

EXPLANATORY MEMORANDUM TO
THE STORAGE OF CARBON DIOXIDE (LICENSING ETC.) REGULATIONS 2010
2010 No. 2221

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The instrument forms part of the United Kingdom's implementation of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide ("the Directive"). It implements the requirements of the Directive relating to the licensing of CO₂ storage and to the liabilities of the storage operator both during and after the active operation of the store. It also amends Regulations implementing Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 Part 1, Chapter 3 (sections 17 to 35), of the Energy Act 2008 ("the Act") provides for a licensing regime governing the permanent storage of CO₂. The regime applies to storage within the offshore area comprising both the UK territorial sea, and the area extending beyond the territorial sea that has been designated as a Gas Importation and Storage Zone ("GISZ") under section 1(5) of that Act: see the Gas Storage and Importation Zone (Designation of Area) Order 2009 (SI 2009/223).

4.2 In making this instrument the powers in sections 19, 21 and 29 of the Energy Act 2008 are used for the first time. Section 19 of the Act enables an authority that grants licences under section 18(1) to make provision about the circumstances in which it may grant licences. Section 21 enables the authority to make regulations about the terms and conditions of licences, and section 29 requires the Secretary of State to prescribe information relating to licences that is to be included on a public register.

4.3 However, a large part of this instrument is made under the powers given by section 2(2) of the European Communities Act 1972 ("ECA"). Under section 2(2) of the ECA, provisions are included preventing the licensing of storage in the water column; concerning the requirements for the grant of a storage permit (i.e. a consent to store carbon dioxide granted under the provisions of a licence) and the contents of such permits; concerning the corrective measures to be taken in the event of a leakage or significant irregularity; concerning the review of a storage permit (and its possible modification or revocation); relating to the closure of a storage site and to post-closure obligations; and implementing an amendment to Directive 2004/35/EC.

4.4 Furthermore, under paragraph 1A of Schedule 2 to the ECA, a number of ambulatory references are made to EU instruments. These are of two kinds: (1) references to provisions of the Directive itself, and (2) references to instruments to which the Directive refers. In the former case, the ambulatory references are either to the technical provisions in Annexes I and II (see regulations 6(3)(e), 7(1) and 13(1), and paragraph 2(5) of Schedule 2), which can be amended by a comitology procedure under Article 29 of the Directive; or they are references to Article 10 of the Directive, which concerns the Secretary of State's duty to obtain the non-binding opinion of the European Commission before granting a storage permit (see regulations 7(7) and 9(3)(f)). In neither case does there appear to be a compelling need for further Parliamentary scrutiny of the implementation of future amendments.

4.5 In the second case (references to other EU instruments that are made by the Directive), the ambulatory effect is achieved through the intermediary of a reference to domestic implementing legislation (see regulations 6(3)(h), 12(4)(e) and 14). Parliamentary scrutiny will therefore take place when that legislation is itself replaced or amended. As regards the references made in Schedule 2 (see paragraphs 2(5), 3(7) and 7(5)), it is to be noted that in these cases the provisions will form part of the storage permit itself. In this case it is not only expedient, but also necessary, for such references to be ambulatory, since it is in this form that they should be incorporated in the permit.

4.6 A Transposition Note has been prepared, and is attached as an Annex to this Memorandum.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom, but (except in the case of the provisions concerning the public register) relates solely to licences granted by the Secretary of State under section 18 of the Act in respect of storage activities within the territorial sea (other than activities wholly or partly within the territorial sea adjacent to Scotland) or the GISZ.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 As already noted, this instrument forms part of the United Kingdom's implementation of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide ("the Directive").

7.2 The Government is committed to making the UK a leading player in carbon capture and storage (CCS). Creating an effective fit for purpose licensing regime is necessary to ensure the safe long-term storage of carbon dioxide and therefore a

necessary condition for the effective deployment of CCS and achievement of the Government's energy and climate change objectives.

