision to terminate the carbon storage licence or to revoke the storage permit;
    - (d) 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—
    - (a) was unreasonable, or
    - (b) was not within the powers of the OGA.

*Status: Point in time view as at 26/12/2023.*

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

- (5) On an appeal under this paragraph against a decision made in relation to an enforcement notice, the Tribunal may—
- (a) confirm or quash the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(a\)\(i\)](#) (remedial action), or
  - (b) 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—
- (a) confirm or quash the decision, in the case of a decision mentioned in [sub-paragraph \(3\)\(b\)\(i\)](#) (imposition of penalty), or
  - (b) 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—
- (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

**I62** [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.

*Status: Point in time view as at 26/12/2023.*

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

### Commencement Information

**I63** Sch. 8 para. 6 in force at 26.12.2023, see s. 334(3)(b)

## SCHEDULE 9 E+W+S

Section 174

### INDEPENDENT SYSTEM OPERATOR AND PLANNER: TRANSFERS

#### PART 1 E+W+S

##### TRANSFER SCHEMES

#### *Power to make a transfer scheme*

- 1 (1) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities from one person to another person—
  - (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#), or
  - (b) for the purpose of enabling the ISOP to carry out any of its functions.
- (2) The Secretary of State may, during the period of 7 years beginning with the day on which this Act is passed, make one or more schemes for the transfer of designated property, rights or liabilities from one person to another person in connection with the operation or management of—
  - (a) a document maintained in accordance with the conditions of a relevant licence, or
  - (b) an agreement that gives effect to a document so maintained.
- (3) In this Schedule
  - (a) “transfer scheme” means a scheme under either or both of [sub-paragraphs \(1\) and \(2\)](#);
  - (b) “transferor”, in relation to a transfer scheme, means a person from whom property, rights or liabilities are or are to be transferred under the scheme;
  - (c) “transferee”, in relation to a transfer scheme, means a person to whom property, rights or liabilities are or are to be transferred under the scheme.
- (4) In [this Part](#) of this Schedule—
  - (a) “designated”, in relation to a transfer scheme, means specified in or determined in accordance with the scheme;
  - (b) “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#));
  - (c) references to property are to property situated in the United Kingdom or elsewhere;
  - (d) references to the transfer of property include the grant of a lease;
  - (e) references to rights and liabilities—

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

- (i) are references to rights and liabilities of any kind, arising (in any way or at any time) under the law of a part of Great Britain or of a place outside Great Britain;
- (ii) include rights and liabilities arising under or by virtue of an enactment.

**Commencement Information**

**I64** Sch. 9 para. 1 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Consultation*

- 2 (1) Before making a transfer scheme, the Secretary of State must consult—
- (a) the transferor (or, if there is more than one transferor, the transferors), and
  - (b) such other persons as the Secretary of State considers appropriate.
- (2) [Sub-paragraph \(1\)](#) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

**Commencement Information**

**I65** Sch. 9 para. 2 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Transfer of property, rights and liabilities*

- 3 (1) The transfer of designated property, rights and liabilities under a transfer scheme takes effect on the date (or dates) specified in or determined in accordance with the scheme.
- (2) [Sub-paragraph \(1\)](#) has effect notwithstanding any provision (whether under an enactment or agreement or otherwise) that would otherwise prevent or restrict the transfer.
- (3) The things that may be transferred under a transfer scheme include—
- (a) rights, powers, duties and liabilities under or in connection with a contract of employment (see [paragraph 4](#));
  - (b) property, rights and liabilities that could not otherwise be transferred;
  - (c) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (d) criminal liabilities.

**Commencement Information**

**I66** Sch. 9 para. 3 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

- 4 (1) This paragraph applies where, under a transfer scheme, an employee to whom the scheme applies becomes an employee of a transferee.
- (2) The transfer scheme may apply to—
- (a) all persons who are employees of a transferor,



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- (b) such descriptions of a transferor’s employees as the scheme may specify, or
  - (c) such employees of a transferor as the scheme may specify.
- (3) The transfer scheme may include provision—
- (a) that has the same or similar effect as the TUPE regulations (so far as those regulations do not apply to any extent in relation to the transfer);
  - (b) about the pension entitlements of the employee enjoyed immediately before the transfer.
- (4) The transfer scheme must contain provision enabling an employee to whom the scheme applies to object to the transfer before the relevant time, including provision as to how such an objection is to be made and as to the consequences of it.
- (5) The transfer scheme may provide that a person who is assigned to work for a transferor (whether on secondment or otherwise and whether or not on a full-time basis), but who does not have a contract of employment with the transferor, is to be treated for the purposes of any provision of the scheme as an employee of the transferor.
- (6) The transfer scheme may provide that a collective agreement that, immediately before the relevant time, had effect in relation to an employee’s employment with a transferor is to have effect on and after the relevant time in relation to the employee’s employment with a transferee.
- (7) In this paragraph—
- “collective agreement” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178(1) of that Act);
  - “employee” has the same meaning as in the TUPE regulations (see regulation 2(1) of the regulations);
  - “the relevant time” means the time at which the transfer of the person’s employment takes effect in accordance with the transfer scheme.

#### Commencement Information

**I67** Sch. 9 para. 4 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

- 5
- (1) A transfer scheme may make provision requiring a transferor to provide such co-operation to a transferee as the transferee may reasonably require in connection with the implementation of the scheme.
  - (2) The co-operation that may be required by virtue of sub-paragraph (1) includes, in particular, co-operation in relation to—
    - (a) the provision of information;
    - (b) consultation with representatives of employees transferred by the scheme.

#### Commencement Information

**I68** Sch. 9 para. 5 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

- 6
- (1) A transfer scheme may make supplementary, incidental, transitional or consequential provision and may in particular—

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*Status: Point in time view as at 26/12/2023.*

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

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- (a) create rights, or impose liabilities, in relation to property, rights or liabilities transferred;
  - (b) make provision about the continuing effect of things done by a transferor in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of, or in relation to, a transferor in respect of anything transferred;
  - (d) make provision for references to a transferor in any instrument or other document in respect of anything transferred to be treated as references to the transferee;
  - (e) prevent a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer;
  - (f) dispense with any formality in relation to the transfer of anything by the scheme;
  - (g) make provision for the shared ownership or use of property;
  - (h) require a transferor, an associate of a transferor, or a transferee, to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (2) Sub-paragraph (1)(d) does not apply to references in—
- (a) primary legislation,
  - (b) subordinate legislation within the meaning of the Interpretation Act 1978 (see section 21(1) of that Act), or
  - (c) an instrument made under an Act of the Scottish Parliament, an Act or Measure of Senedd Cymru, or Northern Ireland legislation.
- (3) Any requirement imposed on a person by a transfer scheme is enforceable by the Secretary of State in civil proceedings—
- (a) for an injunction,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.
- (4) A certificate issued by the Secretary of State to the effect that any property, interest, right or liability transferred in accordance with a transfer scheme to a person specified in the certificate at a time so specified is conclusive evidence of the matters so specified.
- (5) In [this paragraph](#)—
- “associate” has the meaning given by section 1152 of the Companies Act 2006;
  - “primary legislation” means—
    - (a) an Act,
    - (b) an Act of the Scottish Parliament,
    - (c) an Act or Measure of Senedd Cymru, or
    - (d) Northern Ireland legislation.

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I69** Sch. 9 para. 6 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

- 7 A transfer scheme may—
- (a) make different provision for different purposes;
  - (b) make provision subject to exceptions.

#### Commencement Information

**I70** Sch. 9 para. 7 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### Commencement Information

**I66** Sch. 9 para. 3 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

**I67** Sch. 9 para. 4 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

**I68** Sch. 9 para. 5 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

**I69** Sch. 9 para. 6 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

**I70** Sch. 9 para. 7 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

### Compensation

- 8 (1) A transfer scheme may provide for a transferor to be entitled to compensation from the Secretary of State, in accordance with provision made by or under the scheme, to the extent that the scheme makes provision—
- (a) in preparation for or in connection with the first designation of a person under [section 162\(1\)](#), or
  - (b) for the purpose of facilitating the carrying on by the ISOP of any of its functions.
- (2) Where a transferor is entitled to compensation by virtue of [sub-paragraph \(1\)](#), the amount of compensation is to be the amount—
- (a) agreed by the Secretary of State and the transferor, or
  - (b) in the absence of such agreement, determined by an independent valuer.
- (3) For the purposes of [sub-paragraph \(2\)](#) an independent valuer must be appointed—
- (a) by the Secretary of State and the transferor, or
  - (b) in the absence of such agreement, by the Secretary of State on behalf of both the Secretary of State and the transferor.
- (4) The Secretary of State may by regulations make provision—
- (a) for determining when there is an absence of agreement for the purposes of [sub-paragraph \(2\)\(b\)](#) or [\(3\)\(b\)](#);
  - (b) about the procedure to be followed by an independent valuer in making a determination for the purposes of [sub-paragraph \(2\)\(b\)](#) (“a compensation determination”);
  - (c) specifying matters to which an independent valuer must have regard, or assumptions that an independent valuer must apply, in making a compensation determination;

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

- (d) for an independent valuer to require the Secretary of State or the transferor to provide such information to the independent valuer as the independent valuer reasonably requires for the purposes of making a compensation determination;
  - (e) for an independent valuer's determination to be binding on the Secretary of State and the transferor for the period specified in or determined under the regulations;
  - (f) about remuneration and expenses of an independent valuer;
  - (g) about enforcement of requirements imposed by the regulations.
- (5) Regulations under sub-paragraph (4) may confer a discretion on a person.

#### **Commencement Information**

**I71** Sch. 9 para. 8 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### *Taxation*

- 9 (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
- (a) anything transferred, acquired or disposed of under a transfer scheme, or
  - (b) anything done for the purposes of, or in relation to, a transfer under a transfer scheme.
- (2) The provision that may be made under [sub-paragraph \(1\)\(a\)](#) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;
  - (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
  - (c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision that may be made under [sub-paragraph \(1\)\(b\)](#) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, the transfer;
  - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
  - (c) the Secretary of State to be required or permitted to determine, or to specify the method for determining, anything that needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.
- (5) In this paragraph—
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty reserve tax, stamp duty land tax or value added tax;

*Status: Point in time view as at 26/12/2023.*

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

- “tax provision” means any provision—
- (a) about a relevant tax, and
  - (b) made by an enactment.

**Commencement Information**

**I72** Sch. 9 para. 9 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Power to amend transfer scheme*

- 10 (1) The Secretary of State may amend a transfer scheme if the Secretary of State considers that the amendment is appropriate—
- (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#),
  - (b) for the purpose of enabling the ISOP to carry out any of its functions, or
  - (c) for the purpose of enabling a transferor to carry out any of its functions.
- (2) The power under [sub-paragraph \(1\)](#) is not exercisable in relation to a transfer scheme after the end of the period of 12 months beginning with the day on which the scheme takes effect.
- (3) Paragraphs [2](#) to [7](#) apply in relation to the amendment of a transfer scheme as they apply in relation to a transfer scheme.
- (4) A transfer scheme may provide for a transferor or transferee under the scheme to be entitled to compensation in consequence of the amendment of the scheme.
- (5) Paragraph [8\(2\)](#) to [\(5\)](#) applies (with any necessary modifications) in relation to an entitlement to compensation under [sub-paragraph \(4\)](#) as it applies in relation to an entitlement to compensation under [paragraph 8\(1\)](#).

**Commencement Information**

**I73** Sch. 9 para. 10 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*National Security and Investment Act 2021*

- 11 The making of a transfer scheme is not a trigger event for the purposes of the National Security and Investment Act 2021.

**Commencement Information**

**I74** Sch. 9 para. 11 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Status: Point in time view as at 26/12/2023.*

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

## PART 2 **E+W+S**

### OTHER PROVISION ABOUT TRANSFERS AND DESIGNATION

#### *Provision of information or assistance*

- 12 (1) The Secretary of State may direct a person within [sub-paragraph \(2\)](#) to provide the Secretary of State with such specified information or assistance as the Secretary of State may reasonably require—
- (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#), or
  - (b) in connection with the making of a transfer scheme.
- (2) A person is within this sub-paragraph if—
- (a) property, rights or liabilities are likely to be transferred from or to the person by a transfer scheme, or
  - (b) the person is a body corporate that is likely to be transferred under a transfer scheme.
- (3) The Secretary of State may direct a person (other than a person within [sub-paragraph \(2\)](#)) to provide the Secretary of State with such specified information or assistance as the Secretary of State may reasonably require in preparation for or in connection with the designation of a person under [section 162\(1\)](#).
- (4) A direction under [sub-paragraph \(1\)](#) or (3) must—
- (a) be in writing, and
  - (b) specify the sub-paragraph under which it is given.
- (5) The power to give a direction under [sub-paragraph \(3\)](#) ceases to be exercisable—
- (a) at the end of the period of 3 years beginning with the time from which the first designation under [section 162\(1\)](#) has effect, or
  - (b) if at any time before the end of that period a transfer scheme is made under [paragraph 1\(1\)](#), at the end of the period of 3 years beginning with the date (or, if there is more than one, the first date) from which the transfer of property, rights or liabilities under the scheme takes effect.
- (6) A person to whom a direction is given under [sub-paragraph \(1\)](#) or (3) must, so far as reasonably practicable, provide the Secretary of State with the specified information or assistance—
- (a) within the specified period, and
  - (b) in the specified form and manner.
- (7) A direction under [sub-paragraph \(1\)](#) or (3) is enforceable by the Secretary of State in civil proceedings—
- (a) for an injunction,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.
- (8) The Secretary of State—
- (a) must reimburse a person in respect of costs reasonably incurred by the person in complying with a direction under [sub-paragraph \(1\)](#) or (3);

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- (b) may reimburse a person in respect of costs reasonably incurred by the person in complying with a request (whether made before or after the day on which this Act is passed) to provide the Secretary of State with information reasonably required by the Secretary of State for a purpose mentioned in sub-paragraph (1)(a) or (b).
- (9) In this paragraph—  
 “assistance” includes assistance provided in a country or territory other than the United Kingdom;  
 “information” includes documents;  
 “specified” means specified in the direction.

#### Commencement Information

**I75** Sch. 9 para. 12 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### Co-operation

- 13 (1) A person within [sub-paragraph \(2\)](#) must co-operate with, and so far as practicable must not take any step that may reasonably be expected to impede, the Secretary of State in relation to the doing of anything by the Secretary of State—
- (a) in preparation for or in connection with the first designation of a person under [section 162\(1\)](#), or
- (b) in connection with the making of a transfer scheme.
- (2) The persons within this sub-paragraph are—
- (a) National Grid plc and its associates (within the meaning of section 1152 of the Companies Act 2006);
- (b) any person who, at any time during the period mentioned in sub-paragraph (3), has acquired property, rights or liabilities from a person within [paragraph \(a\)](#) (whether or not as a result of a transfer scheme under [paragraph 1](#)).
- (3) The period mentioned in sub-paragraph (2)(b) is the period beginning on 20 July 2021 and ending with the first designation of a person under [section 162\(1\)](#).

#### Commencement Information

**I76** Sch. 9 para. 13 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### Reimbursement and compensation: further provision

- 14 (1) The Secretary of State may reimburse a person in respect of expenditure reasonably incurred by the person—
- (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#), or
- (b) in connection with the making of a transfer scheme.
- (2) The Secretary of State may make regulations providing for the payment of compensation by the Secretary of State to a person (other than the transferor in relation to a transfer scheme) who has suffered loss or damage in consequence of



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anything done by the Secretary of State in preparation for or in connection with the designation of a person under [section 162\(1\)](#).

#### Commencement Information

I77 Sch. 9 para. 14 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

## SCHEDULE 10 **E+W+S**

Section 175

### INDEPENDENT SYSTEM OPERATOR AND PLANNER: PENSIONS

#### Introductory

1 (1) In this Schedule—

“active member” has the same meaning as in section 124(1) of the Pensions Act 1995;

“associate” has the same meaning as in section 1152 of the Companies Act 2006;

“member” has the same meaning as in section 124(1) of the Pensions Act 1995;

“prescribed” means prescribed by regulations made by the Secretary of State;

“qualifying accrued rights” means—

(a) any right which, at the relevant time, has accrued to or in respect of a qualifying member of a qualifying pension scheme to future benefits under the scheme,

(b) any entitlement under a qualifying pension scheme to the present payment of a pension or other benefit that a qualifying member of the scheme has at the relevant time, or

(c) any entitlement to benefits, or rights to future benefits, under a qualifying pension scheme that a person who has survived a qualifying member of the scheme has at the relevant time in respect of the member;

“qualifying member”, in relation to a qualifying pension scheme, means a person who is or has been a member of the scheme;

“qualifying pension scheme” means a pension scheme that provides for the payment of pensions or other benefits to or in respect of employees or former employees of—

(a) a transferor in relation to a transfer scheme under paragraph 1 of [Schedule 9](#), or

(b) an associate of such a transferor;

“the relevant time” means the time immediately before the prescribed date (which may be before the passing of this Act).

(2) For the purposes of the definition of “qualifying accrued rights” in subparagraph (1)—

(a) references to pensions or other benefits (including future benefits) include money purchase benefits;

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

- (b) references to a right include a pension credit right.
- (3) In the event that a section of a qualifying pension scheme is constituted as a separate pension scheme the members of which consist of or include persons who are qualifying members of the qualifying pension scheme, any reference in this Schedule to the qualifying pension scheme includes a reference to that separate pension scheme.

#### Commencement Information

**I78** Sch. 10 para. 1 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### *Participation in qualifying pension schemes and transfer of assets and rights*

- 2 (1) The Secretary of State may by regulations make such pensions provision as the Secretary of State considers appropriate—
- (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#), or
  - (b) otherwise in connection with the making of a transfer scheme under paragraph 1 of [Schedule 9](#).
- (2) “Pensions provision” means provision in connection with a qualifying pension scheme, including provision for—
- (a) enabling an entity to which [sub-paragraph \(3\)](#) applies to participate in the scheme;
  - (b) the division of the scheme into different sections;
  - (c) the participation in the different sections of different persons (including entities to which [sub-paragraph \(3\)](#) applies);
  - (d) the allocation of assets, rights, liabilities or obligations between the different sections;
  - (e) the transfer of assets and qualifying accrued rights from the scheme to another pension scheme (whether or not a qualifying pension scheme), without the need for any approval or consent to the transfer;
  - (f) the valuation of assets and qualifying accrued rights in accordance with provision made by the regulations, for the purposes of their allocation to a particular section or for the purposes of their transfer as mentioned in paragraph (e);
  - (g) the discharge of liabilities in respect of qualifying accrued rights that are transferred.
- (3) This sub-paragraph applies to the following entities—
- (a) the ISOP;
  - (b) an associate of the ISOP;
  - (c) any other entity which employs a person—
    - (i) whose contract of employment is transferred by a transfer scheme under paragraph 1 of [Schedule 9](#), and
    - (ii) who is an active member of the qualifying pension scheme at the relevant time.
- (4) Regulations under [sub-paragraph \(1\)](#) may have retrospective effect.

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- (5) Before making regulations under [sub-paragraph \(1\)](#), the Secretary of State must consult—
- (a) the trustee of the qualifying pension scheme or schemes in question, and
  - (b) the person who is the principal employer in relation to that scheme or those schemes.

**Commencement Information**

**179** Sch. 10 para. 2 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Amendment of qualifying pension schemes*

- 3 (1) The Secretary of State may by regulations make such amendments of a qualifying pension scheme as the Secretary of State considers appropriate—
- (a) in preparation for or in connection with the designation of a person under [section 162\(1\)](#),
  - (b) otherwise in connection with the making of a transfer scheme under paragraph 1 of [Schedule 9](#), or
  - (c) in connection with the making of regulations under paragraph 2 of this Schedule.
- (2) The provision that may be made under [sub-paragraph \(1\)](#) includes—
- (a) provision authorising or requiring the amount of pensions or other benefits payable to or in respect of qualifying members of the scheme to be determined in particular circumstances by reference to pensionable service under the scheme in question before and after the relevant time;
  - (b) provision for the transfer out of assets, rights, liabilities or obligations from one or more new sections of a qualifying pension scheme to another pension scheme (whether or not a qualifying pension scheme);
  - (c) provision for the transfer in of assets, rights, liabilities or obligations to one or more new sections of one qualifying pension scheme from one or more new sections of another qualifying pension scheme.
- (3) Regulations under [sub-paragraph \(1\)](#) may have retrospective effect.
- (4) Before making regulations under [sub-paragraph \(1\)](#), the Secretary of State must consult—
- (a) the trustee of the qualifying pension scheme being amended, and
  - (b) the person who is the principal employer in relation to that scheme.
- (5) In this paragraph—
- (a) the reference to making amendments of a qualifying pension scheme includes a reference to amending the trust deed or rules of that scheme or any other instrument relating to the constitution, management or operation of the scheme;
  - (b) references to a “new” section of a qualifying pension scheme are to one of the sections into which the scheme is divided by regulations under paragraph 2(1);
  - (c) “pensionable service” has the same meaning as in section 124(1) of the Pensions Act 1995.

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#### Commencement Information

**180** Sch. 10 para. 3 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

#### *Protection against adverse treatment*

- 4 (1) When exercising the power to make regulations under paragraph 2 or 3, the Secretary of State must ensure that the following requirements are met in respect of each person who is or has been a qualifying member of a qualifying pension scheme—
- (a) the general scheme requirement;
  - (b) where the regulations relate to a person's rights or entitlements to money purchase benefits other than pensions in payment, the money purchase requirement.
- (2) The general scheme requirement is that the provision for the payment of pensions or other benefits that is contained in a qualifying pension scheme or any other pension scheme to which a transfer is made by virtue of paragraph 2(2)(e) is, in all material respects, at least as good immediately after the exercise of the power as it is immediately before its exercise.
- (3) The money purchase requirement is that the value of the rights or entitlements to money purchase benefits, other than pensions in payment, that a person has under a qualifying pension scheme or any other pension scheme to which a transfer is made by virtue of paragraph 2(2)(e) immediately after, and as a result of, the exercise of the power is at least equivalent to the value of the person's rights or entitlements before its exercise.
- (4) Nothing in sub-paragraph (1) requires—
- (a) the different sections (if any) of a qualifying pension scheme to be established in a particular way,
  - (b) particular provisions of the sections, or of a pension scheme to which a transfer is made by virtue of paragraph 2(2)(e), to take the same or similar form, or
  - (c) any power or duty conferred or imposed by a qualifying pension scheme to be exercised or performed in a particular way.
- (5) The power of the Secretary of State to amend a qualifying pension scheme may not be exercised in any way that would or might adversely affect any provision of the scheme made in respect of qualifying accrued rights unless—
- (a) the applicable consent requirements are satisfied in respect of the exercise of the power in that way, or
  - (b) the scheme is amended in the prescribed manner.
- (6) The applicable consent requirements are the requirements that apply in relation to obtaining the consent of members of the scheme to its amendment (including any such requirements set out in the trust deed or rules of the scheme).

#### Commencement Information

**181** Sch. 10 para. 4 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### Information and assistance

- 5 (1) The Secretary of State may direct a person within [sub-paragraph \(3\)](#) to provide the Secretary of State with—
- (a) such specified pensions information, or
  - (b) such specified assistance,
- as the Secretary of State may reasonably require in preparation for or in connection with the exercise of a power conferred on the Secretary of State by this Schedule.
- (2) “Pensions information” means information that—
- (a) relates to pensions or other benefits under a qualifying pension scheme, or
  - (b) relates to the administration of a qualifying pension scheme in respect of pensions or other benefits under the scheme.
- (3) The following persons are within this sub-paragraph—
- (a) the trustee of a qualifying pension scheme;
  - (b) any person who exercises functions on behalf of a person within [paragraph \(a\)](#);
  - (c) any person who is or has been an employer of a qualifying member of a qualifying pension scheme.
- (4) The power under [sub-paragraph \(1\)](#) ceases to be exercisable—
- (a) at the end of the period of 3 years beginning with the time from which the first designation under [section 162\(1\)](#) has effect, or
  - (b) if at any time before the end of that period a transfer scheme is made under [paragraph 1\(1\) of Schedule 9](#), at the end of the period of 3 years beginning with the date (or, if there is more than one, the first date) from which the transfer of property, rights or liabilities under the scheme takes effect.
- (5) A person to whom a direction is given under [sub-paragraph \(1\)](#) must, so far as reasonably practicable, provide the Secretary of State with the specified pensions information or assistance—
- (a) within the specified period, and
  - (b) in the specified form and manner.
- (6) A direction under [sub-paragraph \(1\)](#) is enforceable by the Secretary of State in civil proceedings—
- (a) for an injunction,
  - (b) for specific performance of a statutory duty under [section 45 of the Court of Session Act 1988](#), or
  - (c) for any other appropriate remedy or relief.
- (7) The Secretary of State must reimburse a person for costs reasonably incurred by the person in complying with a direction under [sub-paragraph \(1\)](#).
- (8) In this paragraph, “specified” means specified in the direction.

#### Commencement Information

**182** Sch. 10 para. 5 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### Consultation

- 6 Any requirement imposed by this Schedule to carry out consultation may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

#### Commencement Information

**I83** Sch. 10 para. 6 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

### National Security and Investment Act 2021

- 7 The exercise by the Secretary of State of a power conferred on the Secretary of State by any provision of this Schedule is not a trigger event for the purposes of the National Security and Investment Act 2021.

#### Commencement Information

**I84** Sch. 10 para. 7 in force at Royal Assent, see [s. 334\(2\)\(h\)\(ii\)](#)

VALID FROM 31/01/2024

## SCHEDULE 11 E+W+S

Section 179

### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 5

PROSPECTIVE

#### *Gas Act 1986*

- 1 The Gas Act 1986 is amended as follows.

#### Commencement Information

**I85** Sch. 11 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

- 2 In section 6A (exemptions from prohibition), in subsection (1), after “(c)” insert “, (ca)”.

#### Commencement Information

**I86** Sch. 11 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I85** Sch. 11 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

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

**186** Sch. 11 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

### *Electricity Act 1989*

3 The Electricity Act 1989 is amended as follows.

#### **Commencement Information**

**187** Sch. 11 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

4 In section 4 (prohibition on unlicensed supply, transmission etc of electricity), in subsection (3A)—

- (a) omit paragraph (a) (including the “or” at the end);
- (b) in paragraph (b), for “such a transmission system” substitute “a transmission system by means of which the transmission of electricity takes place”.

#### **Commencement Information**

**188** Sch. 11 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

5 In section 5 (exemptions from prohibition), in subsection (1), after “(c),” insert “(ca),”.

#### **Commencement Information**

**189** Sch. 11 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

6 In section 10 (powers etc of licence holders), in subsection (1)(a), after “licence” insert “or of an electricity system operator licence”.

#### **Commencement Information**

**190** Sch. 11 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

7 In section 49 (keeping of register), in subsection (2)(c), after “under” insert “or in respect of”.

#### **Commencement Information**

**191** Sch. 11 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

#### **Commencement Information**

**187** Sch. 11 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

**188** Sch. 11 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

**189** Sch. 11 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

**190** Sch. 11 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

**191** Sch. 11 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)



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*Utilities Act 2000*

- 8 (1) Section 105 of the Utilities Act 2000 (general restrictions on disclosure of information) is amended as follows.
- (2) In subsection (1)(a), after “Part 1 of the Energy Act 2023” (inserted by [paragraph 5\(a\) of Schedule 5](#) to this Act) insert “or [Part 5](#) of that Act”.
- (3) In subsection (4), after paragraph (ba) insert—  
 “(bb) for the purpose of facilitating the performance by the Independent System Operator and Planner of any of its functions;”.
- (4) In subsection (10), at the appropriate place insert—  
 ““the Independent System Operator and Planner” means the person for the time being designated under [section 162\(1\)](#) of the Energy Act 2023;”.

