



Energy Act 2023

2023 CHAPTER 52

PART 2

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

CHAPTER 1

REVENUE SUPPORT CONTRACTS

Hydrogen levy

69 Appointment of hydrogen levy administrator

- (1) The Secretary of State may by regulations appoint a person to carry out functions with respect to obligations of relevant market participants under [section 70](#).
- (2) The Secretary of State may exercise the power under [subsection \(1\)](#) so that more than one appointment has effect under that subsection at the same time.
- (3) An appointment may be made only with the consent of the person appointed (except where that person is the Secretary of State).
- (4) An appointment ceases to have effect if the Secretary of State by regulations revokes the appointment.
- (5) As soon as reasonably practicable after a person's appointment under [subsection \(1\)](#) ceases to have effect, the Secretary of State must make one or more transfer schemes under [section 86](#) to ensure the transfer of any rights and liabilities of that person that the Secretary of State considers appropriate.
- (6) A person appointed under [subsection \(1\)](#) is called a "hydrogen levy administrator".

Status: Point in time view as at 26/12/2023.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Cross Heading: Hydrogen levy. (See end of Document for details)

Commencement Information

II S. 69 in force at 26.12.2023, see s. 334(3)(b)

70 Obligations of relevant market participants

- (1) Revenue support regulations may make provision for relevant market participants (see [subsection \(8\)](#)) to make payments to a hydrogen levy administrator for the purpose of enabling—
 - (a) a hydrogen transport counterparty to make payments under a hydrogen transport revenue support contract or in respect of liabilities incurred in connection with hydrogen transport revenue support contracts;
 - (b) a hydrogen storage counterparty to make payments under a hydrogen storage revenue support contract or in respect of liabilities incurred in connection with hydrogen storage revenue support contracts;
 - (c) a hydrogen production counterparty to make payments under a hydrogen production revenue support contract or in respect of liabilities incurred in connection with the contract;
 - (d) a counterparty to a carbon dioxide transport and storage revenue support contract to make payments under that contract, or in respect of liabilities incurred in connection with that contract, for a purpose connected with hydrogen production revenue support contracts.
- (2) Revenue support regulations may make provision for relevant market participants to make payments to a hydrogen levy administrator for the purpose of enabling the hydrogen levy administrator—
 - (a) to meet or reimburse such descriptions of relevant costs (whether of the hydrogen levy administrator or another person) as the Secretary of State considers appropriate;
 - (b) to hold sums in reserve;
 - (c) to cover losses in the case of insolvency or default of a relevant market participant.
- (3) Revenue support regulations may make provision about the method of calculating or determining amounts that are to be paid by a hydrogen levy administrator for a purpose mentioned in [subsection \(1\)](#) or [\(2\)](#), including provision for adjustments or apportionments in cases where an amount required to be paid by a hydrogen levy administrator for such a purpose has not been paid in full.
- (4) Revenue support regulations may make provision to require relevant market participants to provide financial collateral to a hydrogen levy administrator (whether in cash, securities or any other form).
- (5) Revenue support regulations that make provision by virtue of [subsection \(1\)](#) for the payment of sums by relevant market participants must impose on a hydrogen levy administrator a duty in relation to the collection of such sums.
- (6) In [subsection \(1\)](#) a reference to liabilities incurred in connection with a revenue support contract includes liabilities incurred in connection with a contract entered into by the counterparty concerned for a purpose related to that contract.

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- (7) In [subsection \(2\)](#) “relevant costs” means any costs in connection with the performance of any function conferred by or by virtue of this Chapter.
- (8) In this Chapter “relevant market participants” means one or more descriptions of persons specified in revenue support regulations, but a description so specified may not include persons other than—
- (a) GB gas shippers;
 - (b) Northern Ireland gas shippers.
- (9) Revenue support regulations may make provision about eligibility for exemptions from obligations imposed on relevant market participants by regulations within subsections [\(1\)](#) to [\(4\)](#).

