



Department for
Energy Security
& Net Zero

Guidance on Financial Assistance in relation to Core Fuels

Guidance on financial assistance under Part
12 of the Energy Act 2023

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Contents

Financial assistance under the core fuel resilience measures _____	4
Chapter 1. Introduction _____	5
Chapter 2. Cases where financial assistance may be considered _____	6
Chapter 3. Forms of financial assistance _____	7
Chapter 4. The Subsidy Control Act 2022 _____	7
Chapter 5. Monitoring of any assistance _____	8

Financial assistance under the core fuel resilience measures

1. Part 12 of the Energy Act 2023 (the “Act”) contains core fuel sector resilience measures which aim to improve the Government’s ability to manage and reduce risks of disruption to core fuel supplies during the transition to a net zero emissions economy. The measures will ensure the core fuel sector takes appropriate actions to maintain or improve fuel supply resilience, to guarantee the UK a secure and reliable fuel supply.
2. The measures principally allow the Government to direct the sector to take appropriate action and to provide information in order to improve the Government’s ability to manage and reduce risks of adverse effects on economic activity from disruptions to core fuel supplies.
3. Section 287 of the Act authorises the Government to give financial assistance to a core fuel sector participant for the purpose of core fuel sector resilience or securing or maintaining continuity of core fuel supply.
4. A core fuel sector participant is defined in section 268 as a Part 12 facility owner, or a person carrying on core fuel sector activities, defined in section 268(2) of the Energy Act. These are activities of the following kinds:
 - storing oil or renewable transport fuel
 - handling oil or renewable transport fuel
 - the carriage of oil or renewable transport fuel by sea or inland water
 - transporting oil or renewable transport fuel by road or rail
 - conveying oil or renewable transport fuel by pipes
 - processing or producing oil or renewable transport fuel (whether by refining, blending or otherwise)

A Part 12 facility owner is defined in section 268(11) as the owner of a facility or infrastructure which is used for the purposes of carrying out core fuel sector activities.

5. Core fuel sector resilience refers to the capability of core fuel sector participants to:
 - manage the risk of,
 - reduce the potential adverse impact of, and
 - facilitate recovery from, disruptions to core fuel sector activities.
6. Under the Act, there is continuity of supply of core fuels if supply to consumers in all areas of the United Kingdom, and persons carrying on business in all areas of the United Kingdom, is reliable and continuous and is maintained at normal levels. Normal

levels of supply are levels that are not substantially below average monthly supply levels in the United Kingdom (with regional variation taken into account) and are consistent with a reasonable balance between supply and demand.

7. For the purposes of the Act, “core fuels” are crude oil-based fuels and renewable transport fuels – the latter is defined in section 132 of the Energy Act 2004. “Oil” as referenced in core fuel sector activities means crude oil, crude oil-based fuels, or components – each of these terms is defined in section 289 – and for these purposes oil does not include crude oil which has not yet entered a refinery or terminal in the United Kingdom.
8. The guidance seeks to give an indication of the exceptional circumstances in which assistance might potentially be considered to be appropriate.

Chapter 1. Introduction

9. This guidance is aimed at core fuel sector participants as defined in section 268(6) in Part 12 of the Act and sets out:
 - The types of situations in which financial assistance may be considered
 - What forms of financial assistance are covered by the financial assistance provision
 - The implications of the Subsidy Control Act 2022

This guidance:

- does not create any rights enforceable at law in any legal proceedings;
- is not a substitute for legal advice - stakeholders should conduct their own assessment and take legal advice;
- is not a set of binding instructions, although it includes references to provisions in the Act;
- does not establish a subsidy scheme or any other funding scheme;
- highlights that financial assistance will only be considered in exceptional circumstances.

It must be noted that:

- the situations set out in the guidance, in which provision of assistance may potentially be considered, are indicative only, and do not mean that assistance will be provided in any particular situation.
- the Secretary of State is not bound to follow this guidance and may depart from it in appropriate circumstances.

