



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 production

65 Designation of hydrogen production counterparty

- (1) The Secretary of State may by notice given to a person designate the person to be a counterparty for hydrogen production revenue support contracts.
- (2) A “hydrogen production revenue support contract” is a contract to which a hydrogen production counterparty is a party and which was entered into by a hydrogen production counterparty in pursuance of a direction given to it under [section 66\(1\)](#) or a notification given to it under [section 75\(1\)](#).
- (3) A person designated under [subsection \(1\)](#) is referred to in this Chapter as a “hydrogen production counterparty”.
- (4) A designation may be made only with the consent of the person designated (except where that person is the Secretary of State).
- (5) The Secretary of State may exercise the power of designation so that more than one designation has effect under [subsection \(1\)](#), but only if the Secretary of State considers it necessary for the purposes of ensuring that—
 - (a) liabilities under a hydrogen production revenue support contract are met,
 - (b) arrangements entered into for purposes connected to a hydrogen production revenue support contract continue to operate, or

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

- (c) directions given to a hydrogen production counterparty continue to have effect.
- (6) As soon as reasonably practicable after a designation ceases to have effect, the Secretary of State must make one or more transfer schemes under [section 86](#) to ensure the transfer of all rights and liabilities under any hydrogen production revenue support contract to which the person who has ceased to be a hydrogen production counterparty was a party.
- (7) In this Chapter—
- “low carbon hydrogen producer” means a person who carries on (or is to carry on) in the United Kingdom activities of producing hydrogen which in the opinion of the Secretary of State will contribute to a reduction in emissions of greenhouse gases;
- “greenhouse gas” has the meaning given by section 92(1) of the Climate Change Act 2008.
- (8) In [subsection \(7\)](#) the reference to carrying on activities in the United Kingdom includes carrying on activities in, above or below—
- (a) the territorial sea adjacent to the United Kingdom;
 - (b) waters in a Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004).

Commencement Information

II [S. 65](#) in force at Royal Assent, see [s. 334\(3\)\(a\)\(iii\)](#)

66 Direction to offer to contract with eligible low carbon hydrogen producer

- (1) The Secretary of State may, in accordance with any provision made by revenue support regulations, direct a hydrogen production counterparty to offer to contract with an eligible low carbon hydrogen producer specified in the direction, on terms specified in the direction.
- (2) Revenue support regulations may make further provision about a direction under this section and in particular about—
 - (a) the circumstances in which a direction may or must be given;
 - (b) the terms that may or must be specified in a direction.
- (3) Provision falling within [subsection \(2\)](#) may include provision for—
 - (a) the determination of a matter on a competitive basis,
 - (b) calculations or determinations to be made under the regulations, including by such persons, in accordance with such procedure and by reference to such matters and to the opinion of such persons, as may be specified in the regulations.
- (4) Revenue support regulations must make provision for determining the meaning of “eligible” in relation to a low carbon hydrogen producer.
- (5) Regulations within [subsection \(4\)](#) may in particular make provision by reference to standards or other published documents (as they have effect from time to time).

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Changes to legislation:

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