**Commencement Information**

**192** Sch. 11 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

PROSPECTIVE

SCHEDULE 12 **E+W+S**

Section 200(1)

GOVERNANCE OF GAS AND ELECTRICITY INDUSTRY CODES: TRANSITIONAL PROVISION

*Meaning of “qualifying document”, “qualifying contract” and “qualifying central system”*

- 1 (1) In this Schedule, “qualifying document” means a document that—  
 (a) is maintained in accordance with the conditions of a relevant licence, and  
 (b) is designated for the purposes of this Schedule by notice given by the Secretary of State.
- (2) Where at any time after the day on which [this paragraph](#) comes into force the whole or part of the provision made by a qualifying document is incorporated into a different document (“document B”), document B is to be treated for the purposes of this Schedule as if it were a qualifying document even if it is not designated under [sub-paragraph \(1\)\(b\)](#).
- (3) In this Schedule, “qualifying contract” means a contract—  
 (a) that constitutes the whole or part of the arrangements under which a qualifying document has effect,  
 (b) that relates to the governance of a qualifying document, or  
 (c) that is a central system contract.
- (4) For the purposes of [sub-paragraph \(3\)\(c\)](#), a contract is a “central system contract” if—  
 (a) it relates to the operation of a qualifying central system, and

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- (b) the person responsible for operating or procuring the operation of the central system is a party to the contract.
- (5) In this Schedule, “qualifying central system” means a central system that is designated for the purposes of this Schedule by notice given by the Secretary of State.
- (6) The Secretary of State may revoke a designation under sub-paragraph (1)(b) or (5).
- (7) The Secretary of State may not designate a document or central system under sub-paragraph (1)(b) or (5), or revoke a designation, except so as to give effect to a recommendation of the GEMA.
- (8) Before making a recommendation to the Secretary of State for the purposes of sub-paragraph (7), the GEMA must consult such persons as it considers appropriate.

#### Commencement Information

**I93** Sch. 12 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Purposes for which powers under this Schedule may be exercised*

- 2 (1) The GEMA may exercise a power conferred on it by [paragraph 4, 6, 7, 8 or 11](#) only if the GEMA considers it appropriate to exercise the power—
- (a) for the purposes of or in connection with establishing the role of code manager in respect of a document that is expected to become a designated document,
  - (b) in preparation for the granting of a code manager licence to a person in respect of a designated document,
  - (c) for the purposes of facilitating the carrying out by the GEMA of its functions under this Part,
  - (d) for the purposes of promoting the efficient governance of arrangements under one or more qualifying documents (subject to sub-paragraph (2)), or
  - (e) for the purposes of harmonising the governance of particular qualifying documents or of qualifying documents in general.
- (2) Sub-paragraph (1)(d) does not apply to the exercise of the power conferred by [paragraph 6](#) in relation to a qualifying contract within [paragraph 1\(3\)\(b\)](#) or (c).

#### Commencement Information

**I94** Sch. 12 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Expiry of powers under this Schedule*

- 3 The powers conferred on the GEMA by [paragraphs 4, 6, 7, 8 and 11](#) in relation to a particular qualifying document expire—
- (a) when the document becomes a designated document, or
  - (b) if earlier, at the end of the period of 7 years after the day on which this Act is passed.

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### Commencement Information

**195** Sch. 12 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Modification of qualifying documents and relevant licences*

- 4 (1) The GEMA may modify—
- (a) a qualifying document;
  - (b) the conditions of a particular relevant licence;
  - (c) the standard conditions of relevant licences of a particular type.
- (2) Before making a modification under [sub-paragraph \(1\)](#), the GEMA must—
- (a) publish a notice about the proposed modification,
  - (b) send a copy of the notice to the persons listed in [sub-paragraph \(3\)](#), and
  - (c) consider any representations made within the period specified in the notice about the proposed modification or the date from which it would take effect.
- (3) The persons mentioned in [sub-paragraph \(2\)\(b\)](#) are—
- (a) the Secretary of State;
  - (b) each relevant licence holder;
  - (c) the National Association of Citizens Advice Bureaux;
  - (d) the Scottish Association of Citizens Advice Bureaux;
  - (e) Consumer Scotland;
  - (f) where the proposed modification relates to a licence for the purposes of section 5 of the Gas Act 1986, the Health and Safety Executive;
  - (g) such other persons as the GEMA considers appropriate.
- (4) A notice under [sub-paragraph \(2\)](#) must—
- (a) state that the GEMA proposes to make a modification;
  - (b) set out the proposed modification and its effect;
  - (c) specify the date from which the GEMA proposes that the modification will have effect;
  - (d) state the reasons why the GEMA proposes to make the modification.
- (5) If, after complying with [sub-paragraphs \(2\) to \(4\)](#) in relation to a modification, the GEMA decides to make a modification, it must publish a notice about the decision.
- (6) A notice under [sub-paragraph \(5\)](#) must—
- (a) state that the GEMA has decided to make the modification;
  - (b) set out the modification and its effect;
  - (c) specify the date from which the modification has effect;
  - (d) state how the GEMA has taken account of any representations made in the period specified in the notice under [sub-paragraph \(2\)](#);
  - (e) state the reason for any differences between the modification set out in the notice and the proposed modification.
- (7) A notice under this paragraph about a modification or decision must be published in such manner as the GEMA considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.

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- (8) In this paragraph, “relevant licence holder”—
- (a) in relation to the modification of a qualifying document, means the holder of a relevant licence in accordance with the conditions of which the document is maintained;
  - (b) in relation to the modification of standard conditions of relevant licences of any type, means the holder of a relevant licence of that type—
    - (i) that is to be modified by the inclusion of any new standard condition, or
    - (ii) that includes any standard conditions to which the modifications relate which are in effect during the period specified by virtue of [sub-paragraph \(2\)\(c\)](#);
  - (c) in relation to the modification of a condition of a particular relevant licence (other than a standard condition), means the holder of that particular relevant licence.
- (9) For the purposes of [this paragraph](#), “modification”, in relation to a qualifying document, includes the incorporation of the whole or part of the provision made by the document into another document.

**Commencement Information**

**I96** Sch. 12 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

- 5 (1) [Sub-paragraphs \(2\)](#) and [\(3\)](#) apply where at any time the GEMA modifies the conditions of licences of any type under [paragraph 4](#).
- (2) If the conditions modified are standard conditions, the GEMA must—
- (a) also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time, and
  - (b) publish the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications.
- (3) The GEMA may make such incidental or consequential modifications of any conditions of licences of any type as it considers necessary or expedient.
- (4) The modification of part of a standard condition of a particular licence under [paragraph 4](#) does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Electricity Act 1989 (in the case of a licence under section 6(1) of that Act) or Part 1 of the Gas Act 1986 (in the case of a licence under section 7, 7ZA, 7A or 7AB of that Act).

**Commencement Information**

**I97** Sch. 12 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I96** Sch. 12 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

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**I97** Sch. 12 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

*Amendment or termination of qualifying contracts*

- 6 (1) The GEMA may amend a qualifying contract.
- (2) Before making an amendment under [sub-paragraph \(1\)](#), the GEMA must—
- (a) send a notice about the proposed amendment to the persons listed in [sub-paragraph \(4\)](#), and
  - (b) consider any representations made within the period specified in the notice about the proposed amendment or the date from which it would take effect.
- (3) A notice under [sub-paragraph \(2\)](#) must—
- (a) state that the GEMA proposes to make an amendment;
  - (b) set out the proposed amendment and its effect;
  - (c) specify the date from which the GEMA proposes that the amendment will have effect;
  - (d) state the reasons why the GEMA proposes to make the amendment.
- (4) The persons mentioned in [sub-paragraph \(2\)\(a\)](#) are—
- (a) each person who is a party to the contract to which the proposed amendment relates;
  - (b) any person liable by virtue of [paragraph 12](#) to make a payment by way of compensation as a result of the proposed amendment;
  - (c) such other persons as the GEMA considers appropriate.
- (5) If, after complying with [sub-paragraphs \(2\) to \(4\)](#) in relation to an amendment, the GEMA decides to make an amendment, it must send a notice to the persons listed in [sub-paragraph \(4\)](#) about the decision.
- (6) A notice under [sub-paragraph \(5\)](#) must—
- (a) state that the GEMA has decided to make the amendment;
  - (b) set out the amendment and its effect;
  - (c) specify the date from which the amendment has effect;
  - (d) state how the GEMA has taken account of any representations made in the period specified in the notice under [sub-paragraph \(2\)](#);
  - (e) state the reason for any differences between the amendment set out in the notice and the proposed amendment.
- (7) In this paragraph, “amend”, in relation to a contract, includes terminate.

**Commencement Information**

**I98** Sch. 12 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

*Arrangements in connection with code consolidation*

- 7 (1) The GEMA may, in connection with the consolidation of one or more qualifying documents, make a scheme for the purpose of securing the continued effect of rights or liabilities under a contract that is a qualifying contract within [paragraph 1\(3\)\(a\)](#).

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- (2) “Consolidation”, in relation to a qualifying document, means the incorporation of the whole or part of the provision made by the document into another document.
- (3) A scheme under this paragraph may make incidental, supplementary or consequential provision (including provision amending the qualifying contract).

#### **Commencement Information**

**I99** Sch. 12 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Transfer schemes*

- 8 (1) The GEMA may make one or more schemes for the transfer of designated property, rights or liabilities from one person (“the transferor”) to another person (“the transferee”) where the condition in [sub-paragraph \(2\)](#) is met.
- (2) The condition is that the designated property, rights or liabilities—
  - (a) relate to the operation of the provisions of a qualifying document, and
  - (b) are reasonably required by the transferee for the purposes of its obligations under a code manager licence (whether or not the licence has yet been granted to the transferee).
- (3) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.
- (4) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.
- (5) A certificate by the GEMA that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.
- (6) A scheme may make provision—
  - (a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;
  - (b) for references to the transferor in any agreement (whether written or not), instrument or other document relating to any property, rights or liabilities transferred by the scheme to be treated as references to the transferee;
  - (c) about the continuation of legal proceedings;
  - (d) for transferring property, rights or liabilities that could not otherwise be transferred or assigned;
  - (e) for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;
  - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
  - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
  - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
  - (i) for apportioning property, rights or liabilities;

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

- (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
  - (k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (7) **Sub-paragraph (6)(b)** does not apply to references in—
- (a) primary legislation, or
  - (b) an instrument made under primary legislation.
- (8) A scheme may—
- (a) include incidental, supplementary or consequential provision;
  - (b) make transitory or transitional provision or savings;
  - (c) make different provision for different purposes;
  - (d) make provision subject to exceptions.
- (9) In this paragraph—
- “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
  - “primary legislation” means—
    - (a) an Act of Parliament,
    - (b) an Act of the Scottish Parliament,
    - (c) an Act or Measure of Senedd Cymru, or
    - (d) Northern Ireland legislation;
  - “property” includes interests of any description;
  - “the transfer date” means a date specified by a scheme as the date on which the transfer is to have effect.

**Commencement Information**

**I100** Sch. 12 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

- 9
- (1) Before making a scheme under paragraph 8, the GEMA must consult—
    - (a) the transferor;
    - (b) the transferee;
    - (c) such other persons as the GEMA considers appropriate.
  - (2) The approval of the Secretary of State is required for the making of a scheme under paragraph 8.

**Commencement Information**

**I101** Sch. 12 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

- 10
- (1) The GEMA may modify a scheme under paragraph 8.
  - (2) The power under [sub-paragraph \(1\)](#) is not exercisable in relation to a scheme after the end of the period of 12 months beginning with the day on which the scheme takes effect.
  - (3) [Paragraphs 8](#) and [9](#) apply in relation to the modification of a scheme as they apply in relation to the making of the scheme.



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#### Commencement Information

**I102** Sch. 12 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I100** Sch. 12 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

**I101** Sch. 12 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

**I102** Sch. 12 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Information

- 11 (1) The GEMA may direct a person who holds information reasonably required by the GEMA—
- (a) in preparation for the granting of a code manager licence, or
  - (b) for the purposes of or in connection with the exercise of any of the other functions of the GEMA under [this Schedule](#),
- to provide the information to the GEMA.
- (2) A person to whom a direction is given under [sub-paragraph \(1\)](#) must, so far as reasonably practicable, provide the GEMA with the information—
- (a) within the period specified in the direction, and
  - (b) in the form and manner so specified.
- (3) A direction given to a person under [sub-paragraph \(1\)](#) is enforceable by the GEMA in civil proceedings—
- (a) for an injunction,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.

#### Commencement Information

**I103** Sch. 12 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Compensation

- 12 (1) The relevant code manager must make a payment to a person within [sub-paragraph \(2\)](#) in compensation for financial loss suffered by the person in consequence of the exercise by the GEMA of—
- (a) the power under [paragraph 6](#) in relation to a qualifying contract within [paragraph 1\(3\)\(b\)](#) or [\(c\)](#), or
  - (b) the power under [paragraph 8](#) (transfer schemes).
- (2) The persons within this sub-paragraph are—
- (a) a person who is a party to a contract that is amended or terminated under [paragraph 6](#);
  - (b) the transferor in relation to a scheme under [paragraph 8](#);

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- (c) a person, other than the transferor or transferee in relation to a scheme under paragraph 8, who has a right in relation to anything transferred by the scheme.
- (3) The amount of a payment under sub-paragraph (1) is to be—
- (a) in a case relating to the exercise of the power under paragraph 6, such amount as the GEMA considers to be just;
  - (b) in a case relating to the exercise of the power under paragraph 8, an amount specified in or determined in accordance with provision made in the scheme in question.
- (4) In this paragraph, “the relevant code manager” means—
- (a) in relation to the exercise of the power under paragraph 6, the person who holds a code manager licence in relation to the document to which the qualifying contract in question relates;
  - (b) in relation to the exercise of the power under paragraph 8, the person who is the transferee in relation to the scheme in question.
- (5) The GEMA may in a particular case direct—
- (a) which person is the relevant code manager for the purposes of this paragraph;
  - (b) that two or more persons are jointly to be the relevant code manager for those purposes.
- (6) The Secretary of State may in a particular case direct that the duty under sub-paragraph (1) is to be discharged by a person specified in the direction (instead of by the relevant code manager).

**Commencement Information**

**I104** Sch. 12 para. 12 not in force at Royal Assent, see [s. 334\(1\)](#)

*Other*

- 13 Any requirement imposed by this Schedule to carry out consultation may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

**Commencement Information**

**I105** Sch. 12 para. 13 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

PROSPECTIVE

SCHEDULE 13 **E+W+S**

Section 200(2)

GOVERNANCE OF GAS AND ELECTRICITY INDUSTRY CODES: PENSIONS

*Introductory*

- 1 (1) In this Schedule—
- “active member” has the same meaning as in section 124(1) of the Pensions Act 1995;
  - “associate” has the same meaning as in section 1152 of the Companies Act 2006;
  - “member” has the same meaning as in section 124(1) of the Pensions Act 1995;
  - “prescribed” means prescribed by regulations made by the GEMA;
  - “qualifying accrued rights” means—
    - (a) any right which, at the relevant time, has accrued to or in respect of a qualifying member of a qualifying pension scheme to future benefits under the scheme,
    - (b) any entitlement under a qualifying pension scheme to the present payment of a pension or other benefit that a qualifying member of the scheme has at the relevant time, or
    - (c) any entitlement to benefits, or rights to future benefits, under a qualifying pension scheme that a person who has survived a qualifying member of the scheme has at the relevant time in respect of the member;
  - “qualifying member”, in relation to a qualifying pension scheme, means a person who is or has been a member of the scheme;
  - “qualifying pension scheme” means a scheme that provides for the payment of pensions or other benefits to or in respect of employees or former employees of—
    - (a) a transferor in relation to a scheme under paragraph 8 of [Schedule 12](#), or
    - (b) an associate of such a transferor;
  - “the relevant time” means the time immediately before the prescribed date (which may be before the passing of this Act).
- (2) For the purposes of the definition of “qualifying accrued rights” in subparagraph (1)—
- (a) references to pensions or other benefits (including future benefits) include money purchase benefits;
  - (b) references to a right include a pension credit right.
- (3) In the event that a section of a qualifying pension scheme is constituted as a separate pension scheme the members of which consist of or include persons who are qualifying members of the qualifying pension scheme, any reference in this Schedule to the qualifying pension scheme includes a reference to that separate pension scheme.

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I106** Sch. 13 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Participation in qualifying pension schemes and transfer of assets and rights*

- 2 (1) The GEMA may by regulations make such pensions provision as it considers appropriate in preparation for the granting of a code manager licence to a person in respect of a designated document.
- (2) “Pensions provision” means provision in connection with a qualifying pension scheme, including provision for—
- (a) enabling a person to participate in the scheme;
  - (b) the division of the scheme into different sections;
  - (c) the participation in the different sections of different persons;
  - (d) the allocation of assets, rights, liabilities or obligations between the different sections;
  - (e) the transfer of assets and qualifying accrued rights from the scheme to another pension scheme (whether or not a qualifying pension scheme), without the need for any approval or consent to the transfer;
  - (f) the valuation of assets and qualifying accrued rights in accordance with provision made by the regulations, for the purposes of their allocation to a particular section or for the purposes of their transfer as mentioned in paragraph (e);
  - (g) the discharge of liabilities in respect of qualifying accrued rights that are transferred.
- (3) Regulations under [sub-paragraph \(1\)](#) may have retrospective effect.
- (4) Before making regulations under [sub-paragraph \(1\)](#), the GEMA must consult—
- (a) the trustee of the qualifying pension scheme or schemes in question, and
  - (b) the person who is the principal employer in relation to that scheme or those schemes.
- (5) The approval of the Secretary of State is required for the making of regulations under [sub-paragraph \(1\)](#).

#### Commencement Information

**I107** Sch. 13 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Amendment of qualifying pension schemes*

- 3 (1) The GEMA may by regulations make such amendments of a qualifying pension scheme as it considers appropriate—
- (a) in preparation for the granting of a code manager licence to a person in respect of a designated document, or
  - (b) in connection with the making of regulations under [paragraph 2](#).
- (2) The provision that may be made under [sub-paragraph \(1\)](#) includes—

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- (a) provision authorising or requiring the amount of pensions or other benefits payable to or in respect of qualifying members of the scheme to be determined in particular circumstances by reference to pensionable service under the scheme in question before and after the relevant time;
  - (b) provision for the transfer out of assets, rights, liabilities or obligations from one or more new sections of a qualifying pension scheme to another pension scheme (whether or not a qualifying pension scheme);
  - (c) provision for the transfer in of assets, rights, liabilities or obligations to one or more new sections of one qualifying pension scheme from one or more new sections of another qualifying pension scheme.
- (3) Regulations under [sub-paragraph \(1\)](#) may have retrospective effect.
- (4) Before making regulations under [sub-paragraph \(1\)](#), the GEMA must consult—
- (a) the trustee of the qualifying pension scheme being amended, and
  - (b) the person who is the principal employer in relation to that scheme.
- (5) The approval of the Secretary of State is required for the making of regulations under [sub-paragraph \(1\)](#).
- (6) In this paragraph—
- (a) the reference to making amendments of a qualifying pension scheme includes a reference to amending the trust deed or rules of that scheme or any other instrument relating to the constitution, management or operation of the scheme;
  - (b) references to a “new” section of a qualifying pension scheme are to one of the sections into which the scheme is divided by regulations under [paragraph 2\(1\)](#);
  - (c) “pensionable service” has the same meaning as in section 124(1) of the Pensions Act 1995.

#### **Commencement Information**

**1108** Sch. 13 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Protection against adverse treatment*

- 4 (1) When exercising the power to make regulations under [paragraph 2](#) or [3](#), the GEMA must ensure that the following requirements are met in respect of each person who is or has been a qualifying member of a qualifying pension scheme—
- (a) the general scheme requirement;
  - (b) where the regulations relate to a person’s rights or entitlements to money purchase benefits other than pensions in payment, the money purchase requirement.
- (2) The general scheme requirement is that the provision for the payment of pensions or other benefits that is contained in a qualifying pension scheme or any other pension scheme to which a transfer is made by virtue of [paragraph 2\(2\)\(e\)](#) is, in all material respects, at least as good immediately after the exercise of the power as it is immediately before its exercise.

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- (3) The money purchase requirement is that the value of the rights or entitlements to money purchase benefits, other than pensions in payment, that a person has under a qualifying pension scheme or any other pension scheme to which a transfer is made by virtue of paragraph 2(2)(e) immediately after, and as a result of, the exercise of the power is at least equivalent to the value of the person's rights or entitlements before its exercise.
- (4) Nothing in sub-paragraph (1) requires—
  - (a) the different sections (if any) of a qualifying pension scheme to be established in a particular way,
  - (b) particular provisions of the sections, or of a pension scheme to which a transfer is made by virtue of paragraph 2(2)(e), to take the same or similar form, or
  - (c) any power or duty conferred or imposed by a qualifying pension scheme to be exercised or performed in a particular way.
- (5) The power of the GEMA to amend a qualifying pension scheme may not be exercised in any way that would or might adversely affect any provision of the scheme made in respect of qualifying accrued rights unless—
  - (a) the applicable consent requirements are satisfied in respect of the exercise of the power in that way, or
  - (b) the scheme is amended in the prescribed manner.
- (6) The applicable consent requirements are the requirements that apply in relation to obtaining the consent of members of the scheme to its amendment (including any such requirements set out in the trust deed or rules of the scheme).

#### Commencement Information

**1109** Sch. 13 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Information

- 5 (1) The GEMA may direct a person who holds relevant pensions information to provide it to the GEMA.
- (2) “Pensions information” means specified information that—
  - (a) relates to pensions or other benefits under a qualifying pension scheme, or
  - (b) relates to the administration of a qualifying pension scheme in respect of pensions or other benefits under the scheme.
- (3) A person to whom a direction is given under sub-paragraph (1) must, so far as reasonably practicable, provide the specified pensions information—
  - (a) within the specified period, and
  - (b) in the specified form and manner.
- (4) A direction under sub-paragraph (1) is enforceable by the GEMA in civil proceedings—
  - (a) for an injunction,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or

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(c) for any other appropriate remedy or relief.

(5) In this paragraph, “specified” means specified in the direction.

**Commencement Information**

**I110** Sch. 13 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

PROSPECTIVE

SCHEDULE 14 **E+W+S**

Section 201

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 6

*Gas Act 1986*

1 The Gas Act 1986 is amended as follows.

**Commencement Information**

**I111** Sch. 14 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

2 In section 6A(1) (power to grant exemptions from prohibition), for “or (d)” substitute “, (d) or (e)”.

**Commencement Information**

**I112** Sch. 14 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

3 (1) Section 28 (orders for securing compliance with certain provisions) is amended as follows.

(2) In subsection (8), in the definition of “regulated person”, after paragraph (f) insert—  
“(g) a responsible body for a central system;”.

(3) After subsection (8) insert—

“(8A) In paragraph (g) of the definition of “regulated person” in subsection (8), the reference to a responsible body for a central system is a reference to a person for the time being specified in a notice under [section 184\(1\)](#) of the Energy Act 2023 in relation to a designated central system (within the meaning of [Part 6](#) of that Act).”

**Commencement Information**

**I113** Sch. 14 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)



*Status: Point in time view as at 26/12/2023.*

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

- 4 In Schedule 4B (provisions imposing obligations enforceable as relevant requirements), after paragraph 9A insert—

*“Responsible bodies for central systems*

- 9B (1) [Section 194\(3\)](#) of the Energy Act 2023 is a relevant provision in relation to a responsible body for a central system.
- (2) The reference in sub-paragraph (1) to a responsible body for a central system is a reference to a person for the time being specified in a notice under [section 184\(1\)](#) of the Energy Act 2023 in relation to a designated central system (within the meaning of [Part 6](#) of that Act).”

**Commencement Information**

**I114** Sch. 14 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

- I111** Sch. 14 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)
- I112** Sch. 14 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)
- I113** Sch. 14 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)
- I114** Sch. 14 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

*Electricity Act 1989*

- 5 The Electricity Act 1989 is amended as follows.

**Commencement Information**

**I115** Sch. 14 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

- 6 In section 5(1) (power to grant exemptions from prohibition), for “or (e)” substitute “, (e) or (f)”.

**Commencement Information**

**I116** Sch. 14 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

- 7 (1) Section 25 (orders for securing compliance) is amended as follows.
- (2) In subsection (8), in the definition of “regulated person”, after paragraph (d) insert—  
 “(da) a responsible body for a central system;”;
- (3) After subsection (8) insert—  
 “(8A) In paragraph (da) of the definition of “regulated person” in subsection (8), the reference to a responsible body for a central system is a reference to a person for the time being specified in a notice under [section 184\(1\)](#) of the Energy Act 2023 in relation to a designated central system (within the meaning of [Part 6](#) of that Act).”

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

**Commencement Information**

I117 Sch. 14 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

8 In Schedule 6A (provisions imposing obligations enforceable as relevant requirements), after paragraph 9 insert—

*“Responsible bodies for central systems*

9ZA (1) [Section 194\(3\)](#) of the Energy Act 2023 is a relevant provision in relation to a responsible body for a central system.

(2) The reference in sub-paragraph (1) to a responsible body for a central system is a reference to a person for the time being specified in a notice under [section 184\(1\)](#) of the Energy Act 2023 in relation to a designated central system (within the meaning of [Part 6](#) of that Act).”

**Commencement Information**

I118 Sch. 14 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

I115 Sch. 14 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

I116 Sch. 14 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

I117 Sch. 14 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

I118 Sch. 14 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

*Energy Act 2004*

9 The Energy Act 2004 is amended as follows.

**Commencement Information**

I119 Sch. 14 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

10 In section 173 (appeals to the Competition and Markets Authority), after subsection (2B) insert—

“(2C) This section also applies to a decision by GEMA to modify a designated document (within the meaning of [Part 6](#) of the Energy Act 2023) under [section 192](#) of that Act.”

**Commencement Information**

I120 Sch. 14 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

11 (1) Schedule 22 (procedure for appeals under section 173) is amended as follows.

(2) In paragraph 4 (time limit for representations and observations)—

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

- (a) in sub-paragraph (1), for the words from “fifteen working days” to the end substitute “the relevant period”;
  - (b) after sub-paragraph (1) insert—
    - “(1A) “The relevant period” means—
      - (a) 15 working days following the day of the making of the application for permission to bring the appeal, or
      - (b) such longer period following that day as an authorised member of the CMA may allow.”;
  - (c) in sub-paragraph (2), for “that period of fifteen working days” substitute “the relevant period”.
- (3) In paragraph 6 (timetable for determination of appeal)—
- (a) in sub-paragraph (1), for “thirty working days” substitute “4 months”;
  - (b) in sub-paragraph (2)—
    - (i) for “thirty working days” substitute “4 months”;
    - (ii) for “ten more working days” substitute “1 month”.

#### Commencement Information

**I121** Sch. 14 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I119** Sch. 14 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

**I120** Sch. 14 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

**I121** Sch. 14 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Energy Act 2023

12 In [section 89](#)—

- (a) in subsection (1)(a)—
  - (i) after “7”, insert “or 7AC”;
  - (ii) after “transporters” insert “or code manager licence”;
- (b) in subsection (1)(c), after “7” insert “or 7AC”.

#### Commencement Information

**I122** Sch. 14 para. 12 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

## SCHEDULE 15 **E+W+S**

Section 203

### COMPETITIVE TENDERS FOR ELECTRICITY PROJECTS

#### PART 1 **E+W+S**

##### AMENDMENTS OF ELECTRICITY ACT 1989

1 The Electricity Act 1989 is amended as follows.

#### Commencement Information

**I123** Sch. 15 para. 1 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

2 After section 6B insert—

#### **“6BA Meaning of “relevant electricity project”, “relevant licence” and “relevant contract”**

- (1) In this Part, “relevant electricity project” means a project—
  - (a) that relates to the total system, an electricity interconnector or a multi-purpose interconnector, and
  - (b) in relation to which criteria specified in regulations made by the Secretary of State are satisfied.
- (2) In subsection (1)(a), “the total system” means all transmission systems and distribution systems in Great Britain and offshore waters.
- (3) In this Part, “relevant licence” means—
  - (a) a transmission licence that does not authorise the licence holder to co-ordinate and direct the flow of electricity as described in section 4(3A)(a);
  - (b) a generation licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) In this Part, “relevant contract” means a contract, entered into by a person with the holder of a transmission licence, a system operator electricity licence or a distribution licence (referred to in this Part as a “contract counterparty”), for the carrying out of a relevant electricity project.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Before making regulations under this section, the Secretary of State must consult—
  - (a) the Authority,
  - (b) such holders of relevant licences as the Secretary of State considers appropriate, and
  - (c) such other persons as the Secretary of State considers appropriate.