7.3 These implementing Regulations are made some eight months before the Directive's transposition date of 25 June 2011. This is to give a degree of regulatory certainty to companies that are planning to deploy this novel technology in the near future. The Regulations form, however, only one part of the implementing provisions that will be necessary. In the remainder of the transposition period, instruments will also have to be made extending the relevant provisions of the Energy Act 2008, so that the prohibition on carbon dioxide storage without a licence extends to the entire territory of the UK, and not only to the offshore area. Instruments will also be required on third-party access to CO₂ stores and pipelines; and on transfer of liability to the State on termination of a CO₂ storage licence. The present Regulations are an essential first step in ensuring compliance with the Directive, and putting in place an effective fit-for-purpose licensing regime to ensure the safe long-term storage of carbon dioxide.

8. Consultation outcome

8.1 A draft of these Regulations was included in a consultation document on the proposed offshore carbon dioxide storage licensing regime, published on 25 September 2009. In general respondents to this consultation were supportive of the broad structure of the proposed licensing system, whereby a single licence granted under the Energy Act 2008 would provide a framework covering all phases of a carbon dioxide storage development, from initial appraisal/exploration, to issue of a storage permit, ongoing storage operations, and post-closure obligations. Comments made on the draft Regulations indicated that respondents were satisfied that it would achieve the overarching legal requirement to transpose the relevant parts of the Directive into UK law. A number of drafting improvements have been made to the draft Regulations, some of these as a result of comments received in the consultation.

9. Guidance

9.1 Guidance on the regime will be made available on the DECC website.

10. Impact

10.1 The impact on charities or voluntary bodies is likely to be none, as projects will be taken forward by commercial operators such as the oil and gas industry and other large industrial players. The impact on those operators will be positive, as they will benefit from an established licensing regime in compliance with the Directive.

10.2 The impact on the public sector is negligible as DECC will be the regulatory authority and will accommodate this new area of work within its current resource head room.

10.3 An Impact Assessment can be viewed at http://www.decc.gov.uk/en/content/cms/consultations/co2_storage/co2_storage.aspx

11. Regulating small business

11.1 The legislation applies to CO₂ storage activities offshore however carried out.

12. Monitoring & review

12.1 DECC will monitor the licensing arrangements implemented by this instrument and will seek feedback from the industry as to the regime's efficacy. DECC will review the effectiveness of the licensing regulations after some experience of the CCS demonstration projects.

13. Contact

Ricki Kiff at the Department of Energy and Climate Change. Tel: 0300 068 6042 or email: ricki.kiff@decc.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX

DIRECTIVE 2009/31/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE GEOLOGICAL STORAGE OF CARBON DIOXIDE

TRANSPOSITION NOTE

FOR

THE STORAGE OF CARBON DIOXIDE (LICENSING ETC.) REGULATIONS 2010

Statement on over-implementation: These Regulations do no more than is necessary to implement the relevant requirements of the Directive, subject to the minor elements of “gold-plating” noted below.

Responsibility for implementation: These Regulations implement the Directive in respect of the matters for which the Secretary of State is the licensing authority, or which are otherwise within the competence of the Secretary of State. Separate legislation will be required in respect of matters that are within the competence of a Devolved Administration.

Article	Result to be achieved	Implementation by the <i>Storage of Carbon dioxide (Licensing etc.) Regulations 2010</i> and the <i>Energy Act 2008</i>¹	Comments²
1	Subject matter and purpose		Does not require specific implementation
2	Scope and prohibition		
2.1	Directive applies to storage in territory of the Member States, together with their exclusive economic zones and continental shelves.	By <i>sections 1(5) and 17(3)</i> , and the definition of “licence” in <i>reg. 1(3)</i> , the Regulations will apply to CO ₂ storage within the UK territorial sea and the exclusive economic zone (currently defined for these purposes as the “Gas Importation and Storage Zone” (GISZ)). With the exception of the	Subsequent instruments will extend implementation to areas landward of the baselines of the UK territorial sea, and (in the special case of storage for the purposes of enhanced petroleum production) to the areas of the UK continental shelf

¹ In this Note, referred to as “the Regulations” and “the Act” respectively. References to a *regulation* or *Schedule* are to provisions of the Regulations, and references to a *section* are to sections of the Act.

