



Energy Act 2023

2023 CHAPTER 52

PART 2

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

CHAPTER 6

GENERAL

VALID FROM 26/12/2023

128 Access to infrastructure

- (1) The Secretary of State may by regulations make provision about the acquisition of rights to use relevant infrastructure (whether existing or proposed).
- (2) In exercising the power under [subsection \(1\)](#) the Secretary of State must have regard to the need to ensure that the process for acquiring such rights operates in a transparent and non-discriminatory manner.
- (3) Without prejudice to the generality of [subsection \(1\)](#), regulations under that subsection may amend, revoke or replace or make provision similar or corresponding to—
 - (a) the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 ([S.I. 2011/2305](#));
 - (b) the Storage of Carbon Dioxide (Access to Infrastructure) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 388](#)).
- (4) Regulations under [subsection \(1\)](#)—
 - (a) may confer functions (including discretions) on any person;
 - (b) may confer jurisdiction on a court or tribunal;

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- (c) may create criminal offences or impose civil penalties;
 - (d) may make other provision about enforcement;
 - (e) must provide for any offences created by the regulations to be triable—
 - (i) only summarily, or
 - (ii) either summarily or on indictment.
- (5) Where regulations under subsection (1) impose a civil penalty, they must also provide for a right of appeal against the imposition of the penalty.
- (6) Before making regulations under subsection (1) the Secretary of State must give to the appropriate consultees a notice—
- (a) stating that the Secretary of State proposes to make regulations under subsection (1), 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 with respect to the proposed provisions,
- and must consider any representations duly made and not withdrawn.
- (7) For the purposes of this section the “appropriate consultees” are—
- (a) the GEMA;
 - (b) the Scottish Ministers, if the regulations contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (c) the Welsh Ministers, if the regulations contain provision that would be within the legislative competence of Senedd 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);
 - (d) the Department for the Economy in Northern Ireland, if the regulations contain provision that—
 - (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;
 - (e) the Oil and Gas Authority.
- (8) Regulations under subsection (1) are subject to the affirmative procedure.
- (9) In this section “relevant infrastructure” means—
- (a) a site for the geological storage of carbon dioxide that is situated in a regulated place, or
 - (b) a pipeline, situated in a regulated place, which is used or intended to be used to convey carbon dioxide to a site falling within paragraph (a),
- and any associated installations, apparatus or works.
- (10) For the purposes of this section a site or pipeline is situated in a “regulated place” if it is situated—
- (a) in the United Kingdom, or
 - (b) in, under or over—
 - (i) the internal waters of the United Kingdom,
 - (ii) the territorial sea adjacent to United Kingdom, or

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- (iii) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).
- (11) In this section “geological storage” has the same meaning as in Part 1 (see [section 55](#)).

Commencement Information

II S. 128 in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

129 Financial assistance

- (1) The Secretary of State may provide financial assistance to any person for the purpose of encouraging, supporting or facilitating—
- transportation of carbon dioxide;
 - storage of carbon dioxide;
 - carbon dioxide capture facilities which operate (or are to operate) in association with facilities for any activity mentioned in paragraph (a) or (b);
 - low carbon hydrogen production;
 - transportation of hydrogen;
 - storage of hydrogen.
- (2) The financial assistance referred to in [subsection \(1\)](#) includes expenditure incurred by the Secretary of State for the purposes of, or in connection with—
- the establishment of a revenue support counterparty, a hydrogen levy administrator or an allocation body;
 - making payments to a revenue support counterparty.
- (3) Financial assistance under this section—
- may be provided in any form and in particular by way of grants, loans, guarantees or indemnities or by the provision of insurance;
 - may be provided subject to conditions (which may include conditions about repayment with or without interest or other return);
 - may be provided pursuant to a contract;
 - may be provided to an investment fund for onward investment or for administrative costs relating to onward investment;
 - may be provided by incurring expenditure for the benefit of the person assisted;
 - may be provided by the acquisition of shares or any other interest in, or securities of, a body corporate;
 - may be provided by the acquisition of any undertaking or of any assets.
- (4) The Secretary of State is not authorised by this section to give financial assistance in the way described in [subsection \(3\)\(f\)](#) without the consent of the body corporate concerned.
- (5) The power to provide financial assistance under this section is in addition to (and does not limit or replace) any other power of a Minister of the Crown to provide financial assistance.
- (6) In this section—

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“allocation body” has the same meaning as in [Chapter 1](#) (see [section 73\(6\)](#));
“greenhouse gas” has the meaning given by section 92(1) of the Climate Change Act 2008;
“hydrogen levy administrator” has the same meaning as in [Chapter 1](#) (see [section 69\(6\)](#));
“low carbon hydrogen production” means production of hydrogen by a method which in the opinion of the Secretary of State will contribute to a reduction in emissions of greenhouse gases;
“revenue support counterparty” has the same meaning as in [Chapter 1](#) (see [section 58\(6\)](#));
“storage”, in relation to carbon dioxide, means any storage with a view to the permanent containment of carbon dioxide;
“undertaking” means any trade or business or any other activity providing employment.

Commencement Information

I2 S. 129 in force at Royal Assent, see [s. 334\(2\)\(b\)](#)

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