*Status: Point in time view as at 26/12/2023.*

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

## **6BB Designation of a delivery body**

- (1) The Secretary of State may by regulations designate a person for the purposes of this section; and a person so designated is referred to in this Part as a “delivery body”.
- (2) The designation of a person for the purposes of this section has effect subject to any conditions imposed by the Secretary of State in the regulations designating the person.
- (3) More than one person may be designated for the purposes of this section at the same time.
- (4) Regulations under this section may designate different persons for different purposes.
- (5) The Secretary of State may by regulations revoke a person’s designation if the person ceases to meet any condition subject to which the designation has effect.
- (6) The Secretary of State may make indemnity payments to a delivery body (subject to subsection (9)).
- (7) An indemnity payment is a payment in respect of costs or expenses incurred by a delivery body in connection with judicial review proceedings in relation to anything done, or omitted to be done, in the exercise (or purported exercise) of functions conferred on the body by regulations under section 6C.
- (8) An indemnity payment may be made subject to such conditions as may be determined by the Secretary of State.
- (9) Subsection (6) does not authorise the making of a payment to the Authority (where it is designated under subsection (1)).”

### **Commencement Information**

**I124** Sch. 15 para. 2 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

3 For sections 6C and 6D substitute—

### **“6C Competitive tenders**

- (1) The Authority may by regulations (“tender regulations”) make such provision as appears to it to be appropriate for facilitating the making by a delivery body of—
  - (a) a decision whether to hold a tender exercise in relation to a relevant electricity project;
  - (b) in prescribed circumstances, a determination on a competitive basis of any of the matters listed in subsection (2).
- (2) Those matters are—
  - (a) the person by whom a relevant electricity project is to be carried out;
  - (b) the person to whom a relevant licence is to be granted (whether for the purposes of a relevant electricity project or otherwise);

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- (c) the person to whom a relevant contract is to be awarded.
- (3) The provision mentioned in subsection (1) includes—
- (a) provision for the Authority to determine, in prescribed cases, whether a tender exercise should be held, or continued, in relation to a relevant electricity project;
  - (b) provision for the publication, in prescribed cases, of a proposal for a relevant licence to be granted or for a relevant contract to be awarded;
  - (c) provision for the inclusion in such a proposal of an invitation to apply for such a licence or to bid for such a contract;
  - (d) provision restricting applications and bids and imposing requirements as to the period within which they must be made;
  - (e) provision for regulating the manner in which applications and bids are considered and determined.
- (4) The provision mentioned in subsection (1) also includes—
- (a) provision conferring functions on a delivery body;
  - (b) provision authorising the Authority to conduct a review of the exercise by a delivery body of functions conferred on it by the regulations;
  - (c) provision authorising the Authority to appoint another person to conduct such a review on the Authority's behalf.
- (5) The provision that may be made by virtue of subsection (4)(a) includes provision requiring a delivery body, in prescribed circumstances, to provide information about prescribed matters to the Authority.
- (6) Tender regulations—
- (a) may make provision by reference to a determination by the Authority or by a delivery body, or to the opinion of the Authority or of a delivery body, as to any matter;
  - (b) may dispense with or supplement provision made in relation to applications for relevant licences by or under section 6A or 6B.
- (7) The approval of the Secretary of State is required for the making of tender regulations.
- (8) The making of a determination by virtue of subsection (2)(b) or (c) that a person is to be granted a relevant licence or awarded a relevant contract does not of itself require—
- (a) the Authority to exercise its power to grant a relevant licence to the person, or
  - (b) a contract counterparty to award a relevant contract to the person, (as the case may be).

#### **6CA Power to require information**

- (1) Tender regulations may include provision authorising a person to whom subsection (2) applies (“P”), by notice given to another person (an “information notice”), to require the other person to provide relevant information to P.

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- (2) This subsection applies to—
  - (a) the Authority;
  - (b) a delivery body;
  - (c) a contract counterparty.
- (3) “Relevant information” means information that P reasonably requires for the purposes of or in connection with the exercise of P’s functions.
- (4) References in this section to the Authority include a person appointed by the Authority by virtue of section 6C(4)(c), where the information sought relates to a function conferred by virtue of section 6C(4)(b) (review of activities of delivery body).
- (5) Provision made by virtue of subsection (1) must require an information notice—
  - (a) to specify or describe the information sought, and
  - (b) to specify the time by which the information must be provided.
- (6) Provision made by virtue of subsection (1) may include provision—
  - (a) for an information notice and information obtained in pursuance of it to be shared with the Authority, where the notice is given by a person other than the Authority;
  - (b) for the classification and protection of confidential or sensitive information;
  - (c) for the enforcement by the Authority of a requirement to provide information in pursuance of an information notice;
  - (d) for the amount of any financial penalty imposed on a person by virtue of paragraph (c) to be determined by the Authority in accordance with tender regulations.
- (7) Where by virtue of subsection (6)(c) tender regulations provide for the imposition of a financial penalty, they must also include provision for a right of appeal against the imposition of the penalty.

### **6CB Recovery of tender costs**

- (1) Tender regulations may include provision requiring—
  - (a) the payment to the Authority or a delivery body, in prescribed circumstances, of amounts in respect of—
    - (i) tender costs of the Authority, or of the delivery body, in relation to a tender exercise;
    - (ii) such amounts in respect of the Authority’s tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise;
    - (iii) such amounts in respect of the delivery body’s tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise.
  - (b) the provision to the Authority or to a delivery body, in prescribed circumstances, of a deposit of a prescribed amount in respect of a liability which a person has, or may in future have, by virtue of paragraph (a) in relation to a relevant licence or relevant contract;



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- (c) the provision to the Authority or to a delivery body, in prescribed circumstances, of security in a form approved by it in respect of such a liability.
- (2) The provision that may be made by virtue of subsection (1)(a) includes provision requiring the payment of cost assessment costs incurred by—
  - (a) the Authority, or
  - (b) the delivery body,after the Authority or delivery body (as the case may be) has taken the steps required by virtue of subsections (7) to (9) in relation to the tender exercise.
- (3) The regulations may require the payments to be made, or the deposit or security to be provided, by one or more of the following—
  - (a) any person who has made a connection request for the purposes of which the tender exercise has been, is being, or is to be, held;
  - (b) any person who made a connection request for the purposes of which any previous tender exercise relating to the same transmission system, or a transmission system consisting of some or all of the same lines or plant or connecting any of the same generating stations or substations, was held;
  - (c) any person who made a connection request for the purposes of which any previous tender exercise relating to the same distribution system, or a distribution system consisting of some or all of the same lines or plant or connecting any of same premises or other distribution systems, was held;
  - (d) any person who operates a generating station which is connected to the transmission or distribution system to which the tender exercise relates;
  - (e) any person who submits an application for the relevant licence or bids for the award of a relevant contract to which the tender exercise relates;
  - (f) any person who is the holder of a transmission licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) The regulations may make provision about how—
  - (a) payments are to be made, and
  - (b) deposits or other forms of security are to be provided,including provision for them to be made or provided by a person approved by the Authority or by a delivery body.
- (5) The regulations may include provision about—
  - (a) the times at which payments are to be made, or deposits or other forms of security are to be provided, under the regulations;
  - (b) the circumstances in which a payment made in accordance with regulations made by virtue of subsection (1)(a) is to be repaid (wholly or in part);
  - (c) the circumstances in which such a repayment is to include an amount representing interest accrued on the whole or part of the payment;
  - (d) the circumstances in which a deposit (including any interest accrued on it) or other security provided in accordance with the regulations is to be released or forfeited (wholly or in part);

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- (e) the effect on a person's participation in the tender exercise of a failure to comply with a requirement imposed by virtue of this section, and the circumstances in which the tender exercise is to stop as a result of such a failure.
- (6) The regulations may include provision for—
  - (a) the review by the Authority, or by a person appointed by the Authority, of any tender costs determined by a delivery body;
  - (b) the amendment by a delivery body of its tender costs following such a review.
- (7) The regulations must ensure that, as soon as reasonably practicable after a tender exercise or series of tender exercises is finished—
  - (a) where the Authority is the delivery body, steps are taken by the Authority, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the Authority's tender costs in respect of the exercise or series of exercises;
  - (b) in any other case, steps are taken by the delivery body, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the aggregate of—
    - (i) the Authority's tender costs, and
    - (ii) the delivery body's tender costs,
 in respect of the exercise or series of exercises.
- (8) The regulations must also ensure that, in a case within subsection (7)(b), the aggregate of the amounts within subsection (9) so far as relating to any particular tender exercise does not include any amount that falls within paragraph (a) of the definition of tender costs in section 6CD(4) in relation to a different tender exercise.
- (9) The amounts are—
  - (a) any fees under section 6A(2) in respect of applications for relevant licences,
  - (b) any payments made or deposits provided in accordance with regulations made by virtue of subsection (1)(a) or (b) and not repaid, and
  - (c) the value of any security provided in accordance with regulations made by virtue of subsection (1)(c) and forfeited in accordance with regulations made by virtue of subsection (5)(d),
 so far as relating to the tender exercise or series of tender exercises in question.

### **6CC Competitive tenders: supplementary**

- (1) For the purposes of section 6CB(3), a person makes a connection request when the person makes an application to—
  - (a) the holder of a co-ordination licence (in accordance with any provision made by the licence) for an offer of connection to and use of a transmission system, or

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- (b) an electricity distributor (whether in accordance with any provision made by the distributor’s licence or otherwise) for an offer of connection to and use of the distributor’s distribution system.
- (2) A person (“P”) is to be treated for those purposes as having made a connection request if—
  - (a) P would have made the connection request, but for the fact that another person had already made an application within subsection (1)(a) or (b), and
  - (b) the benefit of that application, or any agreement resulting from it, is vested in P.
- (3) Where tender regulations—
  - (a) restrict the making of applications for relevant licences or bids for relevant contracts in relation to a relevant electricity project, or
  - (b) operate so as to prevent an application or bid from being considered or further considered, if the applicant does not meet one or more prescribed requirements,the regulations may make provision enabling a person to apply to a relevant body for a decision as to the effect of any such restriction or requirement if the person were to make such an application or bid.
- (4) Regulations made by virtue of subsection (3) may enable a relevant body to charge a person who makes such an application or bid a prescribed fee for any decision given in response to it.
- (5) Where the successful bidder, in relation to a tender exercise, already holds a relevant licence (“the existing licence”)—
  - (a) the Authority may make such modifications of the existing licence as are necessary for the purpose of giving effect to the determination resulting from the tender exercise, and
  - (b) references in this Part to the grant of a relevant licence are to be read accordingly.
- (6) Before making any modifications under subsection (5)(a), the Authority must give notice—
  - (a) stating that it proposes to make the modifications and setting out their effect, and
  - (b) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and must consider any representations or objections that are duly made and not withdrawn.
- (7) Any sums received by the Authority under tender regulations are to be paid into the Consolidated Fund.
- (8) In section 6CB and this section—
  - “co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system—
    - (a) by means of which the transmission of electricity takes place, and

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- (b) the whole or a part of which is at a relevant place (within the meaning of section 4(5));
- “functions” includes powers and duties;
- “relevant body” means the Authority, a delivery body or a contract counterparty.

#### **6CD Sections 6C to 6CC: further definitions**

- (1) This section defines expressions that are used in sections 6C to 6CC (as well as in this section).
- (2) “Prescribed” means prescribed in or determined under tender regulations.
- (3) “Tender exercise” means the steps taken in accordance with tender regulations with a view to determining one or more of the following—
  - (a) the person by whom a relevant electricity project is to be carried out;
  - (b) the person to whom a relevant licence is to be granted;
  - (c) the person to whom a relevant contract is to be awarded.
- (4) “Tender costs” means—
  - (a) costs (including any cost assessment costs) incurred or likely to be incurred by the Authority for the purposes of a particular tender exercise or prospective tender exercise;
  - (b) costs (including any cost assessment costs) incurred or likely to be incurred by a delivery body for the purposes of a particular tender exercise or prospective tender exercise;
  - (c) such proportion as the Authority considers appropriate of the costs that—
    - (i) have been, or are likely to be, incurred by the Authority or by a delivery body under regulations under section 6C, and
    - (ii) are not directly attributable to a particular tender exercise.
- (5) “Cost assessment costs”, in relation to a tender exercise, means costs incurred or likely to be incurred by the Authority or by a delivery body in connection with any assessment of—
  - (a) costs that have been or are to be incurred in connection with any property, rights or liabilities necessary or expedient for the performance by a person of functions under a relevant licence granted or a relevant contract awarded to the person as a result of the tender exercise;
  - (b) costs incurred in connection with any property, rights or liabilities that would have been necessary or expedient for the performance of functions under a relevant licence or a relevant contract if such a licence or contract had been granted or awarded to a person as a result of the tender exercise.
- (6) “Successful bidder”, in relation to a tender exercise, is the person in respect of whom (as a result of the exercise) any of the following applies—
  - (a) a delivery body determines that a relevant electricity project is to be carried out by the person;
  - (b) a relevant licence has been or is to be granted to the person;
  - (c) a relevant contract has been or is to be awarded to the person.

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- (7) Section 6C(8) applies for the purposes of subsections (3)(b) and (c) and (6)(b) and (c) as it applies for the purposes of section 6C(2)(b) and (c)."

**Commencement Information**

**I125** Sch. 15 para. 3 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 4 In section 6E (property schemes)—
- (a) for “offshore transmission licences” substitute “relevant licences and awards of relevant contracts”;
  - (b) in the heading, for “offshore transmission licences” substitute “relevant licences and contracts”.

**Commencement Information**

**I126** Sch. 15 para. 4 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 5 (1) Section 6F (offshore transmission during commissioning period) is amended as follows.
- (2) In subsection (2), for “an offshore” substitute “a”.
- (3) In subsection (4)—
- (a) at the beginning insert “In relation to an offshore transmission system,”;
  - (b) in paragraph (a), for “the tender regulations” substitute “offshore transmission tender regulations”.
- (4) After subsection (4) insert—
- “(4A) In relation to a transmission system other than an offshore transmission system, the third condition is that—
- (a) either—
    - (i) a tender exercise for the granting of a relevant licence in respect of the system has been or is being held, or
    - (ii) a delivery body has determined to hold a tender exercise for the granting of a relevant licence in respect of the system, and
  - (b) the system, or anything forming part of it, has not been transferred to the successful bidder.”
- (5) In subsection (8)—
- (a) in the definition of “developer”, for the words from “section 6D(2)(a)” to the end substitute “section 6CB(3)(a) or (b) (person who makes the connection request, including any person who is to be so treated by virtue of section 6CC(2))”;
  - (b) for the definitions of “offshore transmission” and “offshore transmission licence” substitute—

““offshore transmission” means the transmission within an area of offshore waters of electricity generated by a generating station in such an area;

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- “offshore transmission licence” means a transmission licence authorising anything that forms part of a transmission system to be used for purposes connected with offshore transmission;
- “offshore transmission tender regulations” means tender regulations that provide for the determination on a competitive basis of the person to whom an offshore transmission licence is to be granted;”;
- (c) for the definitions of “successful bidder” and “tender exercise” substitute—  
““tender exercise” has the meaning given by section 6CD(3);”;
- (d) in the definition of “relevant generating station”, for “an offshore” substitute “a”;
- (e) for the definition of “the tender regulations” substitute—  
““tender regulations” has the meaning given by section 6C(1).”
- (6) In the heading omit “Offshore”.

#### Commencement Information

**I127** Sch. 15 para. 5 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 6 (1) Section 6G (meaning of “commissioning period”) is amended as follows.
- (2) In subsection (1), for “an offshore” substitute “a”.
- (3) Omit subsections (3) to (5).
- (4) For subsection (6) substitute—  
“(6) In this section—  
“co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place and the whole or part of which is at a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone;  
“relevant co-ordination licence holder” means the holder of a co-ordination licence to whom a person has applied (in accordance with any provision made by that licence) for an offer of connection to and use of a transmission system for the purposes of which the tender exercise is held.”

#### Commencement Information

**I128** Sch. 15 para. 6 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 7 (1) Section 6H (modification of codes or agreements) is amended as follows.
- (2) In subsection (1), for “a transmission licence or a distribution licence” substitute “a relevant licence”.
- (3) For subsection (2) substitute—  
“(2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of—

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- (a) implementing, or facilitating the implementation of, a determination made in accordance with regulations under section 6C, or
  - (b) implementing or facilitating the operation of section 6F or 6G.”
- (4) For subsection (4) substitute—
- “(4) Before making a modification under subsection (1) the Authority must—
- (a) consult such persons as the Authority considers appropriate, and
  - (b) publish a notice—
    - (i) stating that it proposes to make the modification and its reasons for proposing to make it,
    - (ii) setting out the proposed modification and its effect, and
    - (iii) specifying the time within which representations may be made (which must not be less than the period of 28 days beginning with the day on which the notice is published).”
- (5) In subsection (5), for “the Energy Act 2013” substitute “the Energy Act 2023”.
- (6) In subsection (7), after “subsection” insert “(4) or”.
- (7) Omit subsection (8).
- (8) In the heading, after “Sections” insert “6C,”.

**Commencement Information**

**I129** Sch. 15 para. 7 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 8 In section 11A (modification of conditions of licences), after subsection (9) insert—
- “(9A) This section does not apply to the modification of a licence in exercise of the power under section [6CC\(5\)\(a\)](#) (modification of licence to give effect to determination on a tender exercise).”

**Commencement Information**

**I130** Sch. 15 para. 8 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 9 In section 64(1) (interpretation etc of Part 1), at the appropriate places insert—
- ““contract counterparty” has the meaning given by section [6BA](#);”;
  - ““delivery body” has the meaning given by section [6BB](#);”;
  - ““offshore transmission” and “offshore transmission licence” have the meaning given by section [6F\(8\)](#);”;
  - “offshore waters” means—
    - (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea, and
    - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964;”;
  - ““relevant contract” and “relevant licence” have the meaning given by section [6BA](#);”;
  - ““relevant electricity project” has the meaning given by section [6BA](#);”;
  - ““relevant licence” has the meaning given by section [6BA](#);”.



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**Commencement Information**

**I131** Sch. 15 para. 9 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

10 Schedule 2A (property schemes) is amended in accordance with paragraphs 11 to 24.

**Commencement Information**

**I132** Sch. 15 para. 10 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

11 For paragraph 1 substitute—

*“Scheme-making power*

- 1 (1) This paragraph applies where a tender exercise is held in relation to a relevant electricity project, a relevant licence or a relevant contract.
- (2) The Authority may, on an application under paragraph 3, make a scheme (“a property scheme”) providing for—
  - (a) the transfer to the successful bidder of, or
  - (b) the creation in favour of the successful bidder of rights in relation to,
 

any property, rights or liabilities necessary or expedient for construction, commissioning or operational purposes.”

**Commencement Information**

**I133** Sch. 15 para. 11 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

12 In paragraph 2, at the end insert—

“(5) A property scheme may not contain provision for the transfer of, or creation of rights in relation to, property, rights or liabilities that the Authority considers it appropriate for the successful bidder to acquire by other means.”

**Commencement Information**

**I134** Sch. 15 para. 12 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

13 Omit paragraph 5.

**Commencement Information**

**I135** Sch. 15 para. 13 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

14 In paragraph 12, for “operational purposes” substitute “construction, commissioning or operational purposes” in each of the following places—

- (a) sub-paragraphs (1) to (3);

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- (b) sub-paragraph (10);
- (c) sub-paragraph (11) (in both places).

**Commencement Information**

**I136** Sch. 15 para. 14 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 15 For paragraph 13 substitute—
- “13 On an application for a property scheme, no scheme may be made until either a relevant licence has been granted or a relevant contract has been awarded to the successful bidder.”

**Commencement Information**

**I137** Sch. 15 para. 15 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 16 In paragraph 14—
- (a) in sub-paragraph (4), for “operational purposes” substitute “construction, commissioning or operational purposes”;
  - (b) in sub-paragraph (6), after paragraph (a) insert—
    - “(aa) a delivery body,
    - (ab) a contract counterparty.”

**Commencement Information**

**I138** Sch. 15 para. 16 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 17 In paragraph 15(2), for “operational purposes” substitute “construction, commissioning or operational purposes”.

**Commencement Information**

**I139** Sch. 15 para. 17 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 18 Omit paragraph 16(1)(d).

**Commencement Information**

**I140** Sch. 15 para. 18 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 19 In paragraph 25(2), for “operational purposes” substitute “construction, commissioning or operational purposes”.

**Commencement Information**

**I141** Sch. 15 para. 19 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 20 In paragraph 30, for “operational purposes” substitute “construction, commissioning or operational purposes”.

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**Commencement Information**

**I142** Sch. 15 para. 20 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 21 (1) Paragraph 35 is amended as follows.
- (2) In sub-paragraph (2), for “the offshore transmission licence” substitute “a relevant licence”.
- (3) After sub-paragraph (2) insert—
- “(2A) Where a tender exercise is held, as soon as a contract counterparty is satisfied that it will enter into a relevant contract with a particular person if certain matters are resolved to the counterparty’s satisfaction, it must publish a notice to that effect.”
- (4) In sub-paragraph (3), for “The notice” substitute “A notice under sub-paragraph (2) or (2A)”.
- (5) After sub-paragraph (4) insert—
- “(4A) A contract counterparty may withdraw a notice given by it under sub-paragraph (2A) by publishing a notice to that effect.”
- (6) In sub-paragraph (5), after “(2)” insert “or (2A)”.

**Commencement Information**

**I143** Sch. 15 para. 21 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 22 In paragraph 36—
- (a) omit sub-paragraph (1);
- (b) for sub-paragraph (2) substitute—
- “(2) Where as a result of a tender exercise the Authority determines to grant a relevant licence to a person, it must publish a notice to that effect.
- (2A) Where as a result of a tender exercise a person is awarded a relevant contract, the contract counterparty with which the contract is to be entered into must publish a notice to that effect.”.

**Commencement Information**

**I144** Sch. 15 para. 22 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 23 After paragraph 36 insert—
- “Transmission owner and distribution network owner of last resort*
- 36A (1) Before directing the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—

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- (a) stating that it proposes to give the direction, and
    - (b) identifying the licence holder to whom it proposes to give the direction.
  - (2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—
    - (a) the licence holder is the preferred bidder in relation to a tender exercise, and
    - (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.
  - (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
  - (4) Where the Authority directs the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
    - (a) the licence holder is the holder of a transmission licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
    - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.
- 36B
- (1) Before directing the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—
    - (a) stating that it proposes to give the direction, and
    - (b) identifying the licence holder to whom it proposes to give the direction.
  - (2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—
    - (a) the licence holder is the preferred bidder in relation to a tender exercise, and
    - (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.
  - (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
  - (4) Where the Authority directs the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
    - (a) the licence holder is the holder of a distribution licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
    - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.”

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

**Commencement Information**

**I145** Sch. 15 para. 23 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 24 In paragraph 38(1)—
- (a) at the appropriate place insert—
- ““construction, commissioning or operational purposes” means the purposes of performing any functions which the successful bidder has, or may in future have under or by virtue of—
- (a) a relevant licence which has been, or is to be, granted as a result of the tender exercise,
- (b) a relevant contract which has been, or is to be, awarded as a result of the tender exercise, or
- (c) any enactment, in the successful bidder’s capacity as holder of the relevant licence or party to the relevant contract;”;
- (b) omit the definitions of “co-ordination licence” and “relevant place”;
- (c) omit the definition of “operational purposes”;
- (d) for the definition of “successful bidder” substitute—
- ““successful bidder”, in relation to a tender exercise, has the meaning given by section [6CD\(6\)](#);”;
- (e) for the definition of “tender exercise” substitute—
- ““tender exercise” has the meaning given by section [6CD\(3\)](#);”.

**Commencement Information**

**I146** Sch. 15 para. 24 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

- 25 (1) In Schedule 4 (powers of licence holders), paragraph 6 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) in paragraph (a), after “licence holder” insert “to obtain the right”;
- (b) omit “for the licence holder”.
- (3) After sub-paragraph (7) insert—
- “(7A) A necessary wayleave granted to a licence holder under this paragraph may be transferred to another licence holder.”

**Commencement Information**

**I147** Sch. 15 para. 25 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

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*Status:* Point in time view as at 26/12/2023.  
*Changes to legislation:* There are currently no known outstanding effects for the Energy Act 2023. (See end of Document for details)

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## PART 2 **E+W+S**

### OTHER AMENDMENTS

#### *Utilities Act 2000*

26 (1) Section 105 of the Utilities Act 2000 (general restrictions on disclosure of information) is amended as follows.

(2) In subsection (3), after paragraph (ac) insert—

“(ad) it is made for the purpose of facilitating any functions of the Authority, a delivery body or a contract counterparty (within the meaning of Part 1 of the 1989 Act) under regulations under section 6C of that Act;”.

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#### **Commencement Information**

**I148** Sch. 15 para. 26 in force at Royal Assent, see [s. 334\(2\)\(i\)](#)

## SCHEDULE 16 **U.K.**

[Section 204](#)

### MERGERS OF ENERGY NETWORK ENTERPRISES

## PART 1 **U.K.**

#### FURTHER DUTIES OF COMPETITION AND MARKETS AUTHORITY TO MAKE REFERENCES

1 Part 3 of the Enterprise Act 2002 (mergers) is amended as follows.

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#### **Commencement Information**

**I149** Sch. 16 para. 1 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

2 After section 68 insert—

*“Mergers of energy network enterprises in Great Britain*

#### **68A Relevant merger situations involving energy network mergers**

- (1) For the purposes of this Part, a relevant merger situation involves an energy network merger if two or more of the enterprises that cease to be distinct are energy network enterprises of the same type.
- (2) For the purposes of this Part, the types of “energy network enterprise” are—
  - (a) an enterprise holding a licence under section 7 of the Gas Act 1986 (gas transporter);
  - (b) an enterprise holding a licence under section 6(1)(b) of the Electricity Act 1989 (transmission of electricity), except as mentioned in subsection (3);

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*Status: Point in time view as at 26/12/2023.*

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

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- (c) an enterprise holding a licence under section 6(1)(c) of the Electricity Act 1989 (distribution of electricity), except as mentioned in subsection (3).
- (3) An enterprise holding a licence under section 6(1)(b) or (c) of the Electricity Act 1989 is not an energy network enterprise if—
- (a) the licence was granted following a tender exercise, and
  - (b) either—
    - (i) the enterprise does not hold any other licence of a type mentioned in subsection (2), or
    - (ii) the enterprise holds one or more other licences under section 6(1)(b) or (c) of the Electricity Act 1989 and each of those other licences was granted following a tender exercise.
- (4) The Secretary of State may by regulations amend this section by—
- (a) adding to subsection (2) an enterprise holding a licence under the Gas Act 1986 or the Electricity Act 1989 of a type that is not specified in that subsection;
  - (b) creating an exception in relation to a type of enterprise specified in subsection (2);
  - (c) amending or removing an exception that applies in relation to a type of enterprise specified in subsection (2).
- (5) Before making regulations under subsection (4), the Secretary of State must consult—
- (a) the Gas and Electricity Markets Authority, and
  - (b) the CMA.
- (6) In this section, “tender exercise” has the same meaning as in section 6CD of the Electricity Act 1989.

### **68B Further duty to make references in relation to completed mergers**

- (1) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA believes that it is or may be the case that—
- (a) a relevant merger situation involving an energy network merger has been created, and
  - (b) the creation of that situation has caused, or may be expected to cause, substantial prejudice to the ability of the Gas and Electricity Markets Authority, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to make comparisons between energy network enterprises of the type involved in the energy network merger;
- but this is subject to subsections (2) and (3).
- (2) The CMA may decide not to make a reference under this section if it believes that any relevant customer benefits in relation to the creation of the relevant merger situation outweigh the prejudice mentioned in subsection (1)(b).
- (3) The CMA must not make a reference under this section in any circumstances described in section 22(3).