Commencement Information

I2 [S. 70](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

71 Payments to relevant market participants

- (1) Revenue support regulations may make provision about amounts which must be paid—
- (a) by a hydrogen levy administrator to relevant market participants, or
 - (b) by a relevant counterparty—
 - (i) to relevant market participants, or
 - (ii) to a hydrogen levy administrator for the purpose of enabling payments to be made to relevant market participants.
- (2) Regulations by virtue of [subsection \(1\)](#) may make provision—
- (a) for a hydrogen levy administrator to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts which are owed by—
 - (i) the hydrogen levy administrator, or
 - (ii) a relevant counterparty;
 - (b) for a relevant counterparty to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts which are owed by—
 - (i) the relevant counterparty, or
 - (ii) a hydrogen levy administrator;
 - (c) for the issuing of notices by a hydrogen levy administrator to require the payment by a relevant counterparty of amounts calculated or determined by the hydrogen levy administrator in accordance with [paragraph \(a\)\(ii\)](#);
 - (d) for the issuing of notices by a relevant counterparty to require the payment by a hydrogen levy administrator of amounts calculated or determined by the relevant counterparty in accordance with [paragraph \(b\)\(ii\)](#);
 - (e) for the provision of copies of notices such as are mentioned in [paragraph \(c\)](#) or [\(d\)](#) to persons specified in the regulations, or the publication of such notices.
- (3) Revenue support regulations may make provision imposing on a relevant market participant who receives a payment from a hydrogen levy administrator or a relevant counterparty a requirement to secure that customers of the relevant market participant

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receive, by a time specified in the regulations, such benefit from the payment as may be specified in or determined in accordance with the regulations.

- (4) In this section “relevant counterparty” means any of the following—
- (a) a hydrogen transport counterparty;
 - (b) a hydrogen storage counterparty;
 - (c) a hydrogen production counterparty.

Commencement Information

I3 S. 71 in force at 26.12.2023, see s. 334(3)(b)

72 Functions of hydrogen levy administrator

- (1) Revenue support regulations may make provision—
- (a) specifying things that a hydrogen levy administrator may or must do, or things that a hydrogen levy administrator may not do;
 - (b) conferring on the Secretary of State powers to direct a hydrogen levy administrator to do, or not to do, things specified in the regulations or the direction.
- (2) The following provisions of this section are without prejudice to the generality of [subsection \(1\)\(a\)](#).
- (3) Revenue support regulations may make provision—
- (a) for a hydrogen levy administrator to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts that are owed by a relevant market participant or are to be provided as financial collateral by a relevant market participant;
 - (b) for the issuing of notices by a hydrogen levy administrator to require the payment or provision of such amounts;
 - (c) for the provision of copies of such notices to persons specified in the regulations or the publication of such notices;
 - (d) for the enforcement of obligations imposed by or under the regulations (including provision about interest on late payments and imposing financial penalties);
 - (e) about the resolution of disputes, including provision about arbitration or appeals (which may in particular include provision for the person conducting an arbitration or determining an appeal to order the payment of costs or expenses or compensation);
 - (f) for a hydrogen levy administrator to determine the form and terms of any financial collateral;
 - (g) for a hydrogen levy administrator to hold sums in reserve.
- (4) Provision made by virtue of [subsection \(3\)\(a\)](#) or [section 70\(3\)](#) or [\(9\)](#) or [71\(2\)](#) or [\(3\)](#) may provide for anything that is to be calculated or determined under the regulations to be calculated or determined—
- (a) by such persons,
 - (b) in accordance with such procedure, and
 - (c) by reference to such matters and to the opinion of such persons,

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as may be specified in the regulations.

- (5) Provision made by virtue of [subsection \(3\)\(d\)](#) for the imposition of a financial penalty must include provision for a right of appeal against the imposition of the penalty.
- (6) Any sum that—
- (a) a relevant market participant is required by virtue of revenue support regulations to pay to a hydrogen levy administrator, and
 - (b) has not been paid by the date on which it is required by virtue of revenue support regulations to be paid,
- may be recovered from the relevant market participant by the hydrogen levy administrator as a civil debt due to it.
- (7) Revenue support regulations may make provision about the application of sums held by a hydrogen levy administrator.
- (8) The provision that may be made by virtue of [subsection \(7\)](#) includes provision that sums are to be paid, or not to be paid, into the Consolidated Fund.

Commencement Information

14 [S. 72](#) in force at 26.12.2023, see [s. 334\(3\)\(b\)](#)

Status:

Point in time view as at 26/12/2023.

Changes to legislation:

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