

---

## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations make provision in connection with the offering by a carbon capture counterparty designated under section 67 of the Energy Act 2023 (“the Act”) of contracts for the capture of carbon dioxide by eligible carbon capture entities (referred to in the Act as “carbon capture revenue support contracts”). Such contracts must be offered following a direction from the Secretary of State pursuant to section 68(1) of the Act. A direction may only be given in favour of an “eligible carbon capture entity”.

Section 68(4) of the Act provides that the Secretary of State must make regulations which define the meaning of “eligible” in relation to a carbon capture entity. Regulation 3 achieves this in relation to carbon capture entities where the carbon dioxide (or substance consisting primarily of carbon dioxide) has been produced by commercial or industrial activities. This provides that a carbon capture entity, where the relevant carbon dioxide (or substance consisting primarily of carbon dioxide) has been produced by commercial or industrial activities, is an “eligible carbon capture entity” provided that it is not an “excluded carbon capture entity”. Regulation 4 defines an “excluded carbon capture entity”.

Regulation 5 makes provision as to the form and content of directions given by the Secretary of State pursuant to section 68 of the Act. Regulation 6 makes provision as to when a direction ceases to have effect. Regulation 7 confers a power on the Secretary of State to revoke directions and sets out the procedure to be followed in such a case.

Regulation 8 contains requirements regarding the publication of contracts entered into pursuant to a direction given by the Secretary of State. Regulation 9 and the Schedule make provision for the creation and maintenance of a register of contracts entered into following a direction given by the Secretary of State. Regulation 10 contains requirements for a counterparty to notify the Secretary of State if it is, or is likely to be, unable to perform its obligations under or by virtue of the Act, regulations made under the Act or a carbon capture revenue support contract.

An impact assessment was prepared for the Act in relation to hydrogen and industrial carbon capture business models and is available from the Department for Energy Security and Net Zero at 3-8 Whitehall Place, London, SW1A 2EG and is published at <https://bills.parliament.uk/bills/3311/publications>.