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*Status: Point in time view as at 26/12/2023.*

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

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- (4) A reference under this section must, in particular, specify—
- (a) the enactment under which it is made, and
  - (b) the date on which it is made.

### **68C Further duty to make references in relation to anticipated mergers**

- (1) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA believes that it is or may be the case that—
- (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation involving an energy network merger, and
  - (b) the creation of that situation may be expected to cause substantial prejudice to the ability of the Gas and Electricity Markets Authority, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to make comparisons between energy network enterprises of the type involved in the energy network merger,
- but this is subject to subsections (2) and (3).
- (2) The CMA may decide not to make a reference under this section if it believes that—
- (a) the arrangements concerned are not sufficiently far advanced, or are not sufficiently likely to proceed, to justify the making of a reference, or
  - (b) any relevant customer benefits in relation to the creation of the relevant merger situation concerned outweigh the prejudice mentioned in subsection (1)(b).
- (3) The CMA must not make a reference under this section in any circumstances described in section 33(3).
- (4) A reference under this section must, in particular, specify—
- (a) the enactment under which it is made, and
  - (b) the date on which it is made.

### **68D Opinion of the Gas and Electricity Markets Authority**

- (1) Before forming a view for the purposes of section 68B(1)(b) or (2) or 68C(1)(b) or (2)(b), the CMA must—
- (a) ask the Gas and Electricity Markets Authority to give an opinion, and
  - (b) consider that opinion.
- (2) Where the CMA makes a request under this section, the Gas and Electricity Markets Authority must give its opinion on—
- (a) whether and to what extent the creation of the relevant merger situation has prejudiced, or may be expected to prejudice, the Authority's ability, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to

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*Status: Point in time view as at 26/12/2023.*

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- make comparisons between energy network enterprises of the type involved in the relevant merger situation, and
- (b) whether any prejudice is outweighed by any relevant customer benefits in relation to the creation of the relevant merger situation.
- (3) The Gas and Electricity Markets Authority must prepare and publish a statement of the methods it considers should be applied in forming an opinion on the matters mentioned in subsection (2).
- (4) The statement must, in particular, set out—
- (a) the criteria to be used for assessing the effect of any particular energy network enterprises ceasing to be distinct enterprises on the Gas and Electricity Market Authority’s ability to make comparisons between such enterprises, and
- (b) the relative weight to be given to the criteria.
- (5) Before preparing or altering the statement, the Gas and Electricity Markets Authority must consult—
- (a) the Secretary of State,
- (b) the Scottish Ministers,
- (c) the Welsh Ministers,
- (d) the CMA, and
- (e) each energy network enterprise.
- (6) The Gas and Electricity Markets Authority must from time to time—
- (a) review the statement, and
- (b) where appropriate, change the statement and publish the new version.
- (7) In forming its opinion under this section, the Gas and Electricity Markets Authority must apply the methods set out in its latest statement.

#### **68E Combined references**

- (1) In respect of a relevant merger situation involving an energy network merger, the CMA may—
- (a) make a reference under both section 22 and section 68B, or
- (b) make a reference under both section 33 and section 68C.
- (2) If the CMA does so—
- (a) the references may be decided by the same group constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013;
- (b) the functions of the CMA referred to in section 34C(1) and (2) may be carried out on behalf of the CMA by the same group in relation to both references; and
- (c) the group’s duties under section 38 to prepare and publish a report on each reference may be satisfied by preparing and publishing a single report on both references.

#### **68F Modification of this Part**

- (1) In relation to—

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*Status: Point in time view as at 26/12/2023.*

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- (a) a reference, or possible reference, under section 68B, and
- (b) a reference, or possible reference, under section 68C,

Chapter 1 of this Part applies with the modifications set out in Schedule 5A.

- (2) In Chapters 2 to 5 of this Part, references to a provision of Chapter 1 include that provision as applied by subsection (1) and Schedule 5A.”

#### Commencement Information

**I150** Sch. 16 para. 2 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

3 After Schedule 5 insert—

“SCHEDULE 5A **U.K.**

Section 68F

#### ENERGY NETWORK MERGERS AFFECTING COMPARATIVE REGULATION: MODIFICATION OF CHAPTER 1 OF PART 3

#### General modifications

- 1 (1) Chapter 1 (other than sections 22 and 33) has effect as if—
  - (a) references to a reference or possible reference under section 22 were references to a reference or possible reference under section 68B, and
  - (b) references to a reference or possible reference under section 33 were references to a reference or possible reference under section 68C.
- (2) The references in sub-paragraph (1) to a reference under a section include a reference treated as made under that section.

#### Turnover

- 2 Section 23 (relevant merger situations) has effect as if—
  - (a) in subsection (1), for paragraph (b) there were substituted—
    - “(b) the value of the turnover in Great Britain of the enterprise being taken over exceeds £70 million.”;
  - (b) subsections (2) to (8) were omitted.
- 3 Section 28 (turnover test) has effect as if—
  - (a) references to the United Kingdom were to Great Britain;
  - (b) in subsection (5), for “The CMA shall” there were substituted “The CMA and the Gas and Electricity Markets Authority shall each”;
  - (c) the reference in subsection (6) to section 23(1)(b) included a reference to that provision as modified by paragraph 2 of this Schedule.

*Status: Point in time view as at 26/12/2023.*

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

### Relevant customer benefits

- 4 Section 30 (relevant customer benefits) has effect as if—
- (a) in subsection (1)(a)(i), for “lessening of competition concerned” there were substituted “prejudice to the Gas and Electricity Markets Authority”;
  - (b) in subsections (2)(b) and (3)(b), for “a similar lessening of competition” there were substituted “a similar prejudice to the Gas and Electricity Markets Authority”.

### Time limits for decisions about references

- 5 Section 34ZA(1)(a) (time-limits for decisions about references) has effect as if—
- (a) the reference to section 22(2) were to section 68B(2);
  - (b) the reference to section 22(3) were to—
    - (i) that provision as applied by section 68B(4), and
    - (ii) section 68B(3);
  - (c) the reference to section 33(2) were to section 68C(2);
  - (d) the reference to section 33(3) were to—
    - (i) that provision as applied by section 68C(4), and
    - (ii) section 68C(3).

### Questions to be decided in relation to completed mergers

- 6 Section 35 (questions to be decided in relation to completed mergers) has effect as if—
- (a) in subsection (1)(a), after “situation” there were inserted “involving an energy network merger”;
  - (b) in subsection (1)(b), for the words from “has resulted” to the end there were substituted “has caused, or may be expected to cause, substantial prejudice to the ability of the Gas and Electricity Markets Authority to make comparisons between energy network enterprises of the type involved in the energy network merger”;
  - (c) for subsection (2) there were substituted—
 

“(2) For the purposes of this section there is a prejudicial outcome if there is a situation described in subsection (1)(a) which has, or may be expected to have, the effect described in subsection (1)(b).”;
  - (d) in subsection (3), for “an anti-competitive outcome (within the meaning given by subsection (2)(a))” there were substituted “a prejudicial outcome”;
  - (e) in subsections (3)(a) and (b) and (4), for “lessening of competition” (in each place it appears) there were substituted “prejudice”.

*Status: Point in time view as at 26/12/2023.*

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

### Questions to be decided in relation to anticipated mergers

- 7 Section 36 (questions to be decided in relation to anticipated mergers) has effect as if—
- (a) in subsection (1)(a), after “situation” there were inserted “involving an energy network merger”;
  - (b) in subsection (1)(b), for the words from “result” to the end there were substituted “cause substantial prejudice to the ability of the Gas and Electricity Markets Authority to make comparisons between energy network enterprises of the type involved in the energy network merger”;
  - (c) after subsection (1) there were inserted—

“(1A) For the purposes of this section there is a prejudicial outcome if there are arrangements described in subsection (1)(a) which may be expected to have the effect described in subsection (1)(b).”;
  - (d) in subsection (2), for “an anti-competitive outcome (within the meaning given by section 35(2)(b))” there were substituted “a prejudicial outcome”;
  - (e) in subsections (2)(a) and (b) and (3), for “lessening of competition” (in each place it appears) there were substituted “prejudice”.

### Duty to remedy effects of completed or anticipated mergers

- 8 Section 41 (duty to remedy effects of completed or anticipated mergers) has effect as if—
- (a) in subsection (1), for “an anti-competitive outcome” there were substituted “a prejudicial outcome (within the meaning of section 35(2) or 36(1A))”;
  - (b) in subsection (2)(a) and (b), for “lessening of competition” there were substituted “prejudice”;
  - (c) in subsection (4), for “lessening of competition” there were substituted “prejudice”.

#### Commencement Information

**I151** Sch. 16 para. 3 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

## PART 2 U.K.

### CONSEQUENTIAL AMENDMENTS OF PART 3 OF ENTERPRISE ACT 2002

- 4 Part 3 of the Enterprise Act 2002 is amended as follows.

#### Commencement Information

**I152** Sch. 16 para. 4 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

*Status: Point in time view as at 26/12/2023.*

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

- 5 (1) Section 22 (duty to make references in relation to completed mergers) is amended as follows.
- (2) In subsection (3)(c), after “section 33” insert “or [68B](#) or [68C](#)”.
- (3) In subsection (7)(a), after “section 33” insert “; [68B](#) or [68C](#)”.

**Commencement Information**

**I153** Sch. 16 para. 5 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 6 In section 33(3)(c) (circumstances in which references in relation to anticipated mergers may not be made), after “section 22” insert “or [68B](#) or [68C](#)”.

**Commencement Information**

**I154** Sch. 16 para. 6 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 7 (1) Section 42 (intervention by Secretary of State in certain public interest cases) is amended as follows.
- (2) In subsection (1)(b), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.
- (3) In subsection (1)(c), after “33” insert “or [subsection \(2\)\(a\)](#) of section [68C](#)”.
- (4) In subsection (1)(d)—
- (a) for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”;
  - (b) in sub-paragraph (1), after the second “or (a)” insert “(including those provisions as applied by sections [68B](#) and [68C](#))”.

**Commencement Information**

**I155** Sch. 16 para. 7 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 8 In section 56(2) (competition cases where intervention on public interest grounds ceases), for “or 33” (in both places it occurs) substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I156** Sch. 16 para. 8 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 9 In section 57(1) (duties of CMA and OFCOM to inform Secretary of State), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I157** Sch. 16 para. 9 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 10 In the italic heading at the beginning of Chapter 4, for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I158** Sch. 16 para. 10 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 11 (1) Section 72 (initial enforcement orders: completed or anticipated mergers) is amended as follows.
- (2) In subsection (1)(a), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.
- (3) In subsection (6)(a) and (d), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I159** Sch. 16 para. 11 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 12 (1) Section 73 (undertakings in lieu of references) is amended as follows.
- (2) In the heading, for “22 or 33” substitute “22, 33, [68B](#) or [68C](#)”.
- (3) After subsection (3) insert—
- “(3A) Subsection ([3B](#)) applies if the CMA considers that it is under a duty to make a reference under section [68B](#) or [68C](#); and for the purposes of this subsection it must—
- (a) disregard the operation of section 22(3)(b) or 33(3)(b) (as applied by section [68B](#) or [68C](#)), but
- (b) take account of its power under section [68B\(2\)](#) or [68C\(2\)](#) to decide not to make such a reference.
- (3B) The CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the prejudice to the ability of the Gas and Electricity Markets Authority described in section [68B\(1\)](#) or [68C\(1\)](#), accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
- (3C) In proceeding under subsection ([3B](#)), the CMA must, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the prejudice.
- (3D) Before proceeding under subsection ([3B](#)), the CMA must—
- (a) ask the Gas and Electricity Markets Authority to give its opinion on the effect of the undertakings offered, and
- (b) consider the Authority’s opinion.”
- (4) In subsection (4), after “subsection (2)” insert “or (3B)”.

**Commencement Information**

**I160** Sch. 16 para. 12 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 13 (1) Section 73A (time-limits for consideration of undertakings) is amended as follows.
- (2) In subsection (1), after “73(2)” insert “or (3B)”.



*Status: Point in time view as at 26/12/2023.*

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- (3) In subsection (2), for “those purposes” substitute “the purposes of section 73(2) or (3B)”.

**Commencement Information**

**I161** Sch. 16 para. 13 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 14 (1) Section 74 (effect of undertakings under section 73) is amended as follows.
- (2) In subsection (1), for “or 45” substitute “, 45, [68B](#) or [68C](#)”.
- (3) In subsection (5)(a), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I162** Sch. 16 para. 14 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 15 In section 77(1)(a) (restrictions on certain dealings: completed mergers), after “22” insert “or [68B](#)”.

**Commencement Information**

**I163** Sch. 16 para. 15 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 16 In section 78(1)(a) (restrictions on certain share dealings: anticipated mergers), after “33” insert “or [68C](#)”.

**Commencement Information**

**I164** Sch. 16 para. 16 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 17 In section 79(1) and (2) (sections 77 and 78: further interpretation provisions), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I165** Sch. 16 para. 17 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 18 In section 80(1), (7) and (8) (interim undertakings), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I166** Sch. 16 para. 18 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 19 In section 81(1), (7) and (8) (interim orders), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I167** Sch. 16 para. 19 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 20 In section 82(3) and (4) (final undertakings), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I168** Sch. 16 para. 20 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 21 In section 84(5) (final orders), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I169** Sch. 16 para. 21 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 22 (1) Section 100 (exceptions to protection given by merger notices) is amended as follows.
- (2) In subsection (1), for “or (as the case may be) 33” substitute “, 33, [68B](#) or [68C](#)”.
- (3) In subsection (2)(a), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I170** Sch. 16 para. 22 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 23 In section 104(6) (certain duties of relevant authorities to consult), in the definition of “relevant decision”, in paragraph (a)(i), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I171** Sch. 16 para. 23 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 24 In section 105(1) (general information duties of CMA), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I172** Sch. 16 para. 24 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 25 (1) Section 106 (advice and information about references) is amended as follows.
- (2) In the heading, for “sections 22 and 33” substitute “section 22, 33, [68B](#) or [68C](#)”.
- (3) In subsection (1)(a), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I173** Sch. 16 para. 25 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

*Status: Point in time view as at 26/12/2023.*

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

- 26 (1) Section 107 (further publicity requirements) is amended as follows.
- (2) In subsection (1)(a), for “or 33” substitute “, 33, 68B or 68C”.
- (3) In subsection (1)(aa), for “subsection (2)(b) of section 33” substitute “section 33(2)(b) or 68C(2)(a)”.
- (4) In subsection (1)(b), for “or 33” substitute “, 33, 68B or 68C”.
- (5) In subsection (2)(a), at the end insert “or 68C”.
- (6) In subsection (2)(b), for the words from “a reference” to the end substitute “a reference under section 22 or 68B as if it had been made under section 33 or 68C or to treat a reference under section 33 or 68C as if it had been made under section 22 or 68B”.

**Commencement Information**

**I174** Sch. 16 para. 26 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 27 In section 109(A1)(a) (attendance of witnesses and production of documents etc), for “or 33” substitute “, 33, 68B or 68C”.

**Commencement Information**

**I175** Sch. 16 para. 27 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 28 In section 110A(5) and (6) (restriction on powers to impose penalties under section 110), for “or 33” substitute “, 33, 68B or 68C”.

**Commencement Information**

**I176** Sch. 16 para. 28 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 29 In section 110B(1) and (2) (restriction on powers to impose penalties under section 110), for “or 33” substitute “, 33, 68B or 68C”.

**Commencement Information**

**I177** Sch. 16 para. 29 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 30 In section 121(3)(a) (fees), for “or 33” substitute “, 33, 68B or 68C”.

**Commencement Information**

**I178** Sch. 16 para. 30 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 31 In section 124(5) (orders and regulations), at the beginning insert “Regulations made by the Secretary of State under section 68A or”.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I179** Sch. 16 para. 31 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

32 In section 127(3) (associated person), for “or 62” substitute “, 62, [68B](#) or [68C](#)”.

**Commencement Information**

**I180** Sch. 16 para. 32 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

33 (1) The table in section 130 (index of defined expressions) is amended as follows.

(2) After the entry for “Enactment” insert—

“Energy network enterprise	Section <a href="#">68A</a>
Energy network merger	Section <a href="#">68A</a> ”.

(3) In the entry for “Final determination of reference under section 22 or 33”, for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

(4) In the entry for “References under section 22, 33, 45 or 62”—

(a) for “or 62” substitute “, 62, [68B](#) or [68C](#)”, and

(b) after “37(2)” insert “(including as applied by Schedule 5A)”.

(5) In the entry for “The turnover in the United Kingdom of an enterprise”, after “28(2)” insert “(including as applied by Schedule 5A)”.

**Commencement Information**

**I181** Sch. 16 para. 33 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

34 (1) Schedule 7 (enforcement regime for public interest and special public interest cases) is amended as follows.

(2) In paragraph 4(1), for “or 45” substitute “, 45, [68B](#) or [68C](#)”.

(3) In paragraph 4(2)(a), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

**Commencement Information**

**I182** Sch. 16 para. 34 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### PART 3 U.K.

#### CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

##### *Utilities Act 2000*

- 35 In section 105(3) of the Utilities Act 2000 (general restrictions on disclosure of information), in paragraph (azb), after “under” insert “Part 3 of the Enterprise Act 2002 or under”.

##### **Commencement Information**

**I183** Sch. 16 para. 35 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

##### *Enterprise and Regulatory Reform Act 2013*

- 36 (1) Schedule 4 to the Enterprise and Regulatory Reform Act 2013 is amended as follows.
- (2) In paragraph 35(3) (membership of CMA panel), in the definition of “specialist utility functions”, after paragraph (d) insert—  
 “(dza) a reference under section [68B](#) or [68C](#) of the Enterprise Act 2002;”.
- (3) In paragraph 56 (CMA group decision: requirement for two thirds majority), after sub-paragraph (2) insert—  
 “(2A) Sub-paragraph [\(2B\)](#) applies where a decision of a CMA group under section 35(1) or 36(1) of that Act (as applied by section [68F](#) of, and Schedule 5A to, that Act) that there is, or is likely to be, prejudice of the kind described in section [68B\(1\)\(b\)](#) or [68C\(1\)\(b\)](#) of that Act is not a qualifying majority decision.  
 (2B) The decision of the CMA group is to be treated as a decision under section 35(1) or, as the case may be, section 36(1) of that Act (as applied by section [68F](#) of, and Schedule 5A to, that Act) that there is not, or is not likely to be, prejudice of that kind.”

##### **Commencement Information**

**I184** Sch. 16 para. 36 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

PROSPECTIVE

### SCHEDULE 17 E+W+S

Section 210

#### MULTI-PURPOSE INTERCONNECTORS: CONSEQUENTIAL AMENDMENTS

##### *The Electricity Act 1989*

- 1 The Electricity Act 1989 is amended as follows.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I185** Sch. 17 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

- 2 In section 3A (principal objective and general duties of Secretary of State and Gas and Electricity Markets Authority)—
- (a) in subsection (1B), after “interconnectors” insert “or multi-purpose interconnectors”;
  - (b) in subsection (5)(a), after “interconnectors” insert “or multi-purpose interconnectors”;
  - (c) in subsection (5B), in the definition of “electricity-supply emissions”, after “interconnectors” insert “or multi-purpose interconnectors”.

**Commencement Information**

**I186** Sch. 17 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

- 3 In section 3F(2) (Gas and Electricity Markets Authority to cooperate with Northern Ireland Authority), after “interconnection” insert “and multi-purpose interconnection”.

**Commencement Information**

**I187** Sch. 17 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

- 4 In section 7 (conditions of licences: general)—
- (a) in subsection (2), after “distribution licence” insert “or MPI licence”;
  - (b) in subsection (2A), after “transmission licence” insert “or MPI licence”.

**Commencement Information**

**I188** Sch. 17 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

- 5 In section 29 (regulations relating to supply and safety)—
- (a) in subsection (1)(b), after “interconnectors” insert “or multi-purpose interconnectors”;
  - (b) in subsection (2)—
    - (i) in paragraph (b), after “interconnectors” insert “or multi-purpose interconnectors”;
    - (ii) in paragraph (c), after “interconnector” insert “or multi-purpose interconnector”.

**Commencement Information**

**I189** Sch. 17 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

- 6 In section 30 (electrical inspectors), in subsection (2)(a), after “interconnectors” insert “or multi-purpose interconnectors”.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I190** Sch. 17 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

- 7 In section 43 (functions with respect to competition)—
- (a) in subsection (2A)(b), after “interconnectors” insert “or multi-purpose interconnectors”;
  - (b) in subsection (2C)(b), after “interconnectors” insert “or multi-purpose interconnectors”;
  - (c) in subsection (3), after “interconnectors” insert “or multi-purpose interconnectors”.

**Commencement Information**

**I191** Sch. 17 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

- 8 In subsection 44B (meaning of “section 44B dispute”), in subsection (1)(a), after sub-paragraph (iii) insert—
- “(iia) made against the holder of an MPI licence.”.

**Commencement Information**

**I192** Sch. 17 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

- 9 In section 56A(4) (scope of power to alter activities requiring licence), after “electricity” insert “, with the operation of a multi-purpose interconnector”.

**Commencement Information**

**I193** Sch. 17 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

- 10 In section 58(2) (direction restricting the use of certain information), after “interconnectors” insert “or multi-purpose interconnectors”.

**Commencement Information**

**I194** Sch. 17 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

- 11 In section 98(1) (provision of statistical information), after “interconnectors” insert “or multi-purpose interconnectors”.

**Commencement Information**

**I195** Sch. 17 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I185** Sch. 17 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

**I186** Sch. 17 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)



*Status: Point in time view as at 26/12/2023.*

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

- I187** Sch. 17 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)
- I188** Sch. 17 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)
- I189** Sch. 17 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)
- I190** Sch. 17 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)
- I191** Sch. 17 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)
- I192** Sch. 17 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)
- I193** Sch. 17 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)
- I194** Sch. 17 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)
- I195** Sch. 17 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Scotland Act 1998*

- 12 In section 90B of the Scotland Act 1998 (the Crown Estate), in subsection (12) (d), after “interconnectors” insert “or multi-purpose interconnectors (within the meaning of Part 1 of the Electricity Act 1989)”.

#### **Commencement Information**

- I196** Sch. 17 para. 12 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Utilities Act 2000*

- 13 In section 5A of the Utilities Act 2000 (duty of Authority to carry out impact assessment), in subsection (2)—
- (a) in paragraph (b), after “gas meters” insert “or in the operation of a multi-purpose interconnector”;
  - (b) in paragraph (c), after “electricity” insert “or the operation of a multi-purpose interconnector”.

#### **Commencement Information**

- I197** Sch. 17 para. 13 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Energy Act 2004*

- 14 Section 172 of the Energy Act 2004 (annual report on security of energy supplies) is amended as follows—
- (a) in subsection (2D)(b), after “interconnectors” insert “and multi-purpose interconnectors”;
  - (b) in subsection (4), after ““generation”,” insert “; “multi-purpose interconnector”,”.

#### **Commencement Information**

- I198** Sch. 17 para. 14 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

#### *Civil Contingencies Act 2004*

- 15 (1) Schedule 1 to the Civil Contingencies Act 2004 (category 1 and 2 responders) is amended as follows.
- (2) In paragraph 19, in sub-paragraph (2)—
- (a) omit the “and” after paragraph (b);
  - (b) after paragraph (c) insert “, and
  - (d) an MPI licence.”
- (3) In paragraph 30, in sub-paragraph (2)—
- (a) omit the “and” after paragraph (b);
  - (b) after paragraph (c) insert “, and
  - (d) an MPI licence.”

#### **Commencement Information**

**I199** Sch. 17 para. 15 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Consumers, Estate Agents and Redress Act 2007*

- 16 In section 42 of the Consumers, Estate Agents and Redress Act 2007 (interpretation of Part 2), in subsection (4), in paragraph (c) of the definition of “electricity licensee”—
- (a) for “or (e)” substitute “, (e) or (ea)”;
  - (b) for “and interconnector licences” substitute “, interconnector licences and MPI licences”.

#### **Commencement Information**

**I200** Sch. 17 para. 16 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Energy Act 2013*

- 17 In section 59 of the Energy Act 2013 (suspension etc of emissions limit in exceptional circumstances), in subsection (4)(a), after “interconnector” insert “or multi-purpose interconnector”.

#### **Commencement Information**

**I201** Sch. 17 para. 17 not in force at Royal Assent, see [s. 334\(1\)](#)

#### *Regulation (EU) 2019/943 of the European Parliament and of the Council of 5th June 2019 on the internal market for electricity (recast)*

- 18 In Article 63 of [Regulation \(EU\) 2019/943](#) of the European Parliament and of the Council of 5th June 2019 on the internal market for electricity (recast), in paragraph 4A, for “granted under section 6(1)(e) of the Electricity Act 1989” substitute “or an MPI licence granted under section 6(1)(e) or (ea) respectively of the Electricity Act 1989”.

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I202** Sch. 17 para. 18 not in force at Royal Assent, see [s. 334\(1\)](#)

#### United Kingdom Internal Market Act 2020

- 19 In Part 2 of Schedule 2 to the United Kingdom Internal Market Act 2020 (services to which non-discrimination provisions do not apply), in the entry relating to services connected with the supply or production of electricity, after “interconnector” insert “or multi-purpose interconnector”.

#### Commencement Information

**I203** Sch. 17 para. 19 not in force at Royal Assent, see [s. 334\(1\)](#)

## SCHEDULE 18 **U.K.**

Section 219

### HEAT NETWORKS REGULATION

#### PART 1 **U.K.**

##### INTERPRETATION

- 1 In this Schedule—
- “code manager licence” has the meaning given by [paragraph 25](#);
  - “consumer redress order” has the meaning given by [paragraph 37](#);
  - “designated document” has the meaning given by [paragraph 22](#);
  - “emissions” has the same meaning as in the Climate Change Act 2008 (see section 97 of that Act);
  - “enforcement undertaking” has the meaning given by [paragraph 38\(2\)](#);
  - “heat network authorisation” has the meaning given by [paragraph 13](#);
  - “heat network consumer” has the meaning given by the regulations;
  - “installation and maintenance licence” has the meaning given by [paragraph 31](#);
  - “licensed code manager”, in relation to a designated document, has the meaning given by [paragraph 25](#);
  - “regulated activity” has the meaning given by [paragraph 12](#);
  - “the regulations” means regulations under [section 219](#);
  - “relevant condition” has the meaning given by [paragraph 37](#);
  - “relevant person” has the meaning given by [paragraph 37](#);
  - “relevant requirement” has the meaning given by [paragraph 37](#);
  - “targeted greenhouse gas” has the same meaning as in Part 1 of the Climate Change Act 2008 (see section 24 of that Act).

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I204** Sch. 18 para. 1 in force at Royal Assent, see [s. 334\(2\)\(I\)](#)

## PART 2 U.K.

### GENERAL PROVISION AS TO THE REGULATOR

#### Objectives

- 2 (1) The regulations may make provision about the objectives of the Regulator in carrying out its functions under the regulations.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide that the principal objective of the Regulator is to protect the interests of existing and future heat network consumers.
- (3) The regulations may specify particular interests of existing and future heat network consumers that are to be protected.
- (4) The interests specified may, in particular, include—
- (a) their interests in the reliability of the supply of heating, cooling or hot water by means of relevant heat networks;
  - (b) their interests in the reduction of emissions of targeted greenhouse gases generated by relevant heat networks;
  - (c) their interests in charges for the supply of heating, cooling or hot water by means of relevant heat networks being proportionate;
  - (d) their interests in information about services and charges being communicated plainly.

#### Commencement Information

**I205** Sch. 18 para. 2 in force at Royal Assent, see [s. 334\(2\)\(I\)](#)

#### General duties

- 3 (1) The regulations may make provision about the duties of the Regulator in carrying out its functions under the regulations.
- (2) The duties may, in particular, include—
- (a) a duty to carry out its functions in a manner best calculated to further its objectives;
  - (b) a duty to consider, when carrying out its functions, the need to ensure that persons carrying out activities under a heat network authorisation or under an installation and maintenance licence are able to finance obligations imposed by or under the regulations;
  - (c) a duty to have regard to the interests of heat network consumers who are in vulnerable circumstances when performing duties imposed by regulations made by virtue of [paragraph \(a\)](#) or [\(b\)](#).