² In particular, any element of over-implementation (“gold-plating”) is highlighted in this column.

		provisions on the public register (<i>reg. 9</i>), implementation is in respect of the licensing of CO ₂ storage by the Secretary of State only, and therefore does not include licensing by the Scottish Ministers of storage within the territorial sea adjacent to Scotland (see <i>section 18(2)</i>).	extending beyond the 200 nml limits of the exclusive economic zone (EEZ). On the EEZ and the GISZ, see further paragraph 5 of Schedule 4 to the Marine and Coastal Access Act 2009 (not yet in force).
2.2	Exemption for certain R&D projects.	Not implemented.	<u>gold plating</u>
2.3	Storage complex must not extend beyond area defined in Art. 2.1	<i>Reg. 7(1)(b)</i>	It is envisaged that the Directive will in due course be extended to EEA.
2.4	No storage in the water column	<i>Reg. 2</i>	
3	Definitions	<i>Reg. 1(2)(c) and (4)</i>	A number of the Directive definitions are incorporated by reference.
4	Selection of storage sites		
4.1	Member States retain the right to determine the areas from which storage sites may be selected.		To be implemented administratively (by decision to make areas available for licence applications).
4.2	They must undertake an assessment of storage capacity. The Commission may organise an exchange of information.	.	Implemented administratively. No transposition necessary
4.3	Assessment of storage site must be done pursuant to the criteria in Annex I	<i>Reg. 7(1)(a)</i> .	
4.4	A formation may only be selected as storage site if there is no significant risk of leakage and no significant environment or health risks.	<i>Reg. 7(1)(c)</i> .	
5	Exploration permits		

5.1	<p>Where intrusive exploration is determined to be necessary, it must not take place without a permit.</p> <p>This may include monitoring of test injections</p>	<p><i>Section 17(2)(c) and reg. 3(2)</i></p> <p><i>Reg. 1(2)(c) and (4):</i> definition of “exploration”.</p>	<p>The “appraisal term” of a licence corresponds to the “exploration permit” referred to in the Directive; licence will control such matters as intrusive drilling.</p>
5.2	<p>Application procedures to be open to all on the basis of objective, published and non-discriminatory criteria.</p>	<p><i>Reg. 3, with administrative implementation in the form of open ‘licensing rounds’</i></p>	<p>More detailed criteria will be by way of indicative guidelines published on the DECC and Crown Estate websites</p>
5.3	<p>Duration of exploration permit to be limited, but under certain conditions may be extended.</p> <p>Granted in respect of “limited volume area”</p>	<p><i>Reg. 4(1) and (2).</i></p> <p>Coordinates will be specified in the licence</p>	
5.4	<p>Holder has exclusive rights.</p> <p>No conflicting uses of storage complex to be permitted</p>	<p>Exclusivity will be guaranteed by: (1) the rights granted by The Crown Estate, and</p> <p>(2) the fact that concurrent licences will not be granted.</p> <p>Will not be granted in conflict with other kinds of licence (e.g. petroleum licence).</p>	<p>It will be a licence condition to hold a Crown Estate lease.</p> <p>Implemented administratively. This instrument does not apply to non-exclusive, general exploration licences.</p>
6	Storage permits		
6.1	<p>No storage site to be operated without a permit;</p> <p>there is to be only one operator per site;</p> <p>no conflicting uses of site to be</p>	<p><i>Section 17(2)(a)</i> combined with provisions of the licence requiring that no storage be carried on without a further consent (see the definition of “storage permit” in <i>reg. 1(3)</i>).</p> <p><i>Reg. 8(1)(a).</i></p> <p>Other kinds of licence or consents will not be</p>	<p>Implemented</p>

