

*Draft Regulations laid before Parliament under sections 57(9) and 331(3) of the Energy Act 2023, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2024 No. XXX**

**ENERGY**

**The Carbon Dioxide Transport and Storage Revenue Support (Directions and Counterparty) Regulations 2024**

*Made* - - - - **\*\*\***  
*Coming into force* - - **\*\*\***

Before making these Regulations, the Secretary of State has in accordance with section 85 of the Energy Act 2023(1) consulted the persons listed in section 85(2).

In accordance with sections 57(9) and 331(3) of that Act, a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 57, 58(2), 60(3), and 83(1) of that Act, makes the following Regulations:

**Citation, commencement, extent, interpretation and application**

1.—(1) These Regulations may be cited as the Carbon Dioxide Transport and Storage Revenue Support (Directions and Counterparty) Regulations 2024 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) References to a numbered section are to that section as numbered in the Energy Act 2023.

(4) These Regulations apply for the purposes of a carbon dioxide transport and storage revenue support contract(2) entered into pursuant to a direction made by the Secretary of State under section 60(1).

(5) In these regulations—

“counterparty” means a person designated under section 59(1) to be a counterparty for carbon dioxide transport and storage revenue support contracts;

“eligible person” means the holder of a licence granted under section 7 of the Energy Act 2023 or a person who is to be granted a licence under section 7 (and has been notified of that by the Secretary of State or the GEMA);

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(1) 2023 c. 52.

(2) A “carbon dioxide transport and storage revenue support contract” is defined by section 59(2) of the Energy Act 2023.

“revenue support contract” means a carbon dioxide transport and storage revenue support contract.

### **Directions pursuant to section 60(1) of the Energy Act 2023**

2.—(1) A direction given by the Secretary of State to a counterparty pursuant to section 60(1) must—

- (a) be in writing;
- (b) specify the date on which it is given;
- (c) specify the name of the eligible person (and its registered number if it is a company) with whom the counterparty is required to offer to contract;
- (d) specify the terms that must be included in the revenue support contract to be offered by the counterparty to the eligible person;
- (e) prohibit the counterparty from modifying those terms (whether by making additions, omissions, amendments, substitutions or otherwise) when offering to contract, except with the prior written consent of the Secretary of State;
- (f) specify the date by the end of which the counterparty must comply with the direction; and
- (g) specify the length of time for which the offer must be open for acceptance by the eligible person.

(2) The date specified for the purposes of paragraph (1)(f) must—

- (a) in the case of a direction given on a working day, be no earlier than the twentieth working day beginning with the day on which the direction is given;
- (b) in the case of a direction given on a day that is not a working day, be no earlier than the twentieth working day beginning with the first working day following the day on which the direction is given.

(3) The Secretary of State must send a copy of the direction to the eligible person specified in it by the end of the fifth working day following the day on which the direction is given.

(4) For the purposes of this regulation, “working day” means any day except a Saturday, a Sunday, Christmas day, Good Friday or a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(3) in England and Wales.

### **Directions ceasing to have effect**

3.—(1) A direction given to a counterparty under section 60(1) ceases to have effect (and any offer made by the counterparty pursuant to it lapses), if—

- (a) the counterparty receives from the eligible person to whom the offer is made, a notice in writing rejecting the offer (which includes any case where a counter-offer is made by the eligible person);
- (b) no written acceptance of the offer is received by the counterparty from the eligible person to whom the offer is made, by the end of the period within which the counterparty requires acceptance of the offer to be received by it; or
- (c) the direction is revoked by the Secretary of State pursuant to regulation 4 (Revocation of a direction).

(2) Where an offer lapses in the circumstances referred to in paragraph (1), the counterparty must forthwith notify the eligible person of that fact.

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(3) 1971 c. 80.

### **Revocation of a direction**

4.—(1) The Secretary of State may by notice in writing revoke a direction given pursuant to section 60(1) provided that, where an offer has been made pursuant to that direction, that offer has not been accepted in writing by the eligible person to which it is made.

(2) A notice given under paragraph (1) is of no effect unless it is delivered to the eligible person named in that direction and the counterparty.

(3) A notice given under paragraph (1) must specify the date on which it is made and identify the direction to which it relates.

### **Publication of revenue support contracts**

5.—(1) A counterparty must, subject to any redaction required by virtue of paragraph (2), publish each revenue support contract to which it is a party as soon as reasonably practicable.

(2) The counterparty must redact from a revenue support contract required to be published by virtue of paragraph (1), any parts of that contract which—

- (a) a term of that contract provides should be redacted from the contract as published;
- (b) the Secretary of State by notice in writing requires the counterparty to redact; or
- (c) contain personal data.

(3) The Secretary of State may only give the counterparty a notice under paragraph (2)(b) where the Secretary of State considers that those parts of the contract that the Secretary of State requires to be redacted contain information which—

- (a) constitutes a trade secret; or
- (b) if disclosed, would—
  - (i) be likely to be harmful to the commercial interests of any person; or
  - (ii) give rise to an actionable breach of confidence.