*Status: Point in time view as at 26/12/2023.*

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

- (3) Regulations made by virtue of [sub-paragraph \(2\)\(a\)](#) may require that the Regulator promote effective competition between persons engaged in, or in commercial activities connected with, the supply of heating, cooling or hot water by means of relevant heat networks.

**Commencement Information**

**I206** Sch. 18 para. 3 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 4 (1) The regulations may provide for the Regulator to have regard, in carrying out a function under the regulations, to—
- (a) the interests of existing and future consumers in relation to electricity conveyed by distribution systems or transmission systems (within the meaning of the Electricity Act 1989);
  - (b) the interests of existing and future consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986);
  - (c) any interests of existing and future consumers in relation to—
    - (i) communications services and electronic communications apparatus, or
    - (ii) water services or sewerage services (within the meaning of the Water Industry Act 1991),which are affected by the carrying out of that function.
- (2) The regulations may provide for persons or bodies exercising regulatory functions in those fields to have regard, in carrying out a regulatory function, to the interests of existing or future consumers in relation to the supply of heating, cooling or hot water by means of relevant heat networks.

**Commencement Information**

**I207** Sch. 18 para. 4 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I206** Sch. 18 para. 3 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I207** Sch. 18 para. 4 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Delegation of functions*

- 5 (1) The regulations may provide for the Regulator to delegate functions conferred on the Regulator by the regulations.
- (2) The regulations may specify functions which may be delegated only with the consent of the Secretary of State or, as the case may be, the Department.

**Commencement Information**

**I208** Sch. 18 para. 5 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### *Monitoring, records and information*

- 6 (1) The regulations may require the Regulator to keep under review the carrying on of activities connected with heat networks in the part or parts of the United Kingdom in relation to which the Regulator has functions under the regulations.
- (2) The regulations may require the Regulator to monitor such matters relating to the activities regulated by the regulations or the persons who carry on those activities as the regulations may specify.
- (3) The regulations may, for the purposes of enabling the Regulator to perform a duty imposed by regulations made by virtue of [sub-paragraph \(2\)](#), make provision enabling the Regulator to require information to be supplied.

#### **Commencement Information**

**I209** Sch. 18 para. 6 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 7 (1) The regulations may require the Regulator to collect information with respect to activities connected with heat networks and the persons who carry on those activities for such purposes as are specified in the regulations.
- (2) The regulations may, in particular, require the Regulator to collect information relating to standards of performance achieved by—
- (a) persons who hold a heat network authorisation;
  - (b) licensed code managers;
  - (c) persons who hold an installation and maintenance licence.

#### **Commencement Information**

**I210** Sch. 18 para. 7 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 8 (1) The regulations may make provision requiring the Regulator to maintain records.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, make provision requiring the Regulator to maintain records relating to—
- (a) persons whose application for a heat network authorisation, a code manager licence or an installation and maintenance licence has been refused;
  - (b) persons whose heat network authorisation, code manager licence or installation and maintenance licence has been revoked.
- (3) The regulations may make provision enabling or requiring the Regulator to provide information from its records to—
- (a) the Secretary of State or a person specified by the Secretary of State,
  - (b) the Department or a person specified by the Department, or
  - (c) the Scottish Ministers or a person specified by the Scottish Ministers.

#### **Commencement Information**

**I211** Sch. 18 para. 8 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

- 9 (1) The regulations may make provision restricting the disclosure of information obtained by the Regulator under or by virtue of the regulations, subject to exceptions specified in the regulations.
- (2) The regulations may make provision about the disclosure to the Regulator of information held by other persons or bodies.

**Commencement Information**

**I212** Sch. 18 para. 9 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 10 (1) The regulations may make provision for the purpose of securing that a disclosure of information which is authorised or required by the regulations does not contravene the data protection legislation.
- (2) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

**Commencement Information**

**I213** Sch. 18 para. 10 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I209** Sch. 18 para. 6 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I210** Sch. 18 para. 7 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I211** Sch. 18 para. 8 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I212** Sch. 18 para. 9 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I213** Sch. 18 para. 10 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Other general provision*

- 11 (1) The regulations may make other general provision about the Regulator.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, make provision about—
- (a) preparing and publishing documents about—
    - (i) strategy and policies;
    - (ii) plans for future work;
  - (b) publishing reports annually;
  - (c) publishing financial information in annual accounts;
  - (d) preparing and publishing impact assessments.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may make provision about preparing, issuing, reviewing and revising guidance.
- (4) Regulations made by virtue of [sub-paragraph \(1\)](#) may provide for the publication of information and advice for the purpose of promoting the interests of existing and future heat network consumers.



*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I214** Sch. 18 para. 11 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

### PART 3 U.K.

#### HEAT NETWORK AUTHORISATIONS

##### *Prohibition from carrying on regulated activity*

- 12 (1) The regulations may prohibit a person from carrying on a regulated activity, except as permitted by virtue of an authorisation conferred under regulations made by virtue of [paragraph 13](#).
- (2) In this paragraph, “regulated activity” means an activity relating to a relevant heat network of such description as may be specified in the regulations.

#### Commencement Information

**I215** Sch. 18 para. 12 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

##### *Heat network authorisations*

- 13 (1) The regulations may provide for the Regulator to confer authorisations (“heat network authorisations”) to carry on one or more regulated activities specified in the authorisation in relation to a particular relevant heat network.
- (2) The regulations may require a person who applies for a heat network authorisation—
- to satisfy such conditions relating to the person, the regulated activity or activities in question or the relevant heat network in question as the regulations may specify, and
  - to provide such information as the regulations may specify.
- (3) The regulations may provide for the Regulator—
- to confer a heat network authorisation;
  - to confer a heat network authorisation on a temporary basis;
  - to refuse to confer a heat network authorisation.
- (4) The regulations may make provision about the procedure for applying for a heat network authorisation, including provision about—
- the form and content of an application,
  - the manner in which the application and any accompanying documents are to be submitted to the Regulator;
  - the payment of a fee.
- (5) Regulations made in relation to England and Wales and Scotland by virtue of [sub-paragraph \(2\)\(b\)](#) or [\(4\)](#) may provide for the Regulator to make provision by regulations about the matters referred to in that sub-paragraph.

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

- (6) Regulations made by the Regulator by virtue of [sub-paragraph \(5\)](#) are to be made by statutory instrument.
- (7) The regulations may make provision as to the period for which an authorisation may be in force.

#### **Commencement Information**

**I216** Sch. 18 para. 13 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 14 (1) The regulations may make provision about the conditions to be included in heat network authorisations.
- (2) The regulations may, in particular—
- (a) provide for the Regulator to determine and publish conditions to be included in each heat network authorisation or in each heat network authorisation of a particular description;
  - (b) provide for the Secretary of State or, in relation to Northern Ireland, the Department to determine and publish conditions to be included in each heat network authorisation or in each heat network authorisation of a particular description;
  - (c) provide for consultation on, and publication of, the conditions proposed to be so determined;
  - (d) make provision about the inclusion in a heat network authorisation of conditions that are special to that authorisation;
  - (e) make provision about including conditions that meet objectives or other criteria specified in the regulations.
- (3) The regulations may, in particular, provide for conditions to be included in a heat network authorisation requiring the person who holds the authorisation—
- (a) to comply with the provisions of a particular designated document;
  - (b) to enter into governance arrangements with the person who is from time to time the licensed code manager for that designated document and to comply with those arrangements;
  - (c) to provide funding for the person who is from time to time the licensed code manager for that designated document.
- (4) The regulations may, in particular, provide for the following sorts of conditions to be included in a heat network authorisation—
- (a) conditions about the terms on which premises are connected to a relevant heat network (whether for the purpose of supplying heating, cooling or hot water to premises, or supplying thermal energy to a relevant heat network);
  - (b) conditions about installing and maintaining equipment for measuring, displaying, recording and regulating consumption of heating, cooling and hot water supplied by means of relevant heat networks;
  - (c) conditions about—
    - (i) the charges payable by heat network consumers or a description of heat network consumers specified in the regulations,
    - (ii) the billing of heat network consumers;
    - (iii) service standards, or

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- (iv) the communication of information about the heat network, the services provided or the terms on which the services are provided;
  - (d) conditions relating to price regulation (including by means of regulation of charges or profits);
  - (e) conditions about complying with technical standards (including, in relation to England and Wales and Scotland, technical standards for which provision is made in a designated document);
  - (f) conditions about ensuring the continuity of the supply of heating, cooling and hot water to heat network consumers;
  - (g) conditions about limiting emissions of targeted greenhouse gases in relation to relevant heat networks in England or Northern Ireland;
  - (h) conditions about providing information to the Regulator;
  - (i) conditions about the payment of fees to the Regulator, including conditions about the payment of fees—
    - (i) in connection with the conferring of an authorisation;
    - (ii) while an authorisation continues to be in force in relation to a person;
  - (j) conditions about making payments to the Regulator of sums relating to the costs of the Regulator under regulations made by virtue of [paragraph 46\(2\)](#).
- (5) Conditions of the sort referred to in [sub-paragraph \(4\)\(c\)\(i\)](#) may, in particular—
- (a) provide for charges imposed on heat network consumers to be subject to a price cap;
  - (b) require a person who holds a heat network authorisation not to impose on heat network consumers charges that are disproportionate (see [paragraph 42](#)).
- (6) Conditions of the sort referred to in [sub-paragraph \(4\)\(c\)\(ii\)](#) may, in particular—
- (a) impose requirements about the bills given to heat network consumers (including requirements about their frequency, accuracy and the use of estimates);
  - (b) impose requirements about the information and explanatory material to be provided to heat network consumers;
  - (c) make provision about the charges that may be made in respect of the costs of providing bills and such information and explanatory material.
- (7) The regulations may, in particular, provide for conditions to be included in a heat network authorisation that—
- (a) in relation to England and Wales or Scotland, impose on the person who holds the authorisation a requirement of a kind that may be imposed under section 7(3) of the Electricity Act 1989 on the holder of a licence under section 6(1) of that Act;
  - (b) in relation to Northern Ireland, impose on the person who holds the authorisation a requirement of a kind that may be imposed under Article 11(3) of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)) on the holder of a licence under Article 10(1) of that Order.

#### Commencement Information

**I217** Sch. 18 para. 14 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I216** Sch. 18 para. 13 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I217** Sch. 18 para. 14 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Conditions about technical standards: further provision*

- 15 The technical standards for which regulations made by virtue of [paragraph 14\(4\)\(e\)](#) may make provision include technical standards relating to—
- (a) the design, construction, commissioning, operation or maintenance of a heat network;
  - (b) the decommissioning of a heat network;
  - (c) equipment or materials used in the construction, operation or maintenance of a heat network;
  - (d) the competence of persons engaged in the design, construction, commissioning, operation or maintenance of a heat network.

**Commencement Information**

**I218** Sch. 18 para. 15 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Conditions about continuity of supply: further provision*

- 16 Conditions of the sort referred to in [paragraph 14\(4\)\(f\)](#) may, in particular, require the holder of a heat network authorisation to enter into and maintain contractual arrangements under which, in circumstances of a description specified in the conditions, one or more other persons are under an obligation to secure the continuity of the supply of heating, cooling or hot water.

**Commencement Information**

**I219** Sch. 18 para. 16 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 17 Conditions of the sort referred to in [paragraph 14\(4\)\(f\)](#) may, in particular, require the holder of a heat network authorisation, when directed to do so by the Regulator in circumstances of a description specified in the conditions, to carry on a regulated activity in relation to a relevant heat network in the place of another person (see [paragraph 44](#)).

**Commencement Information**

**I220** Sch. 18 para. 17 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I219** Sch. 18 para. 16 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I220** Sch. 18 para. 17 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### *Modification of heat network authorisations*

- 18 (1) The regulations may provide for the modification by the Regulator of—
- (a) the conditions of a particular heat network authorisation;
  - (b) conditions that are included in two or more heat network authorisations.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
- (a) provide for the procedure to be followed by the Regulator when it proposes to make a modification;
  - (b) provide for the communication of any modification;
  - (c) provide for the time when any modification takes effect;
  - (d) provide for the Regulator to comply with a direction of the Secretary of State or, in relation to Northern Ireland, the Department not to make a particular modification.
- (3) In sub-paragraphs [\(1\)](#) and [\(2\)](#), a reference to the modification of a condition includes a reference to the revocation of a condition.
- (4) The regulations may provide for the conditions of a heat network authorisation—
- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions;
  - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.

#### **Commencement Information**

**I221** Sch. 18 para. 18 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

### *Review and revocation of heat network authorisations*

- 19 The regulations may provide for the conditions of, or the activities carried out by virtue of, a heat network authorisation to be reviewed by the Regulator at any time while it is in force.

#### **Commencement Information**

**I222** Sch. 18 para. 19 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 20 (1) The regulations may provide—
- (a) for the revocation of a heat network authorisation by the Regulator;
  - (b) for a heat network authorisation to cease to have effect in circumstances specified in or determined under the authorisation.
- (2) Regulations made by virtue of [sub-paragraph \(1\)\(a\)](#) may, in particular, provide for the procedure to be followed by the Regulator when it proposes to revoke the authorisation.

#### **Commencement Information**

**I223** Sch. 18 para. 20 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I222** Sch. 18 para. 19 in force at Royal Assent, see [s. 334\(2\)\(I\)](#)

**I223** Sch. 18 para. 20 in force at Royal Assent, see [s. 334\(2\)\(I\)](#)

#### Initial period

- 21 (1) The regulations may make provision with respect to persons carrying on a regulated activity in relation to a relevant heat network during a period that—
- (a) begins with the day on which any regulations made by virtue of [paragraph 12](#) come into force, and
  - (b) ends with a day specified in the regulations.
- (2) The regulations may—
- (a) provide for the period to be prolonged, or to be prolonged as it relates to a description of heat network authorisations, by the Regulator;
  - (b) require the consent of the Secretary of State or the Department (as the case may be) to such an alteration.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may—
- (a) provide for a person carrying on a regulated activity in relation to a relevant heat network to be treated as holding a heat network authorisation in relation to that activity and that relevant heat network during the period described in [sub-paragraph \(1\)](#) (or, if applicable, during that period as prolonged by virtue of [sub-paragraph \(2\)](#));
  - (b) make provision as to the conditions of the heat network authorisation treated as conferred on such a person (including provision similar to the provision described in [paragraph 14\(2\)](#));
  - (c) require a person carrying on a regulated activity in relation to a relevant heat network to apply to the Regulator for a heat network authorisation to be conferred on the person by a time specified in or determined under the regulations.
- (4) Regulations made by virtue of [sub-paragraph \(3\)\(c\)](#) may provide for different times for different descriptions of case.

#### Commencement Information

**I224** Sch. 18 para. 21 in force at Royal Assent, see [s. 334\(2\)\(I\)](#)

## PART 4 **U.K.**

### CODE GOVERNANCE

#### Designated documents

- 22 (1) In [this Part](#), “designated document” means a document that—
- (a) is maintained in accordance with the conditions of a code manager licence, and

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- (b) is designated for the purposes of [this Part](#) by or in accordance with the regulations.
- (2) The regulations may—
- (a) designate or provide for the designation of different documents for different purposes;
  - (b) provide for the time from which a designation has effect;
  - (c) provide for the modification of a designated document and its reissuing in its modified form;
  - (d) revoke or provide for the revocation of a designated document;
  - (e) provide for a designated document otherwise ceasing to be a designated document.
- (3) The regulations may provide for a document that is designated to make provision by reference to material (including standards, specifications or requirements) contained in other documents that are published from time to time.
- (4) The regulations may, in particular, make provision about the cases in which the designated document may be modified by the Regulator.

#### Commencement Information

**I225** Sch. 18 para. 22 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

#### *Prohibition on performing the function of a code manager*

- 23 (1) The regulations may, in relation to England and Wales and Scotland, prohibit a person from performing the function of code manager in relation to a designated document, except as permitted by virtue of a code manager licence (see [paragraph 25](#)).
- (2) A reference in [this Part](#) to a person performing the function of code manager in relation to a designated document is a reference to a person making arrangements, with persons to whom [sub-paragraph \(3\)](#) applies, under which the person is responsible for the governance of the designated document.
- (3) This sub-paragraph applies to the person who holds a heat network authorisation where a condition of the authorisation requires the person to comply with the designated document in question.

#### Commencement Information

**I226** Sch. 18 para. 23 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

#### *Licensed code managers*

- 24 (1) The regulations may, in relation to England and Wales and Scotland, make provision about selecting a person to be a code manager in relation to a designated document.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, make provision about the procedure for selecting a person, including provision for determining which procedure to apply in a particular case.



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

- (3) Regulations made by virtue of [sub-paragraph \(2\)](#) may include provision for the payment of a fee by a person seeking to be selected to be a code manager.
- (4) Regulations made by virtue of [sub-paragraph \(2\)](#) may provide for the Regulator to make provision by regulations about those matters.
- (5) Regulations made by the Regulator by virtue of [sub-paragraph \(4\)](#) are to be made by statutory instrument.

#### Commencement Information

**I227** Sch. 18 para. 24 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 25
- (1) The regulations may, in relation to England and Wales and Scotland, provide for the Regulator, where a person is selected to be the code manager in relation to a designated document, to issue a licence (a “code manager licence”) to the person which authorises the person to perform the function of code manager in relation to the designated document.
  - (2) The regulations may make provision as to the period for which a licence may be in force.
  - (3) In [this Part](#), references to the licensed code manager, in relation to a designated document, are references to the person who is authorised by a code manager licence to perform the function of code manager in relation to the designated document.

#### Commencement Information

**I228** Sch. 18 para. 25 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 26
- (1) The regulations may make provision about the contents of a code manager licence.
  - (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
    - (a) provide for the Regulator to determine and publish conditions to be included in each code manager licence or in each code manager licence of a particular description;
    - (b) provide for the Secretary of State to determine and publish conditions to be included in each code manager licence or in each code manager licence of a particular description;
    - (c) provide for consultation on, and publication of, the conditions proposed to be so determined;
    - (d) make provision about the inclusion in a code manager licence of conditions that are special to that licence;
    - (e) make provision about including conditions that meet objectives or other criteria specified in the regulations.
  - (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide for the following sorts of conditions to be included in a code manager licence—
    - (a) conditions about the nature of the governance arrangements that the licensed code manager may enter into with persons who hold a heat network authorisation (see [paragraph 14\(3\)\(b\)](#));



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- (b) conditions about the content of those governance arrangements, which may include provision about the licensed code manager—
    - (i) modifying the designated document,
    - (ii) monitoring or enforcing compliance with the provisions of the designated document, or
    - (iii) developing guidance relating to the designated document;
  - (c) conditions about functions of the Regulator in connection with the modification of a designated document;
  - (d) conditions about providing information to the Regulator;
  - (e) conditions about complying with directions of the Regulator as to matters specified or of a description specified in the code manager licence;
  - (f) conditions about the payment of fees to the Regulator, including conditions about the payment of fees—
    - (i) when a code manager licence is first issued;
    - (ii) while a code manager licence continues to be in force in relation to a person.
- (4) The regulations may, in particular, provide for conditions to be included in a code manager licence that—
- (a) in relation to England and Wales or Scotland, impose on the person who holds the licence a requirement of a kind that may be imposed under section 7(3) of the Electricity Act 1989 on the holder of a licence under section 6(1) of that Act;
  - (b) in relation to Northern Ireland, impose on the person who holds the licence a requirement of a kind that may be imposed under Article 11(3) of the Electricity (Northern Ireland) Order 1992 ([S.I. 1992/231 \(N.I. 1\)](#)) on the holder of a licence under Article 10(1) of that Order.

**Commencement Information**

**I229** Sch. 18 para. 26 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 27 The regulations may provide for the Regulator to make payments to licensed code managers in respect of their costs.

**Commencement Information**

**I230** Sch. 18 para. 27 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 28 (1) The regulations may provide for the modification by the Regulator of—
- (a) the conditions of a particular code manager licence;
  - (b) conditions that are included in two or more code manager licences.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
- (a) provide for the procedure to be followed by the Regulator when it proposes to make a modification;
  - (b) provide for the communication of any modification;
  - (c) provide for the time when any modification takes effect;
  - (d) provide for the Regulator to comply with a direction of the Secretary of State not to make a particular modification.

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

- (3) In sub-paragraphs (1) and (2), a reference to the modification of a condition includes a reference to the revocation of a condition.
- (4) The regulations may provide for the conditions of a code manager licence—
- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions;
  - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.

**Commencement Information**

**I231** Sch. 18 para. 28 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I227** Sch. 18 para. 24 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I228** Sch. 18 para. 25 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I229** Sch. 18 para. 26 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I230** Sch. 18 para. 27 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I231** Sch. 18 para. 28 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Review and revocation of code manager licences*

- 29 The regulations may provide for a code manager licence, or the activities carried out by virtue of a code manager licence, to be reviewed by the Regulator at any time while it is in force.

**Commencement Information**

**I232** Sch. 18 para. 29 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 30 (1) The regulations may provide—
- (a) for the revocation of a code manager licence by the Regulator;
  - (b) for a code manager licence to cease to have effect in circumstances specified in or determined under the licence.
- (2) Regulations made by virtue of [sub-paragraph \(1\)\(a\)](#) may provide for the procedure to be followed by the Regulator when it proposes to revoke the licence.

**Commencement Information**

**I233** Sch. 18 para. 30 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I232** Sch. 18 para. 29 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I233** Sch. 18 para. 30 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

## PART 5 **U.K.**

### INSTALLATION AND MAINTENANCE LICENCES

#### *Installation and maintenance licences*

- 31 (1) The regulations may provide for the issuing of licences (“installation and maintenance licences”) which authorise the holder of a licence to exercise the rights specified in the licence for purposes relating to the installation or maintenance of relevant heat networks—
- (a) in England and Wales, or
  - (b) in Northern Ireland.
- (2) The regulations may require the Regulator to be satisfied before issuing an installation and maintenance licence to a person that the person is an appropriate person to hold such a licence.
- (3) The regulations may require the Regulator, in deciding whether a person is an appropriate person to hold an installation and maintenance licence, to consider such matters as may be specified.
- (4) The matters specified may, in particular, relate to the abilities or financial resources of the person applying for a licence or the nature of the business carried on by the person.
- (5) The regulations may specify other conditions that are to be satisfied before a licence may be issued.
- (6) The regulations may make provision about the procedure for applying for a licence, including provision about—
- (a) the form and content of an application,
  - (b) the manner in which the application and any accompanying documents are to be submitted to the Regulator, and
  - (c) the payment of a fee.
- (7) Regulations made by virtue of [sub-paragraph \(6\)](#) may provide for the Regulator to make provision by regulations about the matters referred to in [sub-paragraph \(6\)](#) (including provision about the information that must be provided to the Regulator by a person applying for a licence), so far as relating to England and Wales.
- (8) Regulations made by the Regulator by virtue of [sub-paragraph \(7\)](#) are to be made by statutory instrument.
- (9) The regulations may make provision as to the period for which a licence may be in force.
- (10) The regulations may make provision about the transfer of a licence.

#### **Commencement Information**

**I234** Sch. 18 para. 31 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### *Rights that may be conferred*

- 32 (1) The regulations must set out the rights relating to land that are capable of being conferred on a person by an installation and maintenance licence.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) setting out a right may include provision about the restrictions, exceptions or conditions subject to which the right may be exercised.
- (3) The rights set out by regulations made by virtue of [sub-paragraph \(1\)](#) may include—
- (a) a right to apply to the Secretary of State or, in relation to Northern Ireland, the Department for authority to make a compulsory acquisition of an easement or other right over land by the creation of a new right for the purpose of installing or maintaining works and apparatus relating to a heat network;
- (b) a right—
- (i) to install and keep works and apparatus relating to a heat network in, under or over a street,
- (ii) to inspect, maintain, adjust, alter, repair, upgrade, operate or remove such works and apparatus, and
- (iii) to carry out such other works as are required for or incidental to those works,
- subject to such requirements as to notification, manner of working and compensation as may be specified in the regulations;
- (c) a right—
- (i) to install and keep works and apparatus relating to a heat network in, under or over transport land,
- (ii) to inspect, maintain, alter, repair, replace and remove such works and apparatus,
- (iii) to carry out any works on the transport land for or in connection with the exercise of a right described in [sub-paragraph \(i\)](#) or [\(ii\)](#), and
- (iv) to enter the transport land to inspect, maintain, adjust, alter, repair, upgrade, operate or remove the works or apparatus,
- subject to such requirements as to notification, compensation, arbitration and alteration of the works and apparatus as may be specified in the regulations;
- (d) a right to undertake works of a specified description without being required to obtain planning permission.
- (4) In this paragraph—
- “street” means a street in England, Wales or Northern Ireland and—
- (a) in relation to England and Wales, has the same meaning as in Part 3 of the New Roads and Street Works Act 1991;
- (b) in relation to Northern Ireland, has the same meaning as in the Street Works (Northern Ireland) Order 1995 ([S.I. 1995/3210 \(N.I. 19\)](#));
- “transport land” means land which is used wholly or mainly—
- (a) as a railway, tramway or waterway, or
- (b) in connection with a railway, tramway or waterway on the land.

#### **Commencement Information**

**I235** Sch. 18 para. 32 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

*Further provision about installation and maintenance licences*

- 33 (1) The regulations may make provision about the contents of installation and maintenance licences.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
- (a) provide for the Regulator to determine and publish conditions to be included in each installation and maintenance licence or in each installation and maintenance licence of a particular description;
  - (b) provide for the Secretary of State or, in relation to Northern Ireland, the Department to determine and publish conditions to be included in each installation and maintenance licence or in each installation and maintenance licence of a particular description;
  - (c) provide for consultation on, and publication of, the conditions proposed to be so determined;
  - (d) make provision about the inclusion in an installation and maintenance licence of conditions that are special to that licence;
  - (e) make provision about including conditions that meet objectives or other criteria specified in the regulations.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide for the following sorts of conditions to be included in a licence—
- (a) conditions about providing information to the Regulator;
  - (b) conditions about the payment of fees to the Regulator, including conditions about the payment of fees—
    - (i) when a licence is first issued;
    - (ii) while a licence continues to be in force in relation to a person.
- (4) The regulations may, in particular, provide for conditions to be included in an installation and maintenance licence that—
- (a) in relation to England and Wales, impose on the person who holds the licence a requirement of a kind that may be imposed under section 7(3) of the Electricity Act 1989 on the holder of a licence under section 6(1) of that Act;
  - (b) in relation to Northern Ireland, impose on the person who holds the licence a requirement of a kind that may be imposed under Article 11(3) of the Electricity (Northern Ireland) Order 1992 ([S.I. 1992/231 \(N.I. 1\)](#)) on the holder of a licence under Article 10(1) of that Order.

**Commencement Information**

**I236** Sch. 18 para. 33 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 34 (1) The regulations may provide for the modification by the Regulator of—
- (a) the conditions of a particular installation and maintenance licence;
  - (b) conditions that are included in two or more installation and maintenance licences.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
- (a) provide for the procedure to be followed by the Regulator when it proposes to make a modification;
  - (b) provide for the communication of any modification;
  - (c) provide for the time when any modification takes effect;

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- (d) provide for the Regulator to comply with a direction of the Secretary of State or, in relation to Northern Ireland, the Department not to make a particular modification.
- (3) In sub-paragraphs (1) and (2), a reference to the modification of a condition includes a reference to the revocation of a condition.
- (4) The regulations may provide for the conditions of an installation and maintenance licence—
  - (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions;
  - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.

**Commencement Information**

**I237** Sch. 18 para. 34 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I236** Sch. 18 para. 33 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I237** Sch. 18 para. 34 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Review and revocation of installation and maintenance licences*

- 35 The regulations may provide for the conditions of, or the activities carried out by virtue of, an installation and maintenance licence to be reviewed by the Regulator at any time while it is in force.

