



Energy Act 2023

2023 CHAPTER 52

PART 1

LICENSING OF CARBON DIOXIDE TRANSPORT AND STORAGE

CHAPTER 1

LICENSING OF ACTIVITIES

Grant and conditions of licences

9 Procedure for licence applications

- (1) The Secretary of State, or the economic regulator with the approval of the Secretary of State, may by regulations—
 - (a) make provision about the form and manner in which an application for a licence must be made;
 - (b) authorise the grantor to require that an application is accompanied by a fee for processing the application of an amount determined in accordance with the regulations.
- (2) The Secretary of State may by regulations make provision about the procedure for applications for a licence (in addition to any provision that may be made under [subsection \(1\)](#)) including, for example, provision—
 - (a) requiring that a decision to refuse a licence must be accompanied by reasons for the decision;
 - (b) imposing requirements with regard to the publication of decisions to refuse a licence.
- (3) Before making regulations under [subsection \(2\)](#) or [\(7\)](#) the Secretary of State must—
 - (a) consult the economic regulator and the appropriate devolved authorities, and

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- (b) specify a period of not less than 28 days within which representations or objections with respect to the proposed regulations may be made, and the Secretary of State must consider any representations or objections which are duly made and not withdrawn.
- (4) Before granting a licence the economic regulator must give notice—
- (a) stating that the economic regulator proposes to grant the licence,
 - (b) stating the reasons why the economic regulator proposes to grant the licence, and
 - (c) specifying the time (which must not be less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under [subsection \(4\)](#) must be given by—
- (a) publishing the notice in such manner as the economic regulator considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence, and
 - (b) sending a copy of the notice to—
 - (i) the Scottish Ministers, if an activity that would be authorised by the proposed licence is within Scottish devolved competence;
 - (ii) the Welsh Ministers, if an activity that would be authorised by the licence is within Welsh devolved competence;
 - (iii) the Department for the Economy in Northern Ireland, if an activity that would be authorised by the licence is within Northern Ireland devolved competence.
- (6) [Section 17\(4\)](#) (activities authorised by a licence: devolved competence) applies for the purposes of [subsection \(5\)\(b\)](#) of this section as it applies for the purposes of [section 17](#).
- (7) The Secretary of State may by regulations make provision, in relation to licences, about the matters to be taken into account in determining whether an applicant for a licence should be granted the licence.
- (8) Regulations under this section are subject to the negative procedure.
- (9) Consultation before the passing of this Act is as effective for the purposes of [subsections \(3\)](#) and [\(4\)](#) as consultation after that time.
- (10) In this Part “grantor”, in relation to a licence or an application for a licence, means the person who grants or, as the case may be, has power to grant, the licence.
- (11) For the purposes of this section “appropriate devolved authority”, in relation to regulations, means—
- (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;
 - (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
 - (c) the Department for the Economy in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence.
- (12) For the purposes of this section, provision—

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- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) is within Welsh devolved competence if it 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) is within Northern Ireland devolved competence if it—
 - (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.
- (13) The Statutory Instruments Act 1946 applies in relation to the power of the economic regulator to make regulations under [subsection \(1\)](#) as if the economic regulator were a Minister of the Crown.
- (14) Any sums received by the economic regulator or the Secretary of State by virtue of this section must be paid into the Consolidated Fund.