



Energy Act 2023

2023 CHAPTER 52

PART 2

CARBON DIOXIDE CAPTURE, STORAGE ETC AND HYDROGEN PRODUCTION, TRANSPORT AND STORAGE

CHAPTER 3

STRATEGY AND POLICY STATEMENT

99 Designation of strategy and policy statement

- (1) The Secretary of State may designate a statement as the strategy and policy statement for the purposes of this Part (“the CCUS strategy and policy statement”) if the requirements set out in [section 102](#) are satisfied (consultation and laying requirements).
- (2) The CCUS strategy and policy statement is a statement prepared by the Secretary of State that sets out—
 - (a) the strategic priorities, and other main considerations, of His Majesty’s government in formulating its carbon dioxide capture, usage and storage policy for the United Kingdom (“strategic priorities”),
 - (b) the particular outcomes to be achieved as a result of the implementation of that policy (“policy outcomes”), and
 - (c) the roles and responsibilities of persons (whether the Secretary of State, the economic regulator or other persons) who are involved in implementing that policy or who have other functions that are affected by it.
- (3) In preparing a statement for designation under [subsection \(1\)](#) (or undertaking a review under [section 101](#)), the Secretary of State must take account of any statement for the time being designated under section 131 of the Energy Act 2013 (strategy and policy statement in respect of energy policy).

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- (4) The Secretary of State must publish the CCUS strategy and policy statement (including any amended statement following a review under [section 101](#)) in such manner as the Secretary of State considers appropriate.
- (5) For the purposes of this section, carbon dioxide capture, usage and storage policy “for the United Kingdom” includes such policy for—
 - (a) the territorial sea adjacent to the United Kingdom, or
 - (b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).
- (6) In this Chapter—
 - “the CCUS strategy and policy statement” means the statement for the time being designated under [subsection \(1\)](#) as the strategy and policy statement for the purposes of this Part;
 - “economic regulator” has the same meaning as in [Part 1](#) (see [section 55](#));
 - “policy outcomes” has the meaning given in [subsection \(2\)\(b\)](#);
 - “strategic priorities” has the meaning given in [subsection \(2\)\(a\)](#).

Commencement Information

II [S. 99](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

100 Duties with regard to considerations in the statement

- (1) The economic regulator must have regard to the strategic priorities set out in the CCUS strategy and policy statement when carrying out CCUS-related functions under this Part or Part 1.
- (2) The Secretary of State and the economic regulator must carry out their respective CCUS-related functions under [Part 1](#) and this Part in the manner which the Secretary of State or the economic regulator (as the case may be) considers is best calculated to further the delivery of the policy outcomes.
- (3) [Subsection \(2\)](#) is subject to the application of the principal objectives in the carrying out of any such function.
- (4) [Subsections \(1\) and \(2\)](#) do not apply to anything done by the economic regulator—
 - (a) in the exercise of functions relating to the determination of disputes;
 - (b) in the exercise of functions under [section 36\(1\)](#) or [37\(1\)](#).
- (5) The duties imposed by [subsections \(1\) and \(2\)](#) do not affect the obligation of the economic regulator or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment or otherwise).
- (6) The economic regulator must give notice to the Secretary of State if at any time the economic regulator concludes that a policy outcome contained in the strategy and policy statement is not realistically achievable.
- (7) A notice under [subsection \(6\)](#) must include—
 - (a) the grounds on which the conclusion was reached;

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- (b) what (if anything) the economic regulator is doing, or proposes to do, for the purpose of furthering the delivery of the outcome so far as reasonably practicable.
- (8) In this section—
- “CCUS-related functions” means functions to which the strategic priorities are relevant (not including functions under sections 69 to 72, 84(1) or (2) or 89, or other functions so far as carried out in connection with those functions);
- “principal objectives” means the principal objectives of the Secretary of State and the economic regulator set out in section 1(1).

Commencement Information

I2 S. 100 in force at 26.12.2023, see s. 334(3)(b)

101 Review

- (1) The Secretary of State must review the CCUS strategy and policy statement if a period of 5 years has elapsed since the relevant time.
- (2) In this section “relevant time”, in relation to the CCUS strategy and policy statement, means—
- (a) the time when the statement was first designated under section 99, or
- (b) if later, the time when a review of the statement under this section last took place.
- (3) A review under subsection (1) must take place as soon as reasonably practicable after the end of the 5 year period.
- (4) The Secretary of State may review the CCUS strategy and policy statement at any other time if—
- (a) a Parliamentary general election has taken place since the relevant time,
- (b) the economic regulator has given notice to the Secretary of State under section 100(6) since the relevant time,
- (c) a significant change in the policy of His Majesty’s government with regard to carbon dioxide capture, usage and storage has occurred since the relevant time,
- (d) the Secretary of State has commenced a review under section 134 of the Energy Act 2013 since the relevant time,
- (e) the Parliamentary approval requirement in relation to an amended statement was not met on the last review (see subsection (13)).
- (5) The Secretary of State may determine that a significant change in the government’s policy with regard to carbon dioxide capture, usage and storage has occurred for the purposes of subsection (4)(c) only if—
- (a) the change was not anticipated at the relevant time, and
- (b) if the change had been so anticipated, it appears to the Secretary of State likely that the statement would have been different in a material way.
- (6) On a review under this section the Secretary of State may—
- (a) amend the statement (including by replacing the whole or part of the statement with new content),

