Energy Act 2023

2023 CHAPTER 52

PART 2

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

CHAPTER 1

REVENUE SUPPORT CONTRACTS

Key definitions

56 Chapter 1: interpretation

(1) In this Chapter—

"allocation body" has the meaning given by section 73(6)(d);

"allocation notification" has the meaning given by section 75(3);

"carbon capture allocation body" has the meaning given by section 73(6)(b);

"carbon capture counterparty" has the meaning given by section 67(3);

"carbon capture entity" has the meaning given by section 67(7);

"carbon capture revenue support contract" has the meaning given by section 67(2);

"carbon dioxide transport and storage counterparty" has the meaning given by section 59(3);

"carbon dioxide transport and storage revenue support contract" has the meaning given by section 59(2);

"eligible carbon capture entity" is to be interpreted in accordance with regulations by virtue of section 68(4);

"eligible hydrogen storage provider" is to be interpreted in accordance with section 64(4);

"eligible hydrogen transport provider" is to be interpreted in accordance with section 62(4);

"eligible low carbon hydrogen producer" is to be interpreted in accordance with regulations by virtue of section 66(4);

"GB gas shipper" means a person who holds a licence under section 7A(2) of the Gas Act 1986;

"hydrogen levy administrator" has the meaning given by section 69(6);

"hydrogen production allocation body" has the meaning given by section 73(6)(a);

"hydrogen production counterparty" has the meaning given by section 65(3);

"hydrogen production revenue support contract" has the meaning given by section 65(2);

"hydrogen storage counterparty" has the meaning given by section 63(3);

"hydrogen storage provider" has the meaning given by section 63(7);

"hydrogen storage revenue support contract" has the meaning given by section 63(2);

"hydrogen transport counterparty" has the meaning given by section 61(3);

"hydrogen transport provider" has the meaning given by section 61(7);

"hydrogen transport revenue support contract" has the meaning given by section 61(2);

"low carbon hydrogen producer" has the meaning given by section 65(7);

"Northern Ireland gas shipper" means a person who holds a licence under Article 8(1)(c) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)) and who in the opinion of the Secretary of State carries on an activity which is similar to an activity that (in Great Britain) may be authorised by a licence under section 7A(2) of the Gas Act 1986;

"relevant market participant" has the meaning given by section 70(8);

"revenue support contract" has the meaning given by section 57(2);

"revenue support counterparty" has the meaning given by section 58(6);

"revenue support regulations" has the meaning given by section 57(4).

(2) In this Chapter references to "allocating" a hydrogen production revenue support contract or carbon capture revenue support contract to a person are to be interpreted in accordance with section 73(6).

Provision of revenue support under certain contracts

57 Revenue support contracts

(1) The Secretary of State may by regulations make provision about revenue support contracts (including the funding of liabilities and costs in relation to such contracts).

(2) In this Chapter "revenue support contract" means—

(a) a carbon dioxide transport and storage revenue support contract (see section 59(2)),

(b) a hydrogen transport revenue support contract (see section 61(2)),

(c) a hydrogen storage revenue support contract (see section 63(2)),

(d) a hydrogen production revenue support contract (see section 65(2)), or

(e) a carbon capture revenue support contract (see section 67(2)).

(3) The provision made by this Chapter is without prejudice to the generality of subsection (1).

(4) In this Part "revenue support regulations" means regulations under this section.

(5) Revenue support regulations may—

(a) make different provision for different cases or circumstances or for different purposes;

(b) provide for exemptions or other exceptions to any requirement imposed by the regulations.

(6) Revenue support regulations may—

(a) include incidental, supplementary or consequential provision;

(b) make transitory or transitional provision or savings.

(7) Revenue support regulations may confer any function on any person.

(8) Revenue support regulations may provide for a function conferred on a person to be exercisable on that person's behalf by another person.