	permitted.	granted in conflict with storage operations.	administratively.
6.2	Application procedures to be open to all on the basis of objective, published and transparent criteria	<i>Regs. 3 and 6.</i>	See above under Article 5.2.
6.3	Priority to be given to holder of exploration permit, subject to certain conditions. No conflicting uses of complex to be permitted during permit application procedure.	<i>Reg. 6(1) and (2).</i> Conflicting licences or consents will not be granted.	Only the licence holder can apply for a storage permit. Art. 6.3 implemented where the licence includes an appraisal term. Implemented administratively
7	Applications for storage permits		
	Applications must contain:		
7.1	name and address of potential operator;	<i>Reg. 6(3)(a)</i>	
7.2	proof of technical competence of potential operator;	<i>Reg. 6(3)(b), with 7(3)(a)</i>	
7.3	characterisation of site and complex and assessment of security of storage;	<i>Reg. 6(3)(b), with 7(1)(a) and (c)</i>	
7.4	total quantity of CO ₂ to be injected and stored, prospective sources and transport methods, composition of streams, injection rates and pressures, location of injection facilities;	<i>Reg. 6(3)(c)(i) and (iii) to (vi)</i>	Proposed date of commencement of injection also included (<i>reg 6(3)(c)(ii)</i>): <u>gold-plating</u> .
7.5	measures to prevent significant irregularities	<i>Reg. 6(3)(d)</i>	
7.6	proposed monitoring plan;	<i>Reg. 6(3)(e)</i>	
7.7	proposed corrective measures plan;	<i>Reg. 6(3)(f)</i>	
7.8	proposed provisional post-closure plan;	<i>Reg. 6(3)(g)</i>	
7.9	information required by Directive 85/337/EEC	<i>Reg. 6(3)(h)</i>	
7.10	Proof of financial security	<i>Reg. 6(3)(i)</i>	See also Art. 19.1
8	Conditions for storage permits		
8.1	Storage permit may only be issued if the authority is satisfied that:		
(a)	all relevant requirements of Directive and other relevant Community legislation are met	No separate transposition necessary	
(b)	operator is financially sound,	<i>Reg. 7(1)(d) and (3)</i>	

	technically competent and reliable, and development and training is provided		
(c)	interactions within same hydraulic unit are taken into account	<i>Reg. 7(4)</i>	
8.2	Permit may only be issued if the authority has considered any Commission opinion on the draft permit	<i>Reg. 7(7)(b)</i>	
9	Contents of storage permits		
	Permit must contain at least:		
9.1	name and address of the operator	<i>Reg. 8(1)(a)</i>	
9.2	precise location and delimitation of the storage site and storage complex, and information on the hydraulic unit	<i>Reg. 8(1)(b)</i>	
9.3	operational requirements, quantity of CO ₂ authorised to be stored, reservoir pressure limits, maximum injection rates and pressures	<i>Reg. 8(1)(c)</i>	
9.4 (with Art 12)	composition of CO ₂ stream and acceptance procedure; further injection and storage requirements if necessary	<i>Reg. 8(1)(d) and (e), and Schedule 2, para. 1.</i>	
9.5 (with Arts 13 and 14)	approved monitoring plan; obligation to implement and update it; reporting requirements.	<i>Reg. 7(5) and Reg. 8(1)(g) and Schedule 2, para. 2</i> <i>Reg. 8(1)(h) and Schedule 2, para 3(1) to (5).</i>	
9.6 (with Art 16)	Obligation to notify authority in the case of leakages or significant irregularities; the approved corrective measures plan and obligation to implement plan in the event of leakages or significant irregularities	<i>Reg. 8(1)(h) and Schedule 2, para. 3(6) and (7).</i> <i>Regs. 8(1)(j) and 7(6), and Schedule 2, para. 6</i>	
9.7 (with Art 17)	conditions for closure and approved provisional post-closure plan	<i>Reg. 8(1)(k), Reg. 5 and Schedule 1, para 2.</i> <i>Reg. 8(1)(l) and 13(2).</i>	
9.8 (with Art 11)	any provisions on changes, review, updating and withdrawal of permit	<i>Regs. 8(1)(i) and 11, and Schedule 2, paras. 4 and 5</i>	
9.9	Requirement for financial	<i>Reg 8(1)(m) and</i>	