10. This guidance will be kept under review and may be updated where necessary.

11. The sector is a critical national infrastructure sector which has faced challenges recently with different issues such as COVID 19, changing operational and financial events leading to sudden closures and disruptions at UK oil refineries, terminals and pipelines which posed a significant risk of disruption to core fuel supply.
12. The power authorises the Secretary of State to give financial assistance, with the consent of His Majesty's Treasury, but it does not place an obligation on the Department for Energy Security and Net Zero to provide financial assistance in any particular cases. No decision to provide financial assistance or establish a fund or scheme has been taken. Any decisions to give financial assistance will depend on an assessment of any individual case and, where the financial assistance is a subsidy, will be subject to subsidy control requirements as applicable.

Chapter 2. Cases where financial assistance may be considered

13. Financial assistance is not intended to be used routinely, but to be considered only in exceptional circumstances. The core fuels sector is largely unregulated and unlike other critical national infrastructure sectors, such as gas and electricity supply, there is no mechanism for socialising the costs of increased resilience, where this is not to the competitive advantage of the individual core fuel sector participants. The Government is therefore committed to maintaining a competitive market for the benefit of consumers in providing financial support.
14. The Government has put in place a subsidy control regime (see chapter 4 for further information on the Subsidy Control Act 2022) and any financial assistance that would amount to a subsidy will need to comply with subsidy control law.
15. The Government does not consider that financial assistance would be appropriate for critical sites to meet normal good practice standards (any activity for which the sector has established a clear standard, whether in writing or majority accepted usage, for the running of operations) of site operation.
16. Financial assistance may be considered where a direction under section 269 has been issued in order to manage risks to fuel supply. It is not the Government's intention to subsidise loss-making businesses, to provide a general support programme for the sector, or to provide an unjustified advantage to individual companies.
17. In most cases the Government will only consider whether it might be necessary and appropriate to provide financial assistance where a direction under section 269 has been issued and the following circumstances apply. It is not a guarantee that support will be offered if any of the following circumstances apply as the decision will depend on a full consideration of the situation. Circumstances that may be relevant include:

- where the action required of the core fuel sector participant goes well beyond normal industry good practice standards, or there are clear and unavoidable reasons why the costs of meeting standards at this asset are materially higher than for other comparable assets, bringing about significant implications to a core fuel sector participant's ability in carrying out the required action;
- where the cost to the core fuel sector participant would have a significant negative impact on their competitiveness and commercial sustainability;
- where there is no more cost-effective way for the core fuel sector participant of achieving the same outcome and this has been tested by the appropriate procedures.

18. We may also engage with the Competition and Markets Authority when appropriate.

Chapter 3. Forms of financial assistance

19. Financial assistance may only be given to improve or maintain core fuel sector resilience; or to secure or maintain continuity of supply of core fuels (see paragraphs 4 and 5 above). Financial assistance under section 287 would be likely to be a subsidy; any subsidy would need to comply with subsidy control requirements. Financial assistance under Part 12 of the Act may take different forms, including but not limited to:

- Grants
- Loans
- Guarantees
- Indemnities
- Equity investments

20. There are no preferred forms of financial assistance. In deciding which form of financial assistance (if any) may be appropriate in a given situation, the Government would consider which form of financial assistance provides the best value for money, would have the least impact on the market and whether it would be compliant with the Subsidy Control Act.

21. The merits of any individual case would be considered, in order to make a decision.

Chapter 4. The Subsidy Control Act 2022

22. Financial assistance that constitutes a subsidy for the purposes of the Subsidy Control Act 2022 would need to comply with the requirements of the Subsidy Control Act 2022 and any relevant international agreements that apply to such financial assistance.

23. Read [Guidance on the application of the Subsidy Control Act 2022](#).

24. The Government is obliged to comply with transparency obligations under the Subsidy Control Act 2022 and is legally required to publish information about a subsidy on the transparency database.
25. The department would not usually publish information in relation to any financial assistance beyond that required to be published under the Subsidy Control Act 2022 or usually published by Government (for example in relation to grants).

Chapter 5. Monitoring of any assistance

26. Any financial assistance that may be provided would be monitored and may be revised or recovered as necessary, particularly in any cases where false or misleading information was provided, or the assistance has not been used for the purpose for which it was given or in compliance with any conditions imposed.

[\[https://www.legislation.gov.uk/ukpga/2023/52/part/12/enacted\]](https://www.legislation.gov.uk/ukpga/2023/52/part/12/enacted)

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