(9) Regulations of any of the following kinds are subject to the affirmative procedure—

(a) the first revenue support regulations that make (with or without other provision) provision falling within any of sections 70, 71, 72, 77, 78, 82 or 83;

(b) revenue support regulations that make (with or without other provision) provision falling within any of sections 58(2), 60(3), 62(2) or (4), 64(2) or (4), 66(2) or (4), 68(2) or (4), 75, 76, 81(4) or 84.

(10) Any other revenue support regulations are subject to the negative procedure.

(11) If, apart from this subsection, a draft of an instrument containing revenue support regulations would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

Duties of revenue support counterparty

58 Duties of revenue support counterparty

(1) A revenue support counterparty must act in accordance with—

(a) any direction given by the Secretary of State by virtue of this Chapter;

(b) any provision included in revenue support regulations.

(2) Revenue support regulations may make provision—

(a) to require a revenue support counterparty to enter into arrangements or to offer to contract for purposes connected to a revenue support contract;

(b) specifying things that a revenue support counterparty may or must do, or things that a revenue support counterparty may not do;

(c) conferring on the Secretary of State further powers to direct a revenue support counterparty to do, or not to do, things specified in the regulations or the direction.

(3) The provision that may be made by virtue of subsection (2)(b) or (c) includes provision requiring consultation with, or the consent of, the Secretary of State in relation to—

(a) the determination of an application for a modification agreement under section 78;

(b) the enforcement of obligations under a revenue support contract;

(c) a variation or termination of a revenue support contract;

(d) the settlement or compromise of a claim under a revenue support contract;

(e) the conduct of legal proceedings relating to a revenue support contract;

(f) the exercise of rights under a revenue support contract.

(4) A revenue support counterparty must exercise the functions conferred by or by virtue of this Chapter so as to ensure that it can meet its liabilities under any revenue support contract to which it is a party.

(5) Revenue support regulations must include such provision as the Secretary of State considers necessary so as to ensure that a carbon dioxide transport and storage counterparty, hydrogen transport counterparty, hydrogen storage counterparty, hydrogen production counterparty or carbon capture counterparty can meet its liabilities under any carbon dioxide transport and storage revenue support contract, hydrogen transport revenue support contract, hydrogen storage revenue support contract, hydrogen production revenue support contract or (as the case may be) carbon capture revenue support contract to which it is a party.

(6) In this Chapter "revenue support counterparty" means—

(a) a carbon dioxide transport and storage counterparty (see section 59(3)),

(b) a hydrogen transport counterparty (see section 61(3)),

(c) a hydrogen storage counterparty (see section 63(3)),

(d) a hydrogen production counterparty (see section 65(3)), or

(e) a carbon capture counterparty (see section 67(3)).

Carbon dioxide capture, storage etc and hydrogen production, transport and storage

59 Designation of carbon dioxide transport and storage counterparty

(1) The Secretary of State may by notice given to a person designate the person to be a counterparty for carbon dioxide transport and storage revenue support contracts.

(2) A "carbon dioxide transport and storage revenue support contract" is a contract in relation to which both the following paragraphs apply—

(a) the contract is between a carbon dioxide transport and storage counterparty and the holder of a licence under section 7;

(b) the contract was entered into by a carbon dioxide transport and storage counterparty in pursuance of a direction given to it under section 60(1).

(3) A person designated under subsection (1) is referred to in this Chapter as a "carbon dioxide transport and storage 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 to designate 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 carbon dioxide transport and storage revenue support contract are met,

(b) arrangements entered into for purposes connected to a carbon dioxide transport and storage revenue support contract continue to operate, or

(c) directions given to a carbon dioxide transport and storage 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 carbon dioxide transport and storage revenue support contract to which the person who has ceased to be a carbon dioxide transport and storage counterparty was a party.

60 Direction to offer to contract with licence holder

(1) The Secretary of State may, in accordance with any provision made by revenue support regulations, direct a carbon dioxide transport and storage counterparty to offer to contract with an eligible person specified in the direction, on terms specified in the direction.

(2) The following are "eligible" persons for the purposes of this section—

(a) the holder of a licence under section 7, or

(b) 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).