(with Art 19)	security	<i>Schedule 2, para. 7.</i>	
10	Commission review of draft storage permits		
10.1	Procedure for obtaining Commission's opinion on draft storage permits.	<i>Regs. 6(4) and 7(7)</i>	
10.2	Obligation of authority to notify final decision to Commission, and state reasons where it departs from the opinion.		Implemented administratively. See also <i>reg. 9(3)(f)</i>
11	Changes, review, update and withdrawal of storage permits		
11.1	Operator to notify authority of changes; where appropriate the authority must update the permit or permit conditions.	<i>Schedule 2, para 4; reg. 11(1)</i>	
11.2	No substantial change may be implemented without a new or updated storage permit	<i>Reg. 11(2)</i>	
11.3	The authority must review and where necessary update or (as a last resort) withdraw the storage permit if:		
(a)	it is notified or made aware of leakages or significant irregularities under Art. 16(1)	<i>Reg. 11(5)(a), (6) and (7)</i>	
(b)	reports or inspections show non-compliance with permit conditions or risks of leakage or significant irregularities	<i>Reg. 11(5)(a) and (b), (6) and (7)</i>	
(c)	it is aware of any other failure to meet permit conditions	<i>Reg. 11(5)(b), (6) and (7)</i>	
(d)	it appears necessary on the basis of scientific findings and technological progress	<i>Reg. 11(5)(c), (6) and (7)</i>	
(e)	in any event after 5 years of issue of permit and then every ten years.	<i>Reg. 11(6)(b) and (7)</i>	.
11.4	Consequences of withdrawal of storage permit:		
	Authority must issue new permit or close the storage site.	<i>Reg. 12(2) and (3)</i>	
	Until new permit issued, authority must assume responsibility for injection criteria, monitoring and corrective measures, and liabilities under Arts 5(1) and 6(1) of the Environmental	<i>Reg. 12(4)</i>	

	Liability Directive and under ETS Directive. ³		
	If site is closed, Article 17(4) applies.	<i>Reg. 12(5)</i>	
	Costs of the above to recovered from former operator, including by drawing on financial security	<i>Reg. 12(6) and Schedule 2, para. 7(5).</i>	
12	CO₂ stream acceptance criteria and procedure		
12.1	Stream to consist overwhelmingly of CO ₂ : hence no waste to be added but may contain incidental and added trace substances below the levels that would (a) adversely affect integrity of the site or transport infrastructure (b) pose a significant risk to environment or health (c) breach applicable legislative requirements.	<i>Schedule 2, para 1(1)</i> <i>para 1(2)(a)</i> <i>para 1(2)(b) and (3)</i> <i>para 1(2)(b)(i)</i> <i>para 1(2)(b)(ii)</i> <i>para 1(2)(b)</i>	
12.2	Commission shall if appropriate adopt guidelines		No implementation necessary
12.3	The operator must: (a) carry out an analysis and risk assessment of the CO ₂ stream; and (b) keep a register of the quantities and properties of the streams delivered and injected	<i>Schedule 2, para 1(4)</i> <i>para 1(5)</i>	
13	Monitoring		
13.1	Operator to monitor injection facilities, storage complex (including where possible the CO ₂ plume) and where appropriate the surrounding environment, for the purposes listed in (a) to (g).	<i>Schedule 2, para 2(1) and (2)</i> <i>para 2(3)(a) to (g)</i>	
13.2	Monitoring to be based on a monitoring plan drawn up in accordance with Annex II and with guidelines under the ETS Directive, and approved by the	<i>reg. 6(3)(e) and Schedule 2, para 2(4)</i>	

³ Directives 2004/35/EC and 2003/87/EC of the European Parliament and of the Council.

