



Energy Act 2023

2023 CHAPTER 52

PART 1

LICENSING OF CARBON DIOXIDE TRANSPORT AND STORAGE

CHAPTER 2

FUNCTIONS WITH RESPECT TO COMPETITION

36 Functions under the Enterprise Act 2002

- (1) The functions to which [subsection \(2\)](#) applies are to be concurrent functions of the economic regulator and the CMA.
- (2) This subsection applies to the functions of the CMA under Part 4 of the Enterprise Act 2002 (other than sections 166, 171 and 174E) so far as those functions are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013) and relate to commercial activities connected with relevant storage and transport activities.
- (3) So far as necessary for the purposes of, or in connection with, subsections [\(1\)](#) and [\(2\)](#)—
 - (a) references in Part 4 of the Enterprise Act 2002 to the CMA (including references in provisions of that Act applied by that Part) are to be construed as including references to the economic regulator (except in sections 166, 171 and 174E of that Act and in any other provision of that Act where the context otherwise requires);
 - (b) references in that Part to section 5 of that Act are to be construed as including references to [section 28\(1\)](#) and [\(2\)](#) of this Act.
- (4) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to the economic regulator by virtue of subsections [\(1\)](#) and [\(2\)](#)—
 - (a) as if for subsection (1) of that section there were substituted—

“(1) Where the Gas and Electricity Markets Authority—

Status: Point in time view as at 31/01/2024.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Section 36. (See end of Document for details)

- (a) is proposing to carry out its functions under [section 28\(1\)](#) or (2) of the Energy Act 2023 in relation to a matter for the purposes mentioned in subsection (2), and
 - (b) considers that the matter is one in respect of which it would be appropriate for the Gas and Electricity Markets Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,
 the Gas and Electricity Markets Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and
- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with activities to which [section 36\(2\)](#) of the Energy Act 2023 applies”.
- (5) It is to be the duty of the economic regulator, for the purpose of assisting a CMA group in carrying out an investigation on a market investigation reference made by the economic regulator (under section 131 of the Enterprise Act 2002) by virtue of [subsection \(1\)](#), to give to the group—
- (a) any information which is in the economic regulator’s possession and which relates to matters falling within the scope of the investigation and—
 - (i) is requested by the group for that purpose, or
 - (ii) is information which, in the economic regulator’s opinion, it would be appropriate for that purpose to give to the group without any such request, and
 - (b) any other assistance which the group may require and which it is within the economic regulator’s power to give, in relation to any such matters,
 and the group must, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.
- (6) In [subsection \(5\)](#) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

Commencement Information

II [S. 36](#) in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

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