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- (b) leave the statement as it is, or
 - (c) withdraw the statement’s designation as the strategy and policy statement.
- (7) The amendment of a statement under [subsection \(6\)\(a\)](#) has effect only if the Secretary of State designates under [section 99](#) the amended statement as the strategy and policy statement (and the procedural requirements under [section 102](#) apply in relation to any such designation).
- (8) For the purposes of this section, corrections of clerical or typographical errors are not to be treated as amendments made to the statement.
- (9) The designation of a statement as the strategy and policy statement ceases to have effect upon a subsequent designation of an amended statement as the strategy and policy statement in accordance with [subsection \(7\)](#).
- (10) Before proceeding under [subsection \(6\)\(b\)](#) or [\(c\)](#) the Secretary of State must give notice to the appropriate consultees—
- (a) setting out the Secretary of State’s proposed decision, and
 - (b) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations must be made,
- and the Secretary of State must consider any representations which are duly made and not withdrawn.
- (11) For the purposes of [subsection \(10\)](#), the “appropriate consultees” are—
- (a) the economic regulator;
 - (b) so far as the decision as to whether or not to proceed relates to Scottish devolved matters, the Scottish Ministers;
 - (c) so far as that decision relates to Welsh devolved matters, the Welsh Ministers;
 - (d) so far as that decision relates to Northern Ireland devolved matters, the Department for the Economy in Northern Ireland.
- (12) For the purposes of [subsection \(2\)\(b\)](#), a review of a statement takes place—
- (a) where the decision on the review is to amend the statement under [subsection \(6\)\(a\)](#)—
 - (i) at the time when the amended statement is designated as the CCUS strategy and policy statement under [section 99](#), or
 - (ii) if the amended statement is not so designated, at the time when the amended statement was laid before Parliament for approval under [section 102\(9\)](#);
 - (b) where the decision on the review is to leave the statement as it is under [subsection \(6\)\(b\)](#), at the time when that decision is taken.
- (13) For the purposes of [subsection \(4\)\(e\)](#), the Parliamentary approval requirement in relation to an amended statement was not met on the last review if—
- (a) on the last review of the strategy and policy statement to be held under this section, an amended statement was laid before Parliament for approval under [section 102\(9\)](#), but
 - (b) the amended statement was not designated because such approval was not given.
- (14) For the purposes of this section—
- (a) something relates to Welsh devolved matters so far as it relates to any matter provision about which would be within the legislative competence of Senedd

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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);

- (b) something relates to Scottish devolved matters so far as it relates to any matter provision about which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- (c) something relates to Northern Ireland devolved matters so far as it relates to any matter provision about which—
 - (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.

Commencement Information

I3 [S. 101](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

102 Procedural requirements

- (1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it as the CCUS strategy and policy statement.
- (2) In this section references to a statement include references to a statement as amended following a review under [section 101\(6\)\(a\)](#).
- (3) The Secretary of State must first—
 - (a) prepare a draft of the statement, and
 - (b) issue the draft to the required consultees for the purpose of consulting them about it.
- (4) The “required consultees” are—
 - (a) the economic regulator,
 - (b) the Scottish Ministers,
 - (c) the Department for the Economy in Northern Ireland, and
 - (d) the Welsh Ministers.
- (5) The Secretary of State must then—
 - (a) make such revisions to the draft as the Secretary of State considers appropriate as a result of responses to the consultation under [subsection \(3\)\(b\)](#), and
 - (b) issue the revised draft for the purposes of further consultation about it to the required consultees and to such other persons as the Secretary of State considers appropriate.
- (6) The Secretary of State must then—
 - (a) make any further revisions to the draft that the Secretary of State considers appropriate as a result of responses to the consultation under [subsection \(5\)\(b\)](#), and
 - (b) prepare a report summarising those responses and the changes (if any) that the Secretary of State has made to the draft as a result.

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- (7) In relation to required consultees within [subsection \(4\)\(b\)](#) to (d), references in subsections [\(3\)\(b\)](#) and [\(5\)\(b\)](#) to consultation about a draft are to consultation about the draft so far as it relates—
- (a) in the case of the Scottish Ministers, to Scottish devolved matters;
 - (b) in the case of the Department for the Economy in Northern Ireland, to Northern Ireland devolved matters;
 - (c) in the case of the Welsh Ministers, to Welsh devolved matters.
- (8) References in this section to relating to Scottish devolved matters, Northern Ireland devolved matters or Welsh devolved matters are to be interpreted in accordance with [section 101\(14\)](#).
- (9) The Secretary of State must lay before Parliament—
- (a) the statement as revised under [subsection \(6\)\(a\)](#), and
 - (b) the report prepared under [subsection \(6\)\(b\)](#).
- (10) The statement as laid under [subsection \(9\)\(a\)](#) must have been approved by a resolution of each House of Parliament before the Secretary of State may designate it as the strategy and policy statement under [section 99](#).
- (11) The requirement under [subsection \(3\)\(a\)](#) to prepare a draft of a statement may be satisfied by preparation carried out before, as well as preparation carried out after, the passing of this Act.

Commencement Information

I4 [S. 102](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

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