	<p>authority under Arts. 7(6) and 9(5).</p> <p>Plan to be updated in accordance with Annex II and in any case every 5 years, and re-submitted for approval.</p>	<i>Schedule 2, para 2(5) to (7)</i>	
14	Reporting by the operator		
	At a frequency to be determined by authority (but in any event at least once a year) the operator must submit the following information:	<i>Schedule 2, para 3(1) to (4)</i>	
14.1	results of monitoring, including technology employed, in the reporting period	<i>para 3(1) and (5)(a)</i>	
14.2	quantities and properties of the CO ₂ streams	<i>para 3(1) and (5)(b)</i>	
14.3	proof of financial security	<i>para 3(1) and (5)(c)</i>	
14.4	any other information the authority considers relevant	<i>para 3(1) and (5)(d)</i>	
15	Inspections		To be implemented by separate instrument
16	Measures in case of leakages or significant irregularities		
16.1	<p>Operator's obligation to immediately notify authority in such cases</p> <p>and take necessary corrective measures, including measures related to human health;</p> <p>in leakage or risk of leakage cases, must also notify the Emissions Trading Scheme authority.</p>	<p><i>Schedule 2 paragraph 3(6)</i></p> <p><i>para 6(1)</i></p> <p><i>para 3(7)</i></p>	
16.2	Measures to be taken on the basis of a corrective measures plan approved by the authority.	<i>Schedule 2, para 6(2), and reg.7(6)</i>	
16.3	<p>The authority may require corrective and health protection measures to be taken at any time.</p> <p>These may be different or additional to those in the corrective measures plan.</p> <p>It may at any time take such measures itself.</p>	<p><i>Reg 10(2)(a)</i></p> <p><i>Reg 10(3)</i></p> <p><i>Reg 10(4)(a)</i></p>	<p>Obligation to consult operator added, for reasons of fairness.</p> <p>Possibility of employing sub-contractor made explicit</p>

16.4	If the operator fails to take the measures, the authority must do so itself.	<i>Reg 10(2)(b)</i>	
16.5	The authority's costs must be recovered from the operator	<i>Reg 10(4)(b) and (5)</i>	
17	Closure and post-closure obligations		
17.1	Circumstances in which site is to be closed:		
(a)	if relevant permit conditions have been met;	<i>Schedule 1, para 2(1)</i>	
(b)	on application by the operator;	<i>Schedule 1, para 2(2)(a) and (3)</i>	
(c)	if the authority decides following withdrawal of storage permit	<i>Reg 12(2) and (3)</i>	
17.2	<p>Until liability is transferred to the authority, the operator remains responsible (in cases (a) and (b) above) for:</p> <p>monitoring, reporting and corrective measures</p> <p>liabilities under Arts 5 to 8 of the Environmental Liability Directive and under the ETS Directive</p> <p>The operator is also responsible for sealing site and removing the injection facilities</p>	<p><i>Schedule 1, para 1 and para 4(1)</i></p> <p><i>Schedule 1, para 4(1)</i></p> <p><i>Reg. 14</i></p> <p><i>Schedule 1, para 4(3)</i></p>	Transfer of liability to the authority will take place on termination of the licence (and will be dealt with in a separate instrument).
17.3	<p>Those obligations must be fulfilled on basis of a post-closure plan in accordance with Annex II.</p> <p>For that purpose, the provisional post-closure plan must (prior to closure) be:</p>	<i>Schedule 1, para 2(4) and para 4(2)</i>	
(a)	updated in the light of risk analysis, best practice and technological improvements	<i>Schedule 1, para 3</i>	
(b)	submitted for approval, and	<i>Schedule 1, para 3(1)</i>	
(c)	meet the approval of the authority	<i>Reg 13(3)</i>	
17.4	If site has been closed following withdrawal of the	<i>Reg. 12(5), Schedule 1 para 1</i>	

	<p>permit, authority must assume responsibility for monitoring and corrective measures, and liabilities under Arts 5(1) and 6(1) of the Environmental Liability Directive and under the ETS Directive.</p> <p>Post-closure responsibilities to be fulfilled by the authority on the basis of the provisional post-closure plan, updated as necessary</p>	<i>Reg. 13(4)</i>	
17.5	Costs of the above to recovered from operator, including by drawing on financial security	<i>Reg. 12(6) and Schedule 2, para 7(5)(b).</i>	
18	Transfer of responsibility		To be implemented by separate instrument (see under Article 17.2)
19	Financial security		
19.1	<p>Proof of financial security or equivalent to be presented as part of permit application.</p> <p>This is to ensure that all obligations under the permit and the ETS Directive can be met.</p> <p>The security must be valid and effective before commencement of injection</p>	<p><i>Regulation 6(3)(i)</i></p> <p><i>Schedule 2, para 7(1)(a) and (5)</i></p> <p><i>para 7(1)(b)</i></p>	
19.1	Security is to be periodically adjusted in the light of risks and estimated costs	<i>Schedule 2, para 7(3) to (5)</i>	
19.3	Security is to remain in force:		
(a)	after the site is closed and until transfer of responsibility;	<i>Schedule 2, para 7(1)(c)</i>	See under Article 17.2
(b)	<p>after withdrawal of the permit, until a new permit is issued or (where the site is closed) until transfer of responsibility,</p> <p>provided that the financial contribution obligation under Art. 20 is fulfilled</p>	<p><i>Schedule 2, para 7(2)(a) and (b)</i></p> <p><i>Para 7(6)</i></p> <p>(See below)</p>	
20	Financial mechanism		To be implemented by the separate instrument dealing with transfer of liability