**Commencement Information**

**I238** Sch. 18 para. 35 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 36 (1) The regulations may provide—
  - (a) for the revocation of an installation and maintenance licence by the Regulator;
  - (b) for an installation and maintenance licence to cease to have effect in circumstances specified in or determined under the licence.(2) Regulations made by virtue of sub-paragraph (1)(a) may, in particular, provide for the procedure to be followed by the Regulator when it proposes to revoke the licence.

**Commencement Information**

**I239** Sch. 18 para. 36 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I238** Sch. 18 para. 35 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

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

**I239** Sch. 18 para. 36 in force at Royal Assent, see **s. 334(2)(l)**

## PART 6 **U.K.**

### ENFORCEMENT OF CONDITIONS AND REQUIREMENTS

#### *Methods of enforcement*

- 37 (1) The regulations may make provision about the enforcement of relevant conditions or relevant requirements.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide for the Regulator—
- (a) in a case where the Regulator is satisfied that a relevant person is contravening or is likely to contravene a relevant condition or requirement, to make a final order requiring the person to take such steps as the Regulator considers appropriate for the purpose of securing the person’s compliance with the relevant condition or requirement;
  - (b) in a case where it appears to the Regulator that a relevant person is contravening or is likely to contravene a relevant condition or requirement, to make a provisional order requiring the person to take such steps as the Regulator considers appropriate for the purpose of securing compliance with the relevant condition or requirement;
  - (c) to impose a penalty on a relevant person for the contravention of a relevant condition or requirement;
  - (d) in relation to England and Wales and Scotland, in a case where the contravention of a relevant condition or requirement by a relevant person has caused or is causing one or more consumers to suffer loss or damage or to be caused inconvenience, to make an order (a “consumer redress order”) requiring the person to do such things as appear to the Regulator necessary for the purposes of—
    - (i) remedying the consequences of the contravention, or
    - (ii) preventing the person contravening the relevant condition or requirement again in the same or a similar way.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide for—
- (a) the making of an order,
  - (b) the imposition of a penalty, or
  - (c) the making of a consumer redress order,
- to be excluded if the Regulator considers that it would be more appropriate to proceed under the Competition Act 1998 (see [paragraph 41](#)).
- (4) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, make provision about the use of more than one method of enforcement.
- (5) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, make provision about enforcement in a case where a person who holds two or more heat network authorisations has contravened or is likely to contravene a relevant condition or requirement in those, or some of those, heat network authorisations.
- (6) In this paragraph—



*Status: Point in time view as at 26/12/2023.*

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

“relevant condition” means a condition of—

- (a) a heat network authorisation,
- (b) a code manager licence, or
- (c) an installation and maintenance licence;

“relevant person” means—

- (a) a person who holds a heat network authorisation,
- (b) a licensed code manager, or
- (c) a person who holds an installation and maintenance licence;

“relevant requirement”, in relation to a relevant person, means a requirement imposed on the person by or under the regulations or by regulations made by the Regulator by virtue of any provision of this Schedule.

#### Commencement Information

**I240** Sch. 18 para. 37 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### *Final and provisional orders*

- 38 (1) Regulations made by virtue of [paragraph 37\(2\)](#) may, in particular—
- (a) provide for the confirmation of a provisional order;
  - (b) make provision about procedure;
  - (c) provide for the grounds on which an order may be challenged in legal proceedings, the time within which it may be challenged and the remedies that may be given;
  - (d) specify how an order may be enforced (including by providing for non-compliance with an order to be a breach of duty);
  - (e) make provision enabling the Regulator to accept an enforcement undertaking from a relevant person and about the consequences of accepting such an undertaking.
- (2) An “enforcement undertaking” is an undertaking to take, within the period specified in the undertaking, such action as may be so specified to secure compliance with a relevant condition or requirement.
- (3) Except as provided by the regulations, the validity of an order made by virtue of [paragraph 37\(2\)\(a\)](#) or [\(b\)](#) is not to be questioned in any legal proceedings.

#### Commencement Information

**I241** Sch. 18 para. 38 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### *Penalties*

- 39 (1) Regulations made by virtue of [paragraph 37\(2\)\(c\)](#) may, in particular—
- (a) make provision about the maximum amount that may be imposed by way of penalty;
  - (b) make provision about procedure;
  - (c) make provision about the payment of interest;



*Status: Point in time view as at 26/12/2023.*

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

- (d) specify how a penalty (and any interest) may be recovered;
  - (e) make provision about payment of a penalty (and any interest) in instalments;
  - (f) require sums received by way of penalty (and interest) to be paid into—
    - (i) the Consolidated Fund, or
    - (ii) in relation to Northern Ireland, the Consolidated Fund of Northern Ireland;
  - (g) make provision enabling the Regulator to accept an enforcement undertaking from a relevant person and about the consequences of accepting such an undertaking.
- (2) The regulations may provide for—
- (a) publication by the Regulator of a statement of policy with respect to the imposition of penalties and the determination of their amount;
  - (b) revision of the statement of policy.
- (3) Where regulations make provision by virtue of [paragraph 37\(2\)\(c\)](#) for the imposition of a penalty on a relevant person, the regulations—
- (a) must also include provision enabling the relevant person to challenge the penalty in legal proceedings;
  - (b) may, in particular, specify the grounds on which and the time within which a penalty may be challenged and the remedies that may be given.
- (4) Except as provided by the regulations, the validity of a penalty imposed by virtue of [paragraph 37](#) is not to be questioned in any legal proceedings.

#### Commencement Information

**I242** Sch. 18 para. 39 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### Consumer redress orders

- 40 (1) Regulations made by virtue of [paragraph 37\(2\)\(d\)](#) may, in particular—
- (a) make provision about the requirements that may be imposed by a consumer redress order, including, in particular, requirements as to—
    - (i) paying compensation to affected heat network consumers;
    - (ii) preparing and distributing a written statement about the contravention;
    - (iii) terminating or varying contracts entered into with affected heat network consumers;
  - (b) make provision about the maximum amount of compensation that a relevant person may be required to pay;
  - (c) make provision about procedure;
  - (d) make provision about challenges to a consumer redress order in legal proceedings (including, in particular, specifying the grounds on which and the time within which an order may be challenged and the remedies that may be given);
  - (e) make provision about the payment of interest;
  - (f) make provision about payment of compensation (and any interest) in instalments;
  - (g) specify how a consumer redress order may be enforced;

*Status: Point in time view as at 26/12/2023.*

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- (h) make provision enabling the Regulator to accept an enforcement undertaking from a relevant person and about the consequences of accepting such an undertaking.
- (2) The regulations may provide for—
- (a) publication by the Regulator of a statement of policy with respect to the making of consumer redress orders and the determination of the requirements imposed by them;
  - (b) revision of the statement of policy.
- (3) Except as provided by the regulations, the validity of a consumer redress order is not to be questioned in any legal proceedings.

**Commencement Information**

**I243** Sch. 18 para. 40 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Functions under Part 1 of the Competition Act 1998 and Part 4 of the Enterprise Act 2002*

- 41 (1) The regulations may make provision for the purpose of enabling the Regulator to exercise such functions of the Competition and Markets Authority under Part 1 of the Competition Act 1998, or such descriptions of those functions, as are specified in the regulations.
- (2) The regulations may make provision for the purpose of enabling the Regulator to exercise such functions of the Competition and Markets Authority under Part 4 of the Enterprise Act 2002, or such descriptions of those functions, as are specified in the regulations.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) or [\(2\)](#) may, in particular, make provision—
- (a) about the concurrent exercise of functions by the Regulator and the Competition and Markets Authority;
  - (b) for the joint exercise of functions by the Regulator and the Competition and Markets Authority in a particular case;
  - (c) as to the procedure for determining which of the Regulator and the Competition and Markets Authority is to exercise functions in a particular case;
  - (d) as to the circumstances in which the exercise of a function by the Regulator or the Competition and Markets Authority precludes the exercise of the function by the other;
  - (e) about assistance that may be given by the Regulator to the Competition and Markets Authority.

**Commencement Information**

**I244** Sch. 18 para. 41 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

## PART 7 **U.K.**

### INVESTIGATION

#### *Investigation of charges*

- 42 (1) The regulations may make provision about how the Regulator is to determine whether charges payable by heat network consumers for, or in relation to, heating, cooling or hot water supplied by means of a relevant heat network contravene a condition of a heat network authorisation by reason of being disproportionate (see [paragraph 14\(5\)\(b\)](#)).
- (2) The regulations may, in particular, make provision enabling the Regulator to specify from time to time the methods that are to be used by the Regulator to determine whether charges are disproportionate.

#### **Commencement Information**

**I245** Sch. 18 para. 42 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### *Powers to require information etc*

- 43 (1) The regulations may make provision conferring powers on the Regulator or imposing requirements on any person, for the purposes of or in connection with enabling the Regulator—
- (a) to monitor and secure compliance with relevant conditions or requirements;
  - (b) to make an order in respect of the contravention of a relevant condition or requirement;
  - (c) to enforce relevant conditions or requirements;
  - (d) to make a determination under provision made by virtue of [paragraph 42\(1\)](#).
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, enable the Regulator—
- (a) to require information to be supplied;
  - (b) to require copies of documents to be provided;
  - (c) to inspect premises;
  - (d) to inspect and take copies of documents or records;
  - (e) to conduct tests or to require tests to be conducted;
  - (f) to require a person to produce any equipment, document or record and to make available information stored electronically;
  - (g) to seize and detain equipment, documents and records.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular—
- (a) confer powers to enter premises for the purposes of exercising powers conferred by the regulations;
  - (b) make provision about the circumstances in which a warrant is required to exercise a power conferred by virtue of [paragraph \(a\)](#);
  - (c) make provision for the issuing of such a warrant where conditions specified in the regulations are satisfied.

*Status: Point in time view as at 26/12/2023.*

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

- (4) The regulations may provide for the Regulator to authorise others to exercise powers conferred on it by regulations made by virtue of [sub-paragraph \(1\)](#).
- (5) Regulations made by virtue of sub-paragraph (1) may, in particular, impose requirements relating to—
  - (a) the keeping of records by relevant persons;
  - (b) the provision of information by relevant persons and others;
  - (c) the audit and verification of that information.

#### Commencement Information

**I246** Sch. 18 para. 43 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

## PART 8 **U.K.**

### STEP-IN ARRANGEMENTS

- 44 The regulations may make provision for, or in connection with, securing that the holder of a heat network authorisation (“the new entity”) is able effectively to carry on a regulated activity in relation to a relevant heat network in the place of another person (“the old entity”) when directed to do so by the Regulator under a power conferred by a condition in its heat network authorisation (see [paragraph 17](#)).

#### Commencement Information

**I247** Sch. 18 para. 44 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 45 (1) The regulations may provide for the Regulator to make one or more schemes making such provision as to property, rights and liabilities as is necessary or expedient for the purpose of enabling the new entity to carry on the regulated activity in relation to the relevant heat network in an effective manner.
- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, authorise a scheme to provide for—
  - (a) the transfer of property, rights or liabilities;
  - (b) the creation of interests in, or rights in relation to, property;
  - (c) the creation of rights and liabilities as between the old entity and the new entity;
  - (d) the modification of interests, rights or liabilities of third parties;
  - (e) the enforcement of a right or liability for whose transfer or creation the scheme provides;
  - (f) the entering into of agreements and the execution of instruments for the purposes of, or in connection with, the transfer of property or the transfer or creation of rights or liabilities;
  - (g) the time at which a transfer, creation or modification is to take place;
  - (h) the assessment and payment of compensation.
- (3) Regulations made by virtue of [sub-paragraph \(1\)](#) may provide for the scheme—

*Status: Point in time view as at 26/12/2023.*

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

- (a) to contain incidental, supplementary, consequential, transitional, transitory or saving provision;
  - (b) to make different provision for different purposes.
- (4) The regulations may provide for the modification of a scheme.

**Commencement Information**

**I248** Sch. 18 para. 45 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 46 (1) The regulations may—
- (a) provide for the old entity to give the Regulator such information and assistance as the Regulator may require for the purposes of, or in connection with, the making or implementation of a scheme;
  - (b) provide for the Regulator, for the purposes of, or in connection with, the making or implementation of a scheme, to direct the old entity to take, or to refrain from taking, such steps as are specified in the direction.
- (2) The regulations may provide for the Regulator—
- (a) to make payments to the new entity in respect of costs incurred in connection with carrying on the regulated activity in relation to the heat network;
  - (b) to indemnify the new entity in respect of liabilities arising from, or in connection with, carrying on the regulated activity in relation to the heat network.

**Commencement Information**

**I249** Sch. 18 para. 46 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

**PART 9 U.K.**

SPECIAL ADMINISTRATION REGIME

- 47 The regulations may make provision for, or in connection with, a special administration regime for companies that are holders of heat network authorisations.

**Commencement Information**

**I250** Sch. 18 para. 47 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 48 (1) The regulations may make provision for a court to make an order (a “heat network administration order”) in relation to a company that is the holder of a heat network authorisation directing that the affairs, business and property of the company are to be managed by a person appointed by the court (referred to in [this Part](#) as the heat network administrator of the company).
- (2) The regulations may make provision about the court that has jurisdiction in a particular case.

*Status: Point in time view as at 26/12/2023.*

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

- (3) The regulations may limit the effect of a heat network administration order applying to a non-GB company or a non-NI company to—
- (a) its affairs and business so far as carried on in Great Britain or Northern Ireland (as the case may be), and
  - (b) its property in Great Britain or Northern Ireland (as the case may be).

**Commencement Information**

**I251** Sch. 18 para. 48 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 49 (1) The regulations may make provision about the objectives of a heat network administration order and the means by which the objectives may be secured.
- (2) The regulations may, in particular, require the heat network administrator to exercise functions so as to achieve the objectives set out in [sub-paragraph \(3\)](#) so far as possible.
- (3) The objectives referred to in [sub-paragraph \(2\)](#) are—
- (a) to secure that the supply of heating, cooling or hot water is continued at the lowest cost which it is reasonably practicable to incur,
  - (b) to secure that the company’s relevant heat network is and continues to be maintained and developed as an efficient and economical system, and
  - (c) to secure that it becomes unnecessary, by using such means as are allowed by the regulations, for the heat network administration order to remain in force.
- (4) The regulations may make provision about the means that may be used, including—
- (a) the rescue as a going concern of the company subject to the heat network administration order;
  - (b) a transfer as a going concern of so much of the undertaking of the company subject to the heat network administration order as is associated with the company’s relevant heat network.
- (5) Regulations made by virtue of [sub-paragraph \(4\)](#) may also provide for the heat network administrator to make arrangements for securing that heat network consumers who are supplied with heating, cooling or hot water by the company’s relevant heat network have an alternative supply of heating, cooling or hot water (as the case may be).
- (6) The regulations may make provision about—
- (a) the means by which a transfer falling within [sub-paragraph \(4\)\(b\)](#) may be effected;
  - (b) the circumstances in which the objectives set out in [sub-paragraph \(3\)](#) may or may not be achieved by means of such a transfer.
- (7) In [this paragraph](#), “the company’s relevant heat network”, in relation to a company that is the holder of a heat network authorisation, means the relevant heat network to which the authorisation relates.

**Commencement Information**

**I252** Sch. 18 para. 49 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

- 50 (1) The regulations may make provision for applying, with such modifications as appear to the appropriate authority to be appropriate, the provisions mentioned in [sub-paragraph \(2\)](#).
- (2) The provisions referred to in [sub-paragraph \(1\)](#) are—
- (a) sections 156 to 167 of, and Schedules 20 and 21 to, the Energy Act 2004 (special administration regime for energy licensees);
  - (b) sections 171 and 196 of the Energy Act 2004 (interpretation), so far as relating to the provisions mentioned in [paragraph \(a\)](#);
  - (c) sections 19 to 33 of, and the Schedule to, the Energy Act (Northern Ireland) 2011 (c. 6 (N.I.)) (special administration regime for protected energy companies);
  - (d) section 35 of the Energy Act (Northern Ireland) 2011 (interpretation), so far as relating to the provisions mentioned in [paragraph \(c\)](#).
- (3) In this paragraph, “the appropriate authority” means—
- (a) in relation to England and Wales and Scotland, the Secretary of State;
  - (b) in relation to Northern Ireland, the Department.

**Commencement Information**

**I253** Sch. 18 para. 50 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 51 In [this Part](#)—
- “company” means—
- (a) a company registered under the Companies Act 2006, or
  - (b) an unregistered company;
- “heat network administration order” has the meaning given by [paragraph 48](#);
- “heat network administrator” has the meaning given by [paragraph 48](#);
- “non-GB company” means a company incorporated outside Great Britain;
- “non-NI company” means a company incorporated outside Northern Ireland;
- “unregistered company” means a company that is not registered under the Companies Act 2006.

**Commencement Information**

**I254** Sch. 18 para. 51 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**PART 10 U.K.**

SUPPLY TO PREMISES

- 52 (1) The regulations may make provision about—
- (a) offers to connect premises to a relevant heat network, the terms of such offers and acceptance of such an offer;



*Status: Point in time view as at 26/12/2023.*

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

- (b) the conduct of holders of heat network authorisations towards heat network consumers or in relation to premises connected or proposed to be connected to a relevant heat network.
- (2) Regulations made by virtue of this paragraph may make provision relating to the connection of premises to a relevant heat network whether a connection is for the purpose of—
- (a) supplying heating, cooling or hot water to premises, or
  - (b) supplying thermal energy to a relevant heat network.
- (3) The following paragraphs of this Part make further provision about regulations that may be made by virtue of [this paragraph](#).

**Commencement Information**

**I255** Sch. 18 para. 52 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 53 The regulations may—
- (a) impose duties, in circumstances specified by the regulations, to make and maintain a connection between a relevant heat network and any premises;
  - (b) impose duties as to providing such equipment as may be needed to make the connection function;
  - (c) provide for the procedure to be followed when seeking to have a connection made between a relevant heat network and any premises;
  - (d) provide for persons seeking a connection to premises to pay an amount in respect of costs incurred in making the connection or in respect of the cost of equipment provided;
  - (e) provide for the giving of security for the payment of such an amount in respect of the cost of equipment provided;
  - (f) make provision about the terms upon which a connection is made (including provision for deeming a contract to have been made and for making schemes for determining the terms and conditions to be incorporated in such a contract).

**Commencement Information**

**I256** Sch. 18 para. 53 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 54 The regulations may—
- (a) make provision as to the meters and other equipment that may be installed for the purposes of making and maintaining a connection between a relevant heat network and any premises;
  - (b) impose requirements as to the operation of such meters and other equipment.

**Commencement Information**

**I257** Sch. 18 para. 54 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 55 The regulations may—



*Status: Point in time view as at 26/12/2023.*

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

- (a) prohibit the making of a charge where, for the purpose of meeting the needs of a disabled person, a meter or other equipment is moved or replaced;
- (b) make provision as to the steps that may be taken if payments relating to the supply of heating, cooling or hot water are not made (including provision for removing a connection to a relevant heat network or otherwise preventing the further supply of heating, cooling or hot water);
- (c) make provision as to the arrangements that may apply, and the steps that may be taken, if—
  - (i) premises are supplied with heating, cooling or hot water without agreement as to the terms on which the supply is made, or
  - (ii) a connection is made to a relevant heat network, or restored, without authority;
- (d) make provision in connection with securing the rights of a holder of a heat network authorisation as owner of equipment provided by it.

**Commencement Information**

**I258** Sch. 18 para. 55 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 56 The regulations may—
- (a) confer powers to enter premises for the purposes of installing, inspecting, repairing, replacing, altering or removing meters or other equipment;
  - (b) confer powers to enter premises for the purposes of reading a register on a meter or other equipment;
  - (c) make provision for the issuing of warrants to enter premises for the purposes of exercising powers conferred by regulations made by virtue of this paragraph where conditions specified in the regulations are satisfied;
  - (d) make provision as to the persons who may exercise powers conferred by regulations under this paragraph.

**Commencement Information**

**I259** Sch. 18 para. 56 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 57 The regulations may revoke or amend the Heat Network (Metering and Billing) Regulations 2014 ([S.I. 2014/3120](#)).

**Commencement Information**

**I260** Sch. 18 para. 57 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**PART 11 U.K.**

CONSUMER PROTECTION

*Standards of performance*

- 58 (1) The regulations may prescribe such standards of performance in connection with the regulated activities of holders of heat network authorisations, so far as affecting—

*Status: Point in time view as at 26/12/2023.*

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

- (a) heat network consumers supplied by the relevant heat networks to which their authorisations relate, or
  - (b) potential heat network consumers who would be supplied by those relevant heat networks,
- as in the Regulator’s opinion ought to be achieved as regards those persons.
- (2) The regulations may—
    - (a) specify the circumstances in which the holders of heat network authorisations are to inform persons of rights conferred on them under regulations made by virtue of [this paragraph](#);
    - (b) provide for exemptions from standards of performance;
    - (c) require the holders of heat network authorisations to provide information about their compliance with standards of performance.
  - (3) The regulations may provide—
    - (a) for compensation to be made to persons affected by a failure to meet a standard of performance;
    - (b) for the determination of the amount of compensation.
  - (4) The regulations may provide for the making of compensation under regulations made by virtue of [this paragraph](#) in respect of a failure to meet a standard of performance not to prejudice any other remedy which may be available in respect of the act or omission which constituted the failure.
  - (5) Regulations made in relation to England and Wales and Scotland by virtue of [sub-paragraphs \(1\) to \(3\)](#), may provide for the Regulator to make provision by regulations about the matters referred to in those sub-paragraphs.
  - (6) The regulations may require that regulations made by the Regulator by virtue of [sub-paragraph \(5\)](#) are made with the consent of the Secretary of State.
  - (7) Regulations made by the Regulator by virtue of [sub-paragraph \(5\)](#) are to be made by statutory instrument.

#### **Commencement Information**

**I261** Sch. 18 para. 58 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 59
- (1) The regulations may provide for the Regulator, from time to time—
    - (a) to determine such standards of overall performance in connection with regulated activities as, in the Regulator’s opinion, ought to be achieved by holders of heat network authorisations;
    - (b) to publish those standards.
  - (2) The regulations may provide for the Regulator to determine different standards for different descriptions of holders of heat network authorisations.
  - (3) The regulations may require holders of heat network authorisations to conduct their regulated activities in such a way as can reasonably be expected to lead to compliance with standards set under regulations made by virtue of [this paragraph](#).

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I262** Sch. 18 para. 59 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 60 (1) The regulations may make provision about the steps to be taken in connection with prescribing or determining standards of performance under [paragraph 58](#) or [59](#).
- (2) The regulations may, in particular, make provision about—
- (a) conducting research;
  - (b) publishing information about proposals to prescribe or determine standards;
  - (c) considering representations about proposals;
  - (d) consulting such persons or descriptions of person as are specified in the regulations.

#### Commencement Information

**I263** Sch. 18 para. 60 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### Commencement Information

**I261** Sch. 18 para. 58 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I262** Sch. 18 para. 59 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I263** Sch. 18 para. 60 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

#### *Consumer advocacy bodies*

- 61 (1) The regulations may provide for Part 1 of the Consumers, Estate Agents and Redress Act 2007 (consumer advocacy bodies) to apply in relation to heat network consumers as it applies in relation to gas or electricity consumers, with such modifications as appear to the appropriate authority to be appropriate.
- (2) The regulations may provide for sections 24 and 25 of the Consumers, Estate Agents and Redress Act 2007 (provision of information to consumer advocacy bodies) to apply in relation to relevant persons as they apply to regulated providers within the meaning of section 25 of that Act, with such modifications as appear to the appropriate authority to be appropriate.
- (3) The regulations may also make provision extending to Northern Ireland or applying in relation to the General Consumer Council for Northern Ireland that corresponds to such provision in Part 1 of the Consumers, Estate Agents and Redress Act 2007 as does not extend to Northern Ireland or does not apply in relation to the General Consumer Council for Northern Ireland (as the case may be).
- (4) In this paragraph, “the appropriate authority” means—
- (a) in relation to England and Wales and Scotland, the Secretary of State;
  - (b) in relation to Northern Ireland, the Department.

#### Commencement Information

**I264** Sch. 18 para. 61 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### *Complaints handling and redress schemes*

- 62 The regulations may provide for Part 2 of the Consumers, Estate Agents and Redress Act 2007 (complaints handling and redress schemes)—
- (a) to apply in relation to heat network consumers in England, Wales or Scotland as it applies in relation to gas or electricity consumers, with such modifications as appear to the Secretary of State to be appropriate;
  - (b) to apply in relation to relevant persons in England, Wales or Scotland as it applies in relation to regulated providers within the meaning of that Part, with such modifications as appear to the Secretary of State to be appropriate.

#### **Commencement Information**

**I265** Sch. 18 para. 62 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

### *Consumer complaints and dispute resolution arrangements: Northern Ireland*

- 63 (1) The regulations may, in relation to Northern Ireland, provide for consumer complaints legislation to apply in relation to a heat network consumer or potential heat network consumer as it applies in relation to a customer or potential customer of, or user of electricity or gas supplied by, an authorised supplier, with such modifications as appear to the Department to be appropriate.
- (2) In [this paragraph](#), “consumer complaints legislation” means Article 22 of the Energy (Northern Ireland) Order 2003 ([S.I. 2003/419 \(N.I. 6\)](#)) and such other provisions of that Order as relate to it.

#### **Commencement Information**

**I266** Sch. 18 para. 63 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 64 The regulations may, in relation to Northern Ireland, make provision about the resolution of disputes involving a heat network consumer or potential heat network consumer (including by providing for a scheme under which complaints may be made to, and investigated and determined by, an independent person or may be referred to arbitration).

#### **Commencement Information**

**I267** Sch. 18 para. 64 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

#### **Commencement Information**

**I266** Sch. 18 para. 63 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

**I267** Sch. 18 para. 64 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

*Documents for Citizens Advice, Consumer Scotland and the General Consumer Council for Northern Ireland*

- 65 The regulations may make provision requiring the Regulator, where the Regulator publishes a document of a description specified in the regulations, to send a copy of the document to—
- (a) Citizens Advice and Consumer Scotland, or
  - (b) the General Consumer Council for Northern Ireland (as the case may be).

**Commencement Information**

**I268** Sch. 18 para. 65 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**PART 12 U.K.**

FINANCIAL ARRANGEMENTS

- 66 (1) The regulations may provide for the Regulator to include in the conditions of heat network authorisations provision requiring the payment of sums relating to the costs incurred by the Secretary of State or the Department in giving financial assistance under regulations made by virtue of [paragraph 50](#) that apply—
- (a) any provision of sections 165 to 167 of the Energy Act 2004 (grants, loans, indemnities and guarantees given by the Secretary of State), or
  - (b) any provision of sections 28 to 30 of the Energy Act (Northern Ireland) 2011 (grants, loans, indemnities and guarantees given by the Department).
- (2) The regulations may—
- (a) provide for the Secretary of State or the Department to give directions to the Regulator for the purpose of securing that sums relating to those costs are included in the sums payable by virtue of conditions in heat network authorisations;
  - (b) provide for the Regulator to comply with any such direction.

**Commencement Information**

**I269** Sch. 18 para. 66 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 67 (1) The regulations may provide for the Regulator to include in—
- (a) the conditions of a heat network authorisation, or
  - (b) the conditions of an installation and maintenance licence,
- provision requiring the payment of sums relating to the costs incurred by a person or body in providing, or arranging for the provision of, consumer advocacy and advice in relation to heat network consumers.
- (2) The regulations may—
- (a) provide for the Secretary of State or the Department to give directions to the Regulator for the purpose of securing that sums relating to those costs are included in the sums payable by virtue of conditions in heat network authorisations or installation and maintenance licences;
  - (b) provide for the Regulator to comply with any such direction.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I270** Sch. 18 para. 67 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 68 The regulations may make provision for the Regulator to pay into the Consolidated Fund or the Consolidated Fund of Northern Ireland sums received in consequence of—
- (a) provision made by or under the regulations, or
  - (b) a condition of a heat network authorisation, code manager licence or installation and maintenance licence.