(4) Nothing in this regulation prevents the inclusion on the register established and maintained under regulation 6(2) of information that the counterparty is required to enter onto that register.

### **Register of revenue support contracts**

6.—(1) A counterparty must, as soon as is reasonably practicable, assign a unique identifier to any revenue support contract to which it is a party.

(2) A counterparty must establish and maintain a register in accordance with the requirements of the Schedule to these Regulations.

(3) The counterparty must make arrangements for access to the register to be made available online.

(4) The counterparty must make such arrangements as are reasonable in the circumstances, to make the register available for inspection at its premises by any person who requests such access in writing.

### **Counterparties - notification of defaults**

7.—(1) A counterparty must promptly notify the Secretary of State if it is, or considers that it is likely to be, unable to perform a function conferred on it under or by virtue of—

- (a) the Energy Act 2023;
- (b) subordinate legislation made under that Act; or
- (c) a contract it has entered into in pursuance of that Act or that subordinate legislation.

(2) The counterparty must provide such assistance as the Secretary of State may require with a view to securing the performance of that function, including the provision of such information as the Secretary of State may require.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Energy Security and Net Zero

## SCHEDULE

Regulation 6(2)

### REGISTER OF REVENUE SUPPORT CONTRACTS

#### PART 1

##### DUTIES OF A COUNTERPARTY

1. The counterparty must maintain the register required to be kept by virtue of regulation 6 in accordance with the requirements set out in this Schedule.
2. The counterparty must create an entry on the register in respect of each revenue support contract to which it is a party.
3. The counterparty may, in addition to any information that it is required to enter onto the register, enter onto the register any other information which it considers would facilitate the administration of revenue support contracts.

#### PART 2

##### INFORMATION IDENTIFYING THE CONTRACT AND THE ELIGIBLE PERSON

###### **The unique identifier**

4. The counterparty must enter onto the register the unique identifier assigned to each revenue support contract pursuant to regulation 6(1).

###### **Information regarding the eligible person**

5. The counterparty must, in respect of each revenue support contract to which it is a party, enter onto the register—
  - (a) the name of the eligible person who is a party to that contract;
  - (b) the address for correspondence with the eligible person; and
  - (c) any unique identifier (for example, a company registration number) assigned to the eligible person by a public authority in the United Kingdom.

#### PART 3

##### INFORMATION REGARDING THE TRANSPORT AND STORAGE FACILITIES

6. The counterparty must, in respect of each revenue support contract to which it is a party, enter onto the register the name of the facility where the eligible person is to transport or store carbon dioxide in pursuance of the revenue support contract.

## PART 4

### INFORMATION ABOUT THE COMMENCEMENT AND DURATION OF ACTIVITIES PURSUANT TO THE CONTRACT ETC.

7.—(1) A counterparty must, in relation to each revenue support contract to which it is a party, enter onto the register—

- (a) the date agreed pursuant to that contract on which it is intended to start the transport or storage of carbon dioxide;
- (b) the date notified by the eligible person pursuant to that contract as the date on which it expects to be eligible to receive payments under the contract, updated quarterly; and
- (c) the date on which the contract expires or, in the event of the earlier termination of the contract, the date on which the contract terminated.

(2) But the counterparty must omit from the register the information required by subparagraph (1)(b) where—

- (a) the eligible person requests this in writing; and
- (b) the counterparty considers that if the information were the subject of a request for disclosure under the Freedom of Information Act 2000<sup>(4)</sup>, or the Environmental Information Regulations 2004<sup>(5)</sup>, the counterparty would be entitled to withhold the information from disclosure.

### EXPLANATORY NOTE

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

These Regulations make provision in connection with the offering by a carbon dioxide transport and storage counterparty designated under section 59(1) of the Energy Act 2023 (“the Act”) of contracts for carbon dioxide transport and storage (referred to in section 59(2) of the Act as “carbon dioxide transport and storage revenue support contracts”). Such contracts must be offered following a direction from the Secretary of State pursuant to section 60(1) of the Act.

Regulation 2 makes provision as to the form and content of directions made by the Secretary of State pursuant to section 60 of the Act. Regulation 3 makes provision as to when a direction ceases to have effect. Regulation 4 confers a power on the Secretary of State to revoke directions and sets out the procedure to be followed in such a case.

Regulation 5 contains requirements regarding the publication of carbon dioxide transport and storage revenue supports. Regulation 6 and the Schedule make provision for the creation and maintenance of a register of carbon dioxide transport and storage revenue support contracts. Regulation 7 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 dioxide transport and storage revenue support contract.

(4) 2000 c. 36.

(5) S.I. 2004/3391.

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**Draft Legislation:** *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.*

An impact assessment was prepared for the Energy Act 2023 in relation to carbon dioxide transport and storage, 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/publications/47261/documents/2122>.