

The Energy Act 2010

May 2010

The Energy Act 2010 just made it to Royal Assent and the Statute Book before the General Election was called in Britain for 6 May 2010.

The Conservative – Liberal Democrat Coalition Agreement re-states the new UK government's commitment for public sector investment in Carbon Capture and Storage 'CCS' technology for four coal-fired power stations.

The Coalition Agreement also commits the new government to the establishment of an Emissions Performance Standard that will prevent coal-fired power stations being built unless they are equipped with enough CCS to meet that standard.

The Energy Act 2010 therefore contains important enabling powers to allow the new government to introduce its policies on CCS, and contains other provisions amending energy legislation, particularly on fuel poverty and Ofgem's duties.

- The Act allows the Secretary of State to give **financial assistance to Carbon Capture and Storage 'CCS' demonstration projects**. Assistance schemes may set out the parameters for future financial support. Powers are taken to make regulations addressing further details.
- The Act provides the statutory basis for an **electricity supply levy**, which will support CCS demonstrations. Further regulation making powers are taken.
- The Secretary of State is to be required to prepare and present to Parliament a **report on progress in decarbonising electricity generation in Britain and progress in the development and use of CCS technology**.
- **Part 2** of the Act concerns **schemes for reducing fuel poverty**. The Secretary of State may introduce such schemes, and the Part provides the statutory

basis for them. Such schemes may result in licence modifications for holders of transmission and supply licenses under the Electricity Act 1989. Again, Ofgem has a role in reviewing the Schemes.

- **Part 3** of the Act contains **amendments to the Gas Act 1986 and the Electricity Act 1989 and the duties of the Gas and Electricity Markets Authority (Ofgem)**.
- This Part continues the rebalancing of Ofgem's general duties, begun in the Energy Act 2008, to place greater emphasis upon future consumers and greenhouse gas emission reductions. This greater emphasis on environmental aspects of its functions has already resulted in a major internal reorganisation at Ofgem.
- Licence modifications to Electricity Act 1989 licences may address 'excessive benefit'. Ofgem is required to publish a document with its policy on modifications. There are provisions concerning final and provisional orders, penalties and appeals. Time limits are applied for the imposition of financial penalties under the Gas or Electricity Acts.
- **Part 4** of the Act contains formal provisions for example on making orders, regulations or modifications of licenses.

For further information on any of these areas please contact William Wilson (see below) or any of the Burges Salmon Energy & Environmental Law team



**William Wilson
Barrister**

E: william.wilson@burges-salmon.com

T: +44(0)117 939 2289

Disclaimer: This briefing is not intended to be a complete coverage of the law in this area. Legal advice should always be taken in any particular case.

Burges Salmon LLP, Narrow Quay House, Narrow Quay, Bristol, BS1 4AH
tel: +44 (0) 117 939 2000 fax: +44 (0) 117 902 4400
Chancery Exchange, 10 Furnival Street, London, EC4A 1AB
tel: +44 (0) 20 7685 1200 fax: +44 (0) 20 7685 1266
www.burges-salmon.com



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