**Commencement Information**

**I271** Sch. 18 para. 68 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**PART 13 U.K.**

MISCELLANEOUS AND GENERAL

*Consultation and cooperation*

- 69 The regulations may—
- (a) make provision about consultation and cooperation with such persons or descriptions of person as are specified in the regulations;
  - (b) make provision as to the purposes of such cooperation.

**Commencement Information**

**I272** Sch. 18 para. 69 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

- 70 The regulations may require the Regulator to assist a public authority that carries out, in relation to Wales or Scotland, functions as regards limiting targeted greenhouse gases in relation to heat networks (including by providing information).

**Commencement Information**

**I273** Sch. 18 para. 70 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**Commencement Information**

**I272** Sch. 18 para. 69 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

**I273** Sch. 18 para. 70 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

*Objectives of the Secretary of State and the Department*

- 71 (1) The regulations may make provision about the objectives of the Secretary of State and the Department in carrying out functions under the regulations.

*Status: Point in time view as at 26/12/2023.*

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

- (2) Regulations made by virtue of [sub-paragraph \(1\)](#) may, in particular, provide that the principal objective of the Secretary of State or the Department is to protect the interests of existing and future heat network consumers.
- (3) The regulations may specify particular interests of existing and future heat network consumers that are to be protected.

**Commencement Information**

**I274** Sch. 18 para. 71 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Offences*

- 72 (1) The regulations may provide for the creation of offences.
- (2) The regulations may deal with matters relating to such offences, including the provision of defences and evidentiary matters.

**Commencement Information**

**I275** Sch. 18 para. 72 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

- 73 (1) The regulations may provide for an offence created by virtue of regulations made under [paragraph 72](#) to be triable—
- (a) only summarily, or
  - (b) either summarily or on indictment.
- (2) The regulations must provide for such an offence to be punishable on indictment with a fine.
- (3) The regulations must provide for such an offence to be punishable on summary conviction in England and Wales with a fine.
- (4) The regulations must provide for such an offence to be punishable on summary conviction in Scotland or Northern Ireland with a fine not exceeding an amount specified in the regulations.

**Commencement Information**

**I276** Sch. 18 para. 73 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

**Commencement Information**

**I275** Sch. 18 para. 72 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

**I276** Sch. 18 para. 73 in force at Royal Assent, see [s. 334\(2\)\(1\)](#)

*Crown application*

- 74 (1) The regulations may make provision about application to the Crown.

*Status: Point in time view as at 26/12/2023.*

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

- (2) The regulations may also, to the extent that they bind the Crown, restrict or modify the application of the regulations.
- (3) Regulations made by virtue of [sub-paragraph \(2\)](#) may, in particular, provide that a power exercisable in relation to land in which there is a Crown or Duchy interest is subject to a requirement to obtain consent from a person specified in the regulations.
- (4) In [this paragraph](#), “Crown or Duchy interest” means—
  - (a) an interest belonging to His Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall;
  - (b) an interest which belongs to a government department or which is held in trust for His Majesty for the purposes of a government department;
  - (c) an interest which belongs to an office-holder in the Scottish Administration or which is held in trust for His Majesty for the purposes of the Scottish Administration by such an office-holder.
- (5) This includes, in particular—
  - (a) an interest which belongs to His Majesty in right of His Majesty’s Government in Northern Ireland, and
  - (b) an interest which belongs to a Northern Ireland department or which is held in trust for His Majesty for the purposes of a Northern Ireland department.
- (6) A reference in this paragraph to an office-holder in the Scottish Administration is to be construed in accordance with section 126(7) of the Scotland Act 1998.

**Commencement Information**

**I277** Sch. 18 para. 74 in force at Royal Assent, see [s. 334\(2\)\(l\)](#)

VALID FROM 11/01/2024

SCHEDULE 19 **E+W+S**

[Section 249](#)

LICENSING OF ACTIVITIES RELATING TO LOAD CONTROL

1 The Electricity Act 1989 is amended as follows.

**Commencement Information**

**I278** Sch. 19 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

2 After section 56FB insert—

**“56FBA New licensable activities: load control of energy smart appliances**

- (1) The Secretary of State may by regulations amend this Part so as—
  - (a) to provide for one or more activities within subsection [\(2\)](#) to be added to the activities which are licensable activities, or



*Status: Point in time view as at 26/12/2023.*

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

- (b) where regulations have previously been made under paragraph (a) in relation to an activity—
  - (i) to amend the definition of the activity, or
  - (ii) to provide for the activity to cease to be a licensable activity.
- (2) The activities within this subsection are activities connected with—
  - (a) the carrying on or facilitating of load control;
  - (b) the provision of services or facilities related to load control;but not the activities mentioned in subsection (3).
- (3) The activities within this subsection are—
  - (a) the provision of relevant electronic communications networks;
  - (b) the making, selling, importing or distributing of energy smart appliances;
  - (c) things done by end-users of energy smart appliances (in their capacity as such).
- (4) Regulations under subsection (1)(a) may define activities which are to become licensable activities in any manner the Secretary of State considers appropriate, including—
  - (a) by reference to the purpose for which an activity is carried out; and
  - (b) by reference to the position of an activity in a sequence of activities necessary to secure a particular outcome.
- (5) Regulations under this section may make consequential, transitional, incidental or supplementary provision, including—
  - (a) amendments (or repeals) of any provision of this Act or any other enactment, including any enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;
  - (b) in the case of regulations under subsection (1)(a), provision determining the conditions which are to be standard conditions for the purposes of licences authorising the undertaking of the activities;
  - (c) provision modifying any standard conditions of licences.
- (6) Transitional provision under subsection (5) may in particular include provision about persons already undertaking activities that are to become licensable activities by virtue of subsection (1)(a), such as provision—
  - (a) about the application to such persons of section 4(1);
  - (b) about the granting of licences to such persons.
- (7) Regulations under this section may, in particular, also make provision—
  - (a) for licences to authorise the holder to carry out the licensable activities in any area, or only in an area specified in the licence;
  - (b) enabling the terms of the licence to be modified so as to extend or restrict the area in which the licence holder may carry on the licensable activities;
  - (c) specifying that a licence, and any modification of a licence, must be in writing;

*Status: Point in time view as at 26/12/2023.*

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

- (d) for a licence, if not previously revoked, to continue in force for such period as may be specified in or determined by or under the licence;
  - (e) conferring functions on the Secretary of State or the Authority.
- (8) In this section, “energy smart appliance”, “load control” and “relevant electronic communications network” have the same meaning as in Part 8 of the Energy Act 2023.

#### **56FBB Regulations under section 56FBA**

- (1) Before making regulations under [section 56FBA](#), the Secretary of State must consult—
  - (a) the Authority, and
  - (b) such other persons as the Secretary of State thinks appropriate.
- (2) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.
- (3) The power to make such regulations may not be exercised after the end of a period of seven years beginning with the day on which the first such regulations come into force (for any purpose).
- (4) Regulations under [section 56FBA](#) may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by resolution of, each House of Parliament.”

#### **Commencement Information**

**I279** Sch. 19 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

- 3 At the end of section 56FC(2) (competitive tenders: definition of “new licensable activities”), insert “or regulations under [section 56FBA\(1\)\(a\)](#)”.

#### **Commencement Information**

**I280** Sch. 19 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

- 4 In section 106(2)(a) (regulations and orders), after “State” insert “(other than regulations under [section 56FBA](#))”.

#### **Commencement Information**

**I281** Sch. 19 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*  
*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023. (See end of Document for details)*

VALID FROM 11/01/2024

## SCHEDULE 20 U.K.

Section 284

## ENFORCEMENT UNDERTAKINGS

*Procedure*

- 1 (1) The Secretary of State must publish a procedure for entering into enforcement undertakings.
- (2) The Secretary of State may revise the procedure (and must publish any revised procedure).
- (3) The Secretary of State must consult any persons the Secretary of State considers appropriate before publishing or revising the procedure.

**Commencement Information**

**I282** Sch. 20 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

*Variation of terms*

- 2 The terms of an enforcement undertaking (including, in particular, the action specified under it and the period so specified within which the action must be taken) may be varied if both parties agree in writing.

**Commencement Information**

**I283** Sch. 20 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

*Compliance certificates*

- 3 (1) Where the Secretary of State is satisfied that an enforcement undertaking has been complied with, the Secretary of State must issue a certificate to that effect (referred to in this Schedule as a “compliance certificate”).
- (2) A person may at any time apply to the Secretary of State for a compliance certificate.
- (3) The Secretary of State may specify in what form an application under [sub-paragraph \(2\)](#) must be made and what information (if any) must accompany it.
- (4) Where an application is made under [sub-paragraph \(2\)](#), the Secretary of State must give the applicant notice in writing of the Secretary of State’s decision on the application within 14 days beginning with the day after the day on which the application is received.

*Status: Point in time view as at 26/12/2023.*

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

**Commencement Information**

**I284** Sch. 20 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

*Inaccurate, incomplete or misleading information*

- 4 Where the Secretary of State is satisfied that a person who has given an enforcement undertaking has provided inaccurate, misleading or incomplete information in relation to the undertaking, the Secretary of State may treat the person as having failed to comply with the undertaking (and, if the Secretary of State decides so to treat the person, must by notice revoke any compliance certificate given to the person in respect of the enforcement undertaking).

**Commencement Information**

**I285** Sch. 20 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

*Appeal against decision under [paragraph 3](#) or [4](#)*

- 5 (1) An appeal lies to the First-tier Tribunal against a decision of the Secretary of State to refuse an application for a compliance certificate or, in reliance on [paragraph 4](#), to treat the person as having failed to comply with an enforcement undertaking.
- (2) The grounds for appeal are that the decision is—
- (a) based on an error of fact,
  - (b) wrong in law,
  - (c) unfair or unreasonable, or
  - (d) wrong for any other reason.
- (3) On an appeal under this paragraph, the First-tier Tribunal may—
- (a) confirm the Secretary of State’s decision or direct that it is not to have effect;
  - (b) award costs or, in Scotland, expenses.

**Commencement Information**

**I286** Sch. 20 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.**Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023. (See end of Document for details)*

VALID FROM 11/01/2024

SCHEDULE 21 **U.K.**

Section 300

## PETROLEUM LICENCES: AMENDMENTS TO MODEL CLAUSES

PART 1 **U.K.**

## PETROLEUM (PRODUCTION) (LANDWARD AREAS) REGULATIONS 1995

- 1 In the Petroleum (Production) (Landward Areas) Regulations 1995 ([S.I. 1995/1436](#)), Schedule 3 (model clauses for petroleum exploration and development licences in landward areas) is amended as follows.

**Commencement Information**

**I287** Sch. 21 para. 1 not in force at Royal Assent, see [s. 334\(1\)](#)

- 2 After clause 37 insert—

**Change in control of Licensee**

“37A(1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.

*Status: Point in time view as at 26/12/2023.*

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

- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 37(4).”

**Commencement Information**

**I288** Sch. 21 para. 2 not in force at Royal Assent, see [s. 334\(1\)](#)

- 3 (1) Clause 38 (power of revocation) is amended as follows.
  - (2) In paragraph (2)—
    - (a) after sub-paragraph (i) insert—
      - “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 37A);
      - (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Petroleum Act 1998;”;
    - (b) in the closing words, after “(g)” insert “or (j) or (k)”.
  - (3) Omit paragraphs (3) to (5).

**Commencement Information**

**I289** Sch. 21 para. 3 not in force at Royal Assent, see [s. 334\(1\)](#)

- 4 (1) Clause 38A (power of partial revocation) is amended as follows.

*Status: Point in time view as at 26/12/2023.*

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

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 38(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 38(2)(b) occurs which consists of a breach of clause 37A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 38(2)(j) occurs in relation to a change in control of one of those persons (see clause 37A); or
- (d) an event mentioned in clause 38(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I290** Sch. 21 para. 4 not in force at Royal Assent, see [s. 334\(1\)](#)

**PART 2 U.K.**

**PETROLEUM (CURRENT MODEL CLAUSES) ORDER 1999**

*Introduction*

5 The Petroleum (Current Model Clauses) Order 1999 ([S.I. 1999/160](#)) is amended in accordance with this Part of this Schedule.

**Commencement Information**

**I291** Sch. 21 para. 5 not in force at Royal Assent, see [s. 334\(1\)](#)

*Part 2 of Schedule 2*

6 Part 2 of Schedule 2 (current model clauses for controlled waters or seaward production licences deriving from Schedule 2 to the 1964 Regulations and Schedule 4 to the 1966 Regulations) is amended in accordance with paragraphs 7 to 9.

**Commencement Information**

**I292** Sch. 21 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

7 After clause 38 insert—

**Change in control of Licensee**

“38A (1) This clause applies if—

*Status: Point in time view as at 26/12/2023.*

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

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
    - (b) conditions relating to the performance of activities permitted by this licence, and
    - (c) financial conditions.
  - (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
  - (10) In this clause “the interested parties” means—
    - (a) the company,
    - (b) the person who (if consent were granted) would take control of the company, and
    - (c) if the company and another person or persons are the Licensee, that other person or those other persons.



*Status: Point in time view as at 26/12/2023.*

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

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 38(4).”

**Commencement Information**

**I293** Sch. 21 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

8 (1) Clause 39 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 38A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

**Commencement Information**

**I294** Sch. 21 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

9 (1) Clause 39A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

(a) an event mentioned in clause 39(2)(c), (d), (e) or (g) occurs in relation to one of those persons;

(b) an event mentioned in clause 39(2)(b) occurs which consists of a breach of clause 38A(2) or (4) in relation to a change in control of one of those persons;

(c) an event mentioned in clause 39(2)(j) occurs in relation to a change in control of one of those persons (see clause 38A); or

(d) an event mentioned in clause 39(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I295** Sch. 21 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I292** Sch. 21 para. 6 not in force at Royal Assent, see [s. 334\(1\)](#)

**I293** Sch. 21 para. 7 not in force at Royal Assent, see [s. 334\(1\)](#)

**I294** Sch. 21 para. 8 not in force at Royal Assent, see [s. 334\(1\)](#)

**I295** Sch. 21 para. 9 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Part 2 of Schedule 3

- 10 Part 2 of Schedule 3 (current model clauses for landward production licences deriving from Schedule 3 to the 1966 regulations) is amended in accordance with paragraphs 11 to 13.

#### Commencement Information

**I296** Sch. 21 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

- 11 After clause 36 insert—

#### Change in control of Licensee

“36A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The OGA may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.

*Status: Point in time view as at 26/12/2023.*

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

- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
- (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
- (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 36(3).”

#### Commencement Information

**I297** Sch. 21 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

- 12 (1) Clause 37 (power of revocation) is amended as follows.
- (2) In paragraph (2)—
- (a) after sub-paragraph (i) insert—
    - “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 36A);
    - (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;
  - (b) in the closing words, after “(g)” insert “or (j) or (k)”.
- (3) Omit paragraphs (3) to (5).

#### Commencement Information

**I298** Sch. 21 para. 12 not in force at Royal Assent, see [s. 334\(1\)](#)

- 13 (1) Clause 37A (power of partial revocation) is amended as follows.

*Status: Point in time view as at 26/12/2023.*

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

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 37(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 37(2)(b) occurs which consists of a breach of clause 36A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 37(2)(j) occurs in relation to a change in control of one of those persons (see clause 36A); or
- (d) an event mentioned in clause 37(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I299** Sch. 21 para. 13 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I296** Sch. 21 para. 10 not in force at Royal Assent, see [s. 334\(1\)](#)

**I297** Sch. 21 para. 11 not in force at Royal Assent, see [s. 334\(1\)](#)

**I298** Sch. 21 para. 12 not in force at Royal Assent, see [s. 334\(1\)](#)

**I299** Sch. 21 para. 13 not in force at Royal Assent, see [s. 334\(1\)](#)

*Part 2 of Schedule 4*

14 Part 2 of Schedule 4 (current model clauses for landward production licences deriving from Schedule 4 to the 1976 Regulations or Schedule 4 to the 1982 Regulations) is amended in accordance with paragraphs 15 to 17.

**Commencement Information**

**I300** Sch. 21 para. 14 not in force at Royal Assent, see [s. 334\(1\)](#)

15 After clause 37 insert—

**Change in control of Licensee**

“37A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).

*Status: Point in time view as at 26/12/2023.*

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

- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The OGA may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 37(3).”

#### **Commencement Information**

**I301** Sch. 21 para. 15 not in force at Royal Assent, see [s. 334\(1\)](#)

16 (1) Clause 38 (power of revocation) is amended as follows.

*Status: Point in time view as at 26/12/2023.*

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

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 37A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I302** Sch. 21 para. 16 not in force at Royal Assent, see [s. 334\(1\)](#)

17 (1) Clause 38A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

(a) an event mentioned in clause 38(2)(c), (d), (e) or (g) occurs in relation to one of those persons;

(b) an event mentioned in clause 38(2)(b) occurs which consists of a breach of clause 37A(2) or (4) in relation to a change in control of one of those persons;

(c) an event mentioned in clause 38(2)(j) occurs in relation to a change in control of one of those persons (see clause 37A); or

(d) an event mentioned in clause 38(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I303** Sch. 21 para. 17 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I300** Sch. 21 para. 14 not in force at Royal Assent, see [s. 334\(1\)](#)

**I301** Sch. 21 para. 15 not in force at Royal Assent, see [s. 334\(1\)](#)

**I302** Sch. 21 para. 16 not in force at Royal Assent, see [s. 334\(1\)](#)

**I303** Sch. 21 para. 17 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### Part 2 of Schedule 5

- 18 Part 2 of Schedule 5 (current model clauses for seaward production licences deriving from Schedule 5 to the 1976 Regulations) is amended in accordance with paragraphs 19 to 21.

#### Commencement Information

**I304** Sch. 21 para. 18 not in force at Royal Assent, see [s. 334\(1\)](#)

- 19 After clause 39 insert—

#### Change in control of Licensee

“39A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
    - (b) conditions relating to the performance of activities permitted by this licence, and

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(c) financial conditions.

(9) The OGA's decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.

(10) In this clause “the interested parties” means—

- (a) the company,
- (b) the person who (if consent were granted) would take control of the company, and
- (c) if the company and another person or persons are the Licensee, that other person or those other persons.

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 39(4).”

#### Commencement Information

**I305** Sch. 21 para. 19 not in force at Royal Assent, see [s. 334\(1\)](#)

20 (1) Clause 40 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

- “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 39A);
- (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I306** Sch. 21 para. 20 not in force at Royal Assent, see [s. 334\(1\)](#)

21 (1) Clause 40A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 40(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 40(2)(b) occurs which consists of a breach of clause 39A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 40(2)(j) occurs in relation to a change in control of one of those persons (see clause 39A); or



*Status: Point in time view as at 26/12/2023.*

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

(d) an event mentioned in clause 40(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I307** Sch. 21 para. 21 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I304** Sch. 21 para. 18 not in force at Royal Assent, see [s. 334\(1\)](#)

**I305** Sch. 21 para. 19 not in force at Royal Assent, see [s. 334\(1\)](#)

**I306** Sch. 21 para. 20 not in force at Royal Assent, see [s. 334\(1\)](#)

**I307** Sch. 21 para. 21 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Part 2 of Schedule 6

22 Part 2 of Schedule 6 (current model clauses for seaward production licences deriving from Schedule 5 to the 1982 Regulations) is amended in accordance with paragraphs 23 to 25.

#### Commencement Information

**I308** Sch. 21 para. 22 not in force at Royal Assent, see [s. 334\(1\)](#)

23 After clause 38 insert—

#### Change in control of Licensee

“38A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).

(3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.

(4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).

(5) The OGA may—

- (a) consent to the change in control unconditionally,
- (b) consent to the change in control subject to conditions, or

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- (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 38(4).”

**Commencement Information**

**I309** Sch. 21 para. 23 not in force at Royal Assent, see [s. 334\(1\)](#)

24 (1) Clause 39 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 38A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

*Status: Point in time view as at 26/12/2023.*

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

(3) Omit paragraphs (3) to (5).

**Commencement Information**

**I310** Sch. 21 para. 24 not in force at Royal Assent, see [s. 334\(1\)](#)

25 (1) Clause 39A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 39(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 39(2)(b) occurs which consists of a breach of clause 38A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 39(2)(j) occurs in relation to a change in control of one of those persons (see clause 38A); or
- (d) an event mentioned in clause 39(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I311** Sch. 21 para. 25 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I308** Sch. 21 para. 22 not in force at Royal Assent, see [s. 334\(1\)](#)

**I309** Sch. 21 para. 23 not in force at Royal Assent, see [s. 334\(1\)](#)

**I310** Sch. 21 para. 24 not in force at Royal Assent, see [s. 334\(1\)](#)

**I311** Sch. 21 para. 25 not in force at Royal Assent, see [s. 334\(1\)](#)

*Part 2 of Schedule 8*

26 Part 2 of Schedule 8 (current model clauses for landward development licences deriving from Schedule 5 to the 1984 Regulations) is amended in accordance with paragraphs 27 to 29.

**Commencement Information**

**I312** Sch. 21 para. 26 not in force at Royal Assent, see [s. 334\(1\)](#)

27 After clause 35 insert—

**Change in control of Licensee**

“35A (1) This clause applies if—

*Status: Point in time view as at 26/12/2023.*

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

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
    - (b) conditions relating to the performance of activities permitted by this licence, and
    - (c) financial conditions.
  - (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
  - (10) In this clause “the interested parties” means—
    - (a) the company,
    - (b) the person who (if consent were granted) would take control of the company, and
    - (c) if the company and another person or persons are the Licensee, that other person or those other persons.

*Status: Point in time view as at 26/12/2023.*

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

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 35(3).”

**Commencement Information**

**I313** Sch. 21 para. 27 not in force at Royal Assent, see [s. 334\(1\)](#)

28 (1) Clause 36 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 35A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

**Commencement Information**

**I314** Sch. 21 para. 28 not in force at Royal Assent, see [s. 334\(1\)](#)

29 (1) Clause 36A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

(a) an event mentioned in clause 36(2)(c), (d), (e) or (g) occurs in relation to one of those persons;

(b) an event mentioned in clause 36(2)(b) occurs which consists of a breach of clause 35A(2) or (4) in relation to a change in control of one of those persons;

(c) an event mentioned in clause 36(2)(j) occurs in relation to a change in control of one of those persons (see clause 35A); or

(d) an event mentioned in clause 36(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I315** Sch. 21 para. 29 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

- I312** Sch. 21 para. 26 not in force at Royal Assent, see [s. 334\(1\)](#)
- I313** Sch. 21 para. 27 not in force at Royal Assent, see [s. 334\(1\)](#)
- I314** Sch. 21 para. 28 not in force at Royal Assent, see [s. 334\(1\)](#)
- I315** Sch. 21 para. 29 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Part 2 of Schedule 9

- 30 Part 2 of Schedule 9 (current model clauses for seaward production licences deriving from Schedule 4 to the 1988 Regulations as they had effect before 16 December 1996) is amended in accordance with paragraphs 31 to 33.

#### Commencement Information

- I316** Sch. 21 para. 30 not in force at Royal Assent, see [s. 334\(1\)](#)

- 31 After clause 41 insert—

#### Change in control of Licensee

“41A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The OGA may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.

*Status: Point in time view as at 26/12/2023.*

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

- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
- (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
- (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 41(4).”

#### Commencement Information

**I317** Sch. 21 para. 31 not in force at Royal Assent, see [s. 334\(1\)](#)

32 (1) Clause 42 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

- “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 41A);
- (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I318** Sch. 21 para. 32 not in force at Royal Assent, see [s. 334\(1\)](#)

33 (1) Clause 42A (power of partial revocation) is amended as follows.

*Status: Point in time view as at 26/12/2023.*

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

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 42(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 42(2)(b) occurs which consists of a breach of clause 41A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 42(2)(j) occurs in relation to a change in control of one of those persons (see clause 41A); or
- (d) an event mentioned in clause 42(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I319** Sch. 21 para. 33 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I316** Sch. 21 para. 30 not in force at Royal Assent, see [s. 334\(1\)](#)

**I317** Sch. 21 para. 31 not in force at Royal Assent, see [s. 334\(1\)](#)

**I318** Sch. 21 para. 32 not in force at Royal Assent, see [s. 334\(1\)](#)

**I319** Sch. 21 para. 33 not in force at Royal Assent, see [s. 334\(1\)](#)

*Part 2 of Schedule 10*

34 Part 2 of Schedule 10 (current model clauses for seaward production licences deriving from Schedule 4 to the 1988 Regulations as they had effect on and after 16 December 1996) is amended in accordance with paragraphs 35 to 37.

**Commencement Information**

**I320** Sch. 21 para. 34 not in force at Royal Assent, see [s. 334\(1\)](#)

35 After clause 41 insert—

**Change in control of Licensee**

“41A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).



*Status: Point in time view as at 26/12/2023.*

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

- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The OGA may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 41(4).”

#### **Commencement Information**

**I321** Sch. 21 para. 35 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 41A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I322** Sch. 21 para. 36 not in force at Royal Assent, see [s. 334\(1\)](#)

37 (1) Clause 42A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

(a) an event mentioned in clause 42(2)(c), (d), (e) or (g) occurs in relation to one of those persons;

(b) an event mentioned in clause 42(2)(b) occurs which consists of a breach of clause 41A(2) or (4) in relation to a change in control of one of those persons;

(c) an event mentioned in clause 42(2)(j) occurs in relation to a change in control of one of those persons (see clause 41A); or

(d) an event mentioned in clause 42(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I323** Sch. 21 para. 37 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I320** Sch. 21 para. 34 not in force at Royal Assent, see [s. 334\(1\)](#)

**I321** Sch. 21 para. 35 not in force at Royal Assent, see [s. 334\(1\)](#)

**I322** Sch. 21 para. 36 not in force at Royal Assent, see [s. 334\(1\)](#)

**I323** Sch. 21 para. 37 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

### Part 2 of Schedule 13

- 38 Part 2 of Schedule 13 (current model clauses for landward appraisal licences deriving from Schedule 5 to the 1991 Regulations) is amended in accordance with paragraphs 39 to 41.

#### Commencement Information

**I324** Sch. 21 para. 38 not in force at Royal Assent, see [s. 334\(1\)](#)

- 39 After clause 32 insert—

#### Change in control of Licensee

“32A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
    - (b) conditions relating to the performance of activities permitted by this licence, and

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

(c) financial conditions.

(9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.

(10) In this clause “the interested parties” means—

- (a) the company,
- (b) the person who (if consent were granted) would take control of the company, and
- (c) if the company and another person or persons are the Licensee, that other person or those other persons.

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 32(3).”

**Commencement Information**

**I325** Sch. 21 para. 39 not in force at Royal Assent, see [s. 334\(1\)](#)

40 (1) Clause 33 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (h) insert—

- “(i) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 32A);
- (j) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Petroleum Act 1998;”;

(b) in the closing words, after “(f)” insert “or (i) or (j)”.

(3) Omit paragraphs (3) to (5).

**Commencement Information**

**I326** Sch. 21 para. 40 not in force at Royal Assent, see [s. 334\(1\)](#)

41 (1) Clause 33A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 33(2)(c), (d), (e) or (f) occurs in relation to one of those persons;
- (b) an event mentioned in clause 33(2)(b) occurs which consists of a breach of clause 32A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 33(2)(i) occurs in relation to a change in control of one of those persons (see clause 32A); or

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

(d) an event mentioned in clause 33(2)(j) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I327** Sch. 21 para. 41 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I324** Sch. 21 para. 38 not in force at Royal Assent, see [s. 334\(1\)](#)

**I325** Sch. 21 para. 39 not in force at Royal Assent, see [s. 334\(1\)](#)

**I326** Sch. 21 para. 40 not in force at Royal Assent, see [s. 334\(1\)](#)

**I327** Sch. 21 para. 41 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Part 2 of Schedule 14

42 Part 2 of Schedule 14 (current model clauses for landward development licences deriving from Schedule 6 to the 1991 Regulations) is amended in accordance with paragraphs 43 to 45.