21	Access to transport network and storage sites		To be implemented by a separate instrument dealing with third-party access
22	Dispute settlement		As above.
23	Competent authority		
	Member States must establish or designate the competent authorities under this Directive. Where more than one is designated, coordination arrangements must be established.	<i>Section 18</i> These will be established by Memoranda of Understanding between the licensing authorities in different parts of the UK.	Licensing functions may also be transferred under section 34
24	Transboundary cooperation		
	In case of transboundary transport, storage sites or storage complexes, Member States to meet requirements of Directive and other relevant Community legislation jointly.		To be considered when issue becomes relevant (implementation may be administrative).
25	Registers		
25.1	Authority to establish and maintain the following registers:	<i>Section 29 and reg. 9</i>	Can be included as parts within a single register. <u>Gold-plating</u> : not all listed information may be strictly required by Directive, but is included in the interest of transparency
(a)	register of storage permits granted	<i>Reg. 9(2)(a) and (3)</i>	
(b)	permanent register of all closed storage sites and surrounding complexes, including maps and sections, and available information relevant for assessing containment of CO ₂	<i>Reg. 9(2)(b), (4) and (5))</i>	
25.2	Registers to be taken into consideration in other planning and permitting decisions		To be implemented administratively. See also section 47A(1) of the Petroleum Act 1998 (as amended by

			Schedule 1 to the Energy Act 2008)
26	Information to the public		No separate implementation required
27	Reporting by Member States		Implemented administratively
28	Penalties		
	Member States must lay down effective, proportionate and dissuasive rules on penalties and take all measures necessary to implement them and must notify them to Commission	<i>Sections 22, 23 and 25.</i>	See also <i>section 27(5)</i> Implemented administratively (see also <i>section 28</i>) Implemented administratively
29	Amendments of Annexes		No implementation necessary
30	Committee procedure		As above
31	Amendment of Directive 85/337		To be implemented by a separate instrument
32	Amendment of Directive 2000/60		As above
33	Amendment of Directive 2001/80		Implemented administratively
34	Amendment of Directive 2004/35	<i>Reg. 15</i>	Implemented in respect of certain areas only
35	Amendment of Directive 2006/12		To be implemented by a separate instrument
36	Amendment of Regulation 1013/2006		No transposition required
37	Amendment of Directive 2008/1		To be implemented by a separate instrument
38	Review		No implementation necessary
39	Transposition and transitional measures		
39.1	Transposition to be by 25 June 2011.	<i>Regulation 1(1)</i>	Further implementing instruments will have to be made before the transposition deadline. This partial degree of 'early'

	<p>Measures to be communicated to Commission.</p> <p>Measures must contain or be accompanied by a reference to the Directive</p>		<p>implementation can be regarded as an element of <u>gold-plating</u></p> <p>Implemented administratively</p> <p>References in Explanatory Note, and Explanatory Memorandum</p>
39.2	Other main provisions in field covered by Directive to be communicated to Commission		Implemented administratively
39.3	Transitional provisions for existing storage sites		Not applicable
40	Entry into force		No implementation necessary
41	Addressees		As above
Annex I	Criteria for assessment of storage complex	<i>Reg. 7(1)(a)</i>	
Annex II	Criteria for monitoring plan, and post-closure monitoring	<i>Reg. 6(3)(e) and Schedule 2, para 2(5)</i> <i>Reg. 13(1)(b)</i>	