#### Commencement Information

**I328** Sch. 21 para. 42 not in force at Royal Assent, see [s. 334\(1\)](#)

43 After clause 34 insert—

#### Change in control of Licensee

“34A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).

(3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.

(4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).

(5) The OGA may—

- (a) consent to the change in control unconditionally,
- (b) consent to the change in control subject to conditions, or

*Status: Point in time view as at 26/12/2023.*

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

- (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 34(3).”

#### **Commencement Information**

**I329** Sch. 21 para. 43 not in force at Royal Assent, see [s. 334\(1\)](#)

44 (1) Clause 35 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

- “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 34A);
- (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act of 1998;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

*Status: Point in time view as at 26/12/2023.*

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

(3) Omit paragraphs (3) to (5).

**Commencement Information**

**I330** Sch. 21 para. 44 not in force at Royal Assent, see [s. 334\(1\)](#)

45 (1) Clause 35A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 35(2)(c), (d), (e) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 35(2)(b) occurs which consists of a breach of clause 34A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 35(2)(j) occurs in relation to a change in control of one of those persons (see clause 34A); or
- (d) an event mentioned in clause 35(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I331** Sch. 21 para. 45 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I328** Sch. 21 para. 42 not in force at Royal Assent, see [s. 334\(1\)](#)

**I329** Sch. 21 para. 43 not in force at Royal Assent, see [s. 334\(1\)](#)

**I330** Sch. 21 para. 44 not in force at Royal Assent, see [s. 334\(1\)](#)

**I331** Sch. 21 para. 45 not in force at Royal Assent, see [s. 334\(1\)](#)

**PART 3 U.K.**

**PETROLEUM LICENSING (EXPLORATION AND PRODUCTION)  
(SEAWARD AND LANDWARD AREAS) REGULATIONS 2004**

*Introduction*

46 The Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004 ([S.I. 2004/352](#)) are amended in accordance with this Part of this Schedule.

**Commencement Information**

**I332** Sch. 21 para. 46 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

## Schedule 2

47 Schedule 2 (model clauses for production licences relating to frontier areas — no break clause) is amended in accordance with paragraphs 48 to 50.

### Commencement Information

**I333** Sch. 21 para. 47 not in force at Royal Assent, see [s. 334\(1\)](#)

48 After clause 37 insert—

### Change in control of Licensee

“37A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).

(3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.

(4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).

(5) The OGA may—

- (a) consent to the change in control unconditionally,
- (b) consent to the change in control subject to conditions, or
- (c) refuse consent to the change in control.

(6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—

- (a) give the company an opportunity to make representations, and
- (b) consider any representations that are made.

(7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.

(8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—

- (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
- (b) conditions relating to the performance of activities permitted by this licence, and



*Status: Point in time view as at 26/12/2023.*

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

(c) financial conditions.

(9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.

(10) In this clause “the interested parties” means—

- (a) the company,
- (b) the person who (if consent were granted) would take control of the company, and
- (c) if the company and another person or persons are the Licensee, that other person or those other persons.

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 37(4).”

#### Commencement Information

**I334** Sch. 21 para. 48 not in force at Royal Assent, see [s. 334\(1\)](#)

49 (1) Clause 38 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

- “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 37A);
- (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I335** Sch. 21 para. 49 not in force at Royal Assent, see [s. 334\(1\)](#)

50 (1) Clause 38A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 38(2)(c), (d), (e), (ee) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 38(2)(b) occurs which consists of a breach of clause 37A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 38(2)(j) occurs in relation to a change in control of one of those persons (see clause 37A); or

*Status: Point in time view as at 26/12/2023.*

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

(d) an event mentioned in clause 38(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I336** Sch. 21 para. 50 not in force at Royal Assent, see [s. 334\(1\)](#)

**Commencement Information**

**I333** Sch. 21 para. 47 not in force at Royal Assent, see [s. 334\(1\)](#)

**I334** Sch. 21 para. 48 not in force at Royal Assent, see [s. 334\(1\)](#)

**I335** Sch. 21 para. 49 not in force at Royal Assent, see [s. 334\(1\)](#)

**I336** Sch. 21 para. 50 not in force at Royal Assent, see [s. 334\(1\)](#)

*Schedule 3*

51 Schedule 3 (model clauses for production licences relating to frontier areas — including break clause) is amended in accordance with paragraphs 52 to 54.

**Commencement Information**

**I337** Sch. 21 para. 51 not in force at Royal Assent, see [s. 334\(1\)](#)

52 After clause 38 insert—

**Change in control of Licensee**

“38A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).

(3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.

(4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).

(5) The OGA may—

- (a) consent to the change in control unconditionally,
- (b) consent to the change in control subject to conditions, or
- (c) refuse consent to the change in control.

*Status: Point in time view as at 26/12/2023.*

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

- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
- (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
- (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
- (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 38(4).”

#### Commencement Information

**I338** Sch. 21 para. 52 not in force at Royal Assent, see [s. 334\(1\)](#)

- 53 (1) Clause 39 (power of revocation) is amended as follows.
- (2) In paragraph (2)—
- (a) after sub-paragraph (i) insert—
    - “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 38A);
    - (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act;”;
  - (b) in the closing words, after “(g)” insert “or (j) or (k)”.
- (3) Omit paragraphs (3) to (5).

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I339** Sch. 21 para. 53 not in force at Royal Assent, see [s. 334\(1\)](#)

54 (1) Clause 39A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 39(2)(c), (d), (e), (ee) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 39(2)(b) occurs which consists of a breach of clause 38A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 39(2)(j) occurs in relation to a change in control of one of those persons (see clause 38A); or
- (d) an event mentioned in clause 39(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I340** Sch. 21 para. 54 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I337** Sch. 21 para. 51 not in force at Royal Assent, see [s. 334\(1\)](#)

**I338** Sch. 21 para. 52 not in force at Royal Assent, see [s. 334\(1\)](#)

**I339** Sch. 21 para. 53 not in force at Royal Assent, see [s. 334\(1\)](#)

**I340** Sch. 21 para. 54 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Schedule 4

55 Schedule 4 (model clauses for standard production licences) is amended in accordance with paragraphs 56 to 58.

#### Commencement Information

**I341** Sch. 21 para. 55 not in force at Royal Assent, see [s. 334\(1\)](#)

56 After clause 36 insert—

#### Change in control of Licensee

“36A (1) This clause applies if—

- (a) the Licensee is a company, or
- (b) where two or more persons are the Licensee, any of those persons is a company,

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

and references in this clause to a company are to such a company.

- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
- (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
- (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
- (5) The OGA may—
  - (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
  - (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
  - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
  - (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 36(4).”

*Status: Point in time view as at 26/12/2023.*

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

#### Commencement Information

**I342** Sch. 21 para. 56 not in force at Royal Assent, see [s. 334\(1\)](#)

57 (1) Clause 37 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

“(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 36A);

(k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I343** Sch. 21 para. 57 not in force at Royal Assent, see [s. 334\(1\)](#)

58 (1) Clause 37A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

(a) an event mentioned in clause 37(2)(c), (d), (e), (ee) or (g) occurs in relation to one of those persons;

(b) an event mentioned in clause 37(2)(b) occurs which consists of a breach of clause 36A(2) or (4) in relation to a change in control of one of those persons;

(c) an event mentioned in clause 37(2)(j) occurs in relation to a change in control of one of those persons (see clause 36A); or

(d) an event mentioned in clause 37(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I344** Sch. 21 para. 58 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I341** Sch. 21 para. 55 not in force at Royal Assent, see [s. 334\(1\)](#)

**I342** Sch. 21 para. 56 not in force at Royal Assent, see [s. 334\(1\)](#)

**I343** Sch. 21 para. 57 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

**I344** Sch. 21 para. 58 not in force at Royal Assent, see [s. 334\(1\)](#)

### Schedule 6

59 Schedule 6 (model clauses for petroleum exploration and development licences) is amended in accordance with paragraphs 60 to 62.

#### Commencement Information

**I345** Sch. 21 para. 59 not in force at Royal Assent, see [s. 334\(1\)](#)

60 After clause 35 insert—

#### Change in control of Licensee

“35A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the Oil and Gas Authority (“the OGA”).
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,

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- (b) conditions relating to the performance of activities permitted by this licence, and
- (c) financial conditions.

(9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.

(10) In this clause “the interested parties” means—

- (a) the company,
- (b) the person who (if consent were granted) would take control of the company, and
- (c) if the company and another person or persons are the Licensee, that other person or those other persons.

(11) For the purposes of this clause, the question of whether a person has control of a company is to be determined in accordance with the test set out in clause 35(4).”

#### **Commencement Information**

**I346** Sch. 21 para. 60 not in force at Royal Assent, see [s. 334\(1\)](#)

61 (1) Clause 36 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (i) insert—

- “(j) if the Licensee is a company, any breach of a condition subject to which the Oil and Gas Authority gave its consent to a change in control of the Licensee (see clause 35A);
- (k) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the Oil and Gas Authority to that company under section 5D of the Act;”;

(b) in the closing words, after “(g)” insert “or (j) or (k)”.

(3) Omit paragraphs (3) to (5).

#### **Commencement Information**

**I347** Sch. 21 para. 61 not in force at Royal Assent, see [s. 334\(1\)](#)

62 (1) Clause 36A (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 36(2)(c), (d), (e), (ee) or (g) occurs in relation to one of those persons;
- (b) an event mentioned in clause 36(2)(b) occurs which consists of a breach of clause 35A(2) or (4) in relation to a change in control of one of those persons;



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- (c) an event mentioned in clause 36(2)(j) occurs in relation to a change in control of one of those persons (see clause 35A); or
- (d) an event mentioned in clause 36(2)(k) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I348** Sch. 21 para. 62 not in force at Royal Assent, see [s. 334\(1\)](#)

#### Commencement Information

**I345** Sch. 21 para. 59 not in force at Royal Assent, see [s. 334\(1\)](#)

**I346** Sch. 21 para. 60 not in force at Royal Assent, see [s. 334\(1\)](#)

**I347** Sch. 21 para. 61 not in force at Royal Assent, see [s. 334\(1\)](#)

**I348** Sch. 21 para. 62 not in force at Royal Assent, see [s. 334\(1\)](#)

## PART 4 **U.K.**

### PETROLEUM LICENSING (PRODUCTION) (SEAWARD AREAS) REGULATIONS 2008

63 In the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008 ([S.I. 2008/225](#)), the Schedule (model clauses for seaward area production licences) is amended as follows.

#### Commencement Information

**I349** Sch. 21 para. 63 not in force at Royal Assent, see [s. 334\(1\)](#)

64 After clause 40 insert—

#### Change in control of Licensee

“40A (1) This clause applies if—

- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.

(2) A change in control of a company is not permitted without the consent of the OGA.

(3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.

(4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).

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- (5) The OGA may—
- (a) consent to the change in control unconditionally,
  - (b) consent to the change in control subject to conditions, or
  - (c) refuse consent to the change in control.
- (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
- (a) give the company an opportunity to make representations, and
  - (b) consider any representations that are made.
- (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
- (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
- (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
  - (b) conditions relating to the performance of activities permitted by this licence, and
  - (c) financial conditions.
- (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
- (10) In this clause “the interested parties” means—
- (a) the company,
  - (b) the person who (if consent were granted) would take control of the company, and
  - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
- (11) For the purposes of this clause, “control” of a company is to be construed in accordance with sections 450(2) to (4) and 451(1) to (5) of the Corporation Tax Act 2010, modified as specified in clause 40(4).”

**Commencement Information**

**I350** Sch. 21 para. 64 not in force at Royal Assent, see [s. 334\(1\)](#)

65 (1) Clause 41 (power of revocation) is amended as follows.

(2) In paragraph (2)—

(a) after sub-paragraph (j) insert—

“(k) if the Licensee is a company, any breach of a condition subject to which the OGA gave its consent to a change in control of the Licensee (see clause 40A),

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- (l) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the OGA to that company under section 5D of the Act;”;
- (b) in the closing words, after “(h)” insert “or (k) or (l)”.

(3) Omit paragraphs (3) to (5).

#### Commencement Information

**I351** Sch. 21 para. 65 not in force at Royal Assent, see [s. 334\(1\)](#)

66 (1) Clause 42 (power of partial revocation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 41(2)(c), (d), (e), (f) or (h) occurs in relation to one of those persons;
- (b) an event mentioned in clause 41(2)(b) occurs which consists of a breach of clause 40A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 41(2)(k) occurs in relation to a change in control of one of those persons (see clause 40A); or
- (d) an event mentioned in clause 41(2)(l) occurs which consists of a failure by one of those persons as mentioned in that provision.”

(3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

#### Commencement Information

**I352** Sch. 21 para. 66 not in force at Royal Assent, see [s. 334\(1\)](#)

## PART 5 U.K.

### PETROLEUM LICENSING (EXPLORATION AND PRODUCTION) (LANDWARD AREAS) REGULATIONS 2014

67 In the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 ([S.I. 2014/1686](#)), Schedule 2 (model clauses for petroleum exploration and development licences) is amended as follows.

#### Commencement Information

**I353** Sch. 21 para. 67 not in force at Royal Assent, see [s. 334\(1\)](#)

68 After clause 40 insert—

#### Change in control of Licensee

“40A (1) This clause applies if—

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- (a) the Licensee is a company, or
  - (b) where two or more persons are the Licensee, any of those persons is a company,
- and references in this clause to a company are to such a company.
- (2) A change in control of a company is not permitted without the consent of the OGA.
  - (3) There is a “change in control” of a company if a person takes control of the company, not having previously been a person who controlled the company.
  - (4) If a change in control of a company is contemplated, the company must apply in writing to the OGA for consent at least three months before the date on which it is proposed that the change would occur (if consent were given).
  - (5) The OGA may—
    - (a) consent to the change in control unconditionally,
    - (b) consent to the change in control subject to conditions, or
    - (c) refuse consent to the change in control.
  - (6) If the OGA proposes to grant consent subject to any condition or to refuse consent, the OGA must, before making a final decision—
    - (a) give the company an opportunity to make representations, and
    - (b) consider any representations that are made.
  - (7) The general rule is that the OGA must decide an application within three months of receiving it, but the OGA may delay its decision by notifying the interested parties in writing.
  - (8) Conditions as mentioned in paragraph (5)(b) may be imposed on the person taking control of the company (as well as on the company), and may include—
    - (a) conditions relating to the arrangements for the change in control, including the date by which it must occur,
    - (b) conditions relating to the performance of activities permitted by this licence, and
    - (c) financial conditions.
  - (9) The OGA’s decision on the application, and any conditions as mentioned in paragraph (5)(b), must be notified in writing to the interested parties.
  - (10) In this clause “the interested parties” means—
    - (a) the company,
    - (b) the person who (if consent were granted) would take control of the company, and
    - (c) if the company and another person or persons are the Licensee, that other person or those other persons.
  - (11) For the purposes of this clause, “control” of a company is to be construed in accordance with sections 450(2) to (4) and 451(1) to

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(5) of the Corporation Tax Act 2010, modified as specified in clause 40(4).”

**Commencement Information**

**I354** Sch. 21 para. 68 not in force at Royal Assent, see [s. 334\(1\)](#)

- 69 (1) Clause 41 (power of revocation) is amended as follows.
- (2) In paragraph (2)—
- (a) after sub-paragraph (j) insert—
- “(k) if the Licensee is a company, any breach of a condition subject to which the OGA gave its consent to a change in control of the Licensee (see clause 40A),
- (l) if the Licensee is a company, any failure to provide full and accurate information in response to a notice given by the OGA to that company under section 5D of the Act,”;
- (b) in the closing words, after “(h)” insert “or (k) or (l)”.
- (3) Omit paragraphs (3) to (5).

**Commencement Information**

**I355** Sch. 21 para. 69 not in force at Royal Assent, see [s. 334\(1\)](#)

- 70 (1) Clause 42 (power of partial revocation) is amended as follows.
- (2) For paragraph (1) substitute—
- “(1) This clause applies in a case where two or more persons are the Licensee and—
- (a) an event mentioned in clause 41(2)(c), (d), (e), (f) or (h) occurs in relation to one of those persons;
- (b) an event mentioned in clause 41(2)(b) occurs which consists of a breach of clause 40A(2) or (4) in relation to a change in control of one of those persons;
- (c) an event mentioned in clause 41(2)(k) occurs in relation to a change in control of one of those persons (see clause 40A); or
- (d) an event mentioned in clause 41(2)(l) occurs which consists of a failure by one of those persons as mentioned in that provision.”
- (3) In paragraph (2), for “or (b)” substitute “, (b), (c) or (d)”.

**Commencement Information**

**I356** Sch. 21 para. 70 not in force at Royal Assent, see [s. 334\(1\)](#)

*Status: Point in time view as at 26/12/2023.*

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

SCHEDULE 22 **U.K.**

Section 305

ACCESSION TO CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE

- 1 In section 13 of the Nuclear Installations Act 1965 (“the 1965 Act”) (exclusion, extension or reduction of compensation in certain cases), in subsection (5A), after “(1ZA),” insert “(1ZAA),”.

**Commencement Information**

**I357** Sch. 22 para. 1 comes into force in accordance with s. 334(4)

- 2 (1) Section 16 of the 1965 Act (satisfaction of claims) is amended as follows.
- (2) In subsection (1ZA) after “or 9” insert “, other than CSC-only claims,”.
- (3) After subsection (1ZA) insert—
- “(1ZAA) Notwithstanding subsection (1), if the amount payable by a person in respect of CSC-only claims for compensation under this Act in respect of any one occurrence or event constituting a breach of a duty imposed on that person by section 7, 7B, 8 or 9 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of 300 million special drawing rights, that person is not required to satisfy further claims for compensation.”
- (4) In subsection (1A) for “or (3B)” substitute “, (1ZAA), (3B), (3BA), (3BB), (3BC) or (3BD)”.
- (5) In subsection (3)(a) after “subsection (1)” insert “, (1ZA), (1ZAA), (1ZB)”.
- (6) In subsection (3B)—
- (a) after “or 10” insert “, other than CSC-only claims (“non-CSC-only claims”),”.
- (b) after “further” insert “non-CSC-only”, and
- (c) after “special relevant claims” insert “or CSC claims (or both)”.
- (7) After subsection (3B) insert—
- “(3BA) To the extent that further non-CSC-only claims for compensation are special relevant claims, the appropriate authority may be required to satisfy them up to the equivalent in sterling of 1,500 million euros (in the aggregate and apart from interest or costs).
- (3BB) To the extent that further non-CSC-only claims for compensation are CSC claims, the appropriate authority may be required to satisfy them up to the equivalent in sterling of the aggregate of 700 million euros and the value of the CSC international pooled funds (in the aggregate and apart from interest or costs).
- (3BC) To the extent that further non-CSC-only claims for compensation are both special relevant claims and CSC claims, the appropriate authority may be required to satisfy them up to the equivalent in sterling of the aggregate of 1,500 million euros and the value of the CSC international pooled funds (in the aggregate and apart from interest or costs).

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(3BD) If the amount payable in respect of CSC-only claims in respect of any one occurrence or event constituting a breach of a duty imposed on a person by section 7, 7B, 8, 9 or 10 reaches, in the aggregate and apart from interest or costs, the equivalent in sterling of the aggregate of 300 million special drawing rights and the value of the CSC international pooled funds, the appropriate authority is not required to satisfy further such claims for compensation.

(3BE) If the CSC international pooled funds are (or will be) reduced by virtue of claims to which subsection (3) applies by 50%, the appropriate authority is not required to satisfy further claims for compensation if that would give rise to a further reduction of those funds except to the extent that those further claims are non-UK CSC claims.”

(8) In subsection (3C)(a) after “subsection (3B)” insert “or, in a case where the relevant reciprocating territory is also a CSC territory (as defined by section 16AA), (3BB)”.

(9) In subsection (3D)—

- (a) in paragraph (b)(i) and (ii) after “subsection (1ZA)” insert “, (1ZAA),”, and
- (b) in paragraph (b)(iii) after “subsection (3B)” insert “, (3BA), (3BB), (3BC), (3BD), (3BE)”.

**Commencement Information**

**I358** Sch. 22 para. 2 comes into force in accordance with s. 334(4)

3 In section 16A of the 1965 Act (section 16: supplementary), in subsection (7)(b) for “section 18(1A)” substitute “section 16(3BA)”.

**Commencement Information**

**I359** Sch. 22 para. 3 comes into force in accordance with s. 334(4)

4 After section 16A of the 1965 Act insert—

**“16AA Section 16: CSC-related definitions**

- (1) This section applies for the purposes of section 16.
- (2) A claim for compensation under this Act in the case of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 is a CSC claim if—
  - (a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (3),
  - (b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is such significant impairment of the environment as is mentioned in subsection (3), or
  - (c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(1) or (2) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (3).



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- (3) The injury, damage and significant impairment of the environment referred to in subsection (2) are—
- (a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of the United Kingdom or another CSC territory;
  - (b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of the United Kingdom or another CSC territory in connection with the exploitation or exploration of the natural resources of that exclusive economic zone or continental shelf;
  - (c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in the United Kingdom or another CSC territory;
  - (d) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by a national of the United Kingdom or another CSC territory;
  - (e) injury or damage that is incurred outside the territorial limits of any country or territory by, or by persons or property on, an artificial island, installation or structure that is subject to the jurisdiction of the United Kingdom or another CSC territory.
- (4) A CSC claim is a CSC-only claim if—
- (a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (5),
  - (b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is such significant impairment of the environment as is mentioned in subsection (5), or
  - (c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(1) or (2) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (5).
- (5) The injury, damage and significant impairment of the environment referred to in subsection (4) are—
- (a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of a CSC-only territory;
  - (b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of a CSC-only territory in connection with the exploitation or exploration of the natural resources of that exclusive economic zone or continental shelf;
  - (c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in a CSC-only territory;
  - (d) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by a national of a CSC-only territory;
  - (e) injury or damage that is incurred outside the territorial limits of any country or territory by, or by persons or property on, an artificial



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island, installation or structure that is subject to the jurisdiction of a CSC-only territory.

- (6) A CSC-only territory is a CSC territory that is not—
- (a) the United Kingdom,
  - (b) any other CSC territory that is a relevant territory in relation to a relevant international agreement other than the CSC,
  - (c) a country mentioned in section 26(1B)(b),
  - (d) an overseas territory mentioned in section 26(1B)(c) or (d), or
  - (e) a relevant reciprocating territory.
- (7) A CSC claim is a non-UK CSC claim if—
- (a) the injury or damage for which compensation is claimed is such injury or damage as is mentioned in subsection (8),
  - (b) the significant impairment of the environment by reference to which compensation is claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is such significant impairment of the environment as is mentioned in subsection (8), or
  - (c) the preventive measures by reference to which compensation is claimed by virtue of section 11H(1) or (2) are preventive measures relating to such injury, damage or significant impairment of the environment as is mentioned in subsection (8).
- (8) The injury, damage and significant impairment of the environment referred to in subsection (7) are—
- (a) injury, damage or significant impairment of the environment that is incurred within the territorial limits of a CSC territory other than the United Kingdom;
  - (b) injury, damage or significant impairment of the environment that is incurred in or above the exclusive economic zone or on the continental shelf of a CSC territory other than the United Kingdom in connection with the exploitation or exploration of the natural resources of that exclusive economic zone or continental shelf;
  - (c) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by, or by persons or property on, a ship or aircraft registered in the United Kingdom or another CSC territory;
  - (d) injury or damage that is incurred in or above the sea outside the territorial limits of any country or territory by a national of the United Kingdom or another CSC territory;
  - (e) injury or damage that is incurred outside the territorial limits of any country or territory by, or by persons or property on, an artificial island, installation or structure that is subject to the jurisdiction of the United Kingdom or another CSC territory.
- (9) In this section—
- “CSC territory” means—
- (a) a country that is a party to the CSC, or
  - (b) an overseas territory of such a country, if the CSC applies to the overseas territory,
- “national”, in relation to a CSC territory, includes—

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- (a) that CSC territory and any part of it,
- (b) a public or private body established in the CSC territory or part of it, whether a body corporate or not,
- (c) a partnership established in the CSC territory or part of it, and
- (d) a trust the validity of which is governed by the law of the CSC territory, and

“the CSC” means the Convention on Supplementary Compensation for Nuclear Damage (as amended or supplemented from time to time).

- (10) A reference in this section to a national of the United Kingdom is to be construed in accordance with section 16A(8).”

**Commencement Information**

**I360** Sch. 22 para. 4 comes into force in accordance with s. 334(4)

- 5 In section 17 of 1965 Act (jurisdiction, shared liability and foreign judgments), in subsection (3B)(a) and (b) after “section 16(1ZA)” insert “, (1ZAA)”.

**Commencement Information**

**I361** Sch. 22 para. 5 comes into force in accordance with s. 334(4)

- 6 (1) Section 18 of the 1965 Act (general cover for compensation) is amended as follows.
- (2) In subsection (1A) for “1,500 million euros” substitute “the aggregate of 1,500 million euros and the value of the CSC international pooled funds”.
- (3) In subsection (1D)—
- (a) in each of paragraphs (a) and (b) after “section 16(1ZA)” insert “, (1ZAA)”, and
  - (b) in paragraph (c) after “section (3B)” insert “, (3BA), (3BB), (3BD), (3BE)”.
- (4) In subsection (4B)(b) after “section 16(1ZA)” insert “or, where relevant, (1ZAA)”.

**Commencement Information**

**I362** Sch. 22 para. 6 comes into force in accordance with s. 334(4)

- 7 After section 25B of the 1965 Act (amounts in euros) insert—

**“25C Special drawing rights**

- (1) In this Act “special drawing rights” means special drawing rights as defined by the International Monetary Fund; and for the purpose of determining the equivalent in sterling on any day of a sum expressed in special drawing rights, one special drawing right is to be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right—
- (a) for that day, or

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- (b) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Treasury stating—
  - (a) that a particular sum in sterling has been so fixed for a particular day, or
  - (b) that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,
 is to be conclusive evidence of those matters for the purposes of subsection (1) of this section; and a document purporting to be such a certificate is in any proceedings to be received in evidence and, unless the contrary is proved, to be deemed to be such a certificate.
- (3) The Treasury may charge a reasonable fee for any certificate given in pursuance of subsection (2) of this section.
- (4) Any fee received by the Treasury by virtue of subsection (3) is to be paid into the Consolidated Fund.”

#### Commencement Information

**I363** Sch. 22 para. 7 comes into force in accordance with s. 334(4)

- 8 (1) Section 26 of the 1965 Act (interpretation) is amended as follows.
- (2) In subsection (1)—
  - (a) after the definition of “cover period” insert—
    - ““CSC claim” has the meaning given by section 16AA;
    - “CSC international pooled funds” means the funds referred to by Article III.1(b) of the Convention on Supplementary Compensation for Nuclear Damage;
    - “CSC-only claim” has the meaning given by section 16AA;”;
  - (b) in the definition of “event”—
    - (i) after “(1ZA),” insert “(1ZAA),” and
    - (ii) after “(3B)” insert “, (3BD)”;
  - (c) after the definition of “the Minister” insert—
    - ““non-UK CSC claim” has the meaning given by section 16AA;”;
  - (d) in the definition of “occurrence”—
    - (i) after “(1ZA),” insert “(1ZAA),” and
    - (ii) after “(3B)” insert “, (3BD)”.
  - (e) after the definition of “overseas territory” insert—
    - ““the Paris Convention” means the Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960, as amended by the Additional Protocol of 28 January 1964, by the Protocol of 16 November 1982 and by the Protocol of 12 February 2004;”.
- (3) In subsection (1A)(a)—
  - (a) in the opening words, for “a relevant international agreement” substitute “the Paris Convention”;
  - (b) in sub-paragraph (i)—

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- (i) for “relevant international agreement” (in each place it appears) substitute “Convention”;
- (ii) for “agreement” (in the third place it appears) substitute “Convention”;
- (iii) for “agreement’s” substitute “Convention’s”;
- (c) in sub-paragraph (ii), for “relevant international agreement” substitute “Convention”.

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**Commencement Information**

**I364** Sch. 22 para. 8 comes into force in accordance with s. 334(4)

**Status:**

Point in time view as at 26/12/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023.