(3) 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.

Hydrogen transport

61 Designation of hydrogen transport counterparty

(1) The Secretary of State may by notice given to a person designate the person to be a counterparty for hydrogen transport revenue support contracts.

(2) A "hydrogen transport revenue support contract" is a contract to which a hydrogen transport counterparty is a party and which was entered into by a hydrogen transport counterparty in pursuance of a direction given to it under section 62(1).

(3) A person designated under subsection (1) is referred to in this Chapter as a "hydrogen transport 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 transport revenue support contract are met,

(b) arrangements entered into for purposes connected to a hydrogen transport revenue support contract continue to operate, or

(c) directions given to a hydrogen transport 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 transport revenue support contract to which the person who has ceased to be a hydrogen transport counterparty was a party.

(7) In this Chapter "hydrogen transport provider" means a person who carries on (or is to carry on) in the United Kingdom activities of transporting hydrogen.

(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);

(c) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

(9) In subsection (7) "transporting hydrogen" includes transporting a compound, of which hydrogen is an element, which revenue support regulations specify as a qualifying compound for the purposes of this section.

62 Direction to offer to contract with eligible hydrogen transport provider

(1) The Secretary of State may, in accordance with any provision made by revenue support regulations, direct a hydrogen transport counterparty to offer to contract with an eligible hydrogen transport provider 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 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 hydrogen transport provider.

(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).

Hydrogen storage

63 Designation of hydrogen storage counterparty

(1) The Secretary of State may by notice given to a person designate the person to be a counterparty for hydrogen storage revenue support contracts.

(2) A "hydrogen storage revenue support contract" is a contract to which a hydrogen storage counterparty is a party and which was entered into by a hydrogen storage counterparty in pursuance of a direction given to it under section 64(1).

(3) A person designated under subsection (1) is referred to in this Chapter as a "hydrogen storage 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 storage revenue support contract are met,

(b) arrangements entered into for purposes connected to a hydrogen storage revenue support contract continue to operate, or

(c) directions given to a hydrogen storage 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 storage revenue support contract to which the person who has ceased to be a hydrogen storage counterparty was a party.

(7) In this Chapter "hydrogen storage provider" means a person who carries on (or is to carry on) in the United Kingdom activities of storing hydrogen.

(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);

(c) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

(9) In subsection (7) "storing hydrogen" includes storing a compound, of which hydrogen is an element, which revenue support regulations specify as a qualifying compound for the purposes of this section.

64 Direction to offer to contract with eligible hydrogen storage provider

(1) The Secretary of State may, in accordance with any provision made by revenue support regulations, direct a hydrogen storage counterparty to offer to contract with an eligible hydrogen storage provider 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 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 hydrogen storage provider.

(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).

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

(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).

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).

Carbon capture

67 Designation of carbon capture counterparty

(1) The Secretary of State may by notice given to a person designate the person to be—

(a) a counterparty for carbon capture revenue support contracts;

(b) a counterparty for any one or more descriptions of carbon capture revenue support contract.

(2) A "carbon capture revenue support contract" is a contract to which a carbon capture counterparty is a party and which was entered into by a carbon capture counterparty in pursuance of a direction given to it under section 68(1) or a notification given to it under section 75(2).

(3) A person designated under subsection (1) is referred to in this Chapter as a "carbon capture 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—

(a) exercise the power under paragraph (a) of subsection (1) so that more than one designation has effect under that paragraph;

(b) exercise the power under paragraph (b) of that subsection so that more than one designation has effect in respect of any description of carbon capture revenue support contract.

(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 carbon capture revenue support contract to which the person who has ceased to be a carbon capture counterparty was a party.

(7) In this section—

"carbon capture entity" means a person who carries on (or is to carry on) in the United Kingdom, with a view to the storage of carbon dioxide, activities of capturing carbon dioxide (or any substance consisting primarily of carbon dioxide) that—

(a) has been produced by commercial or industrial activities,

(b) is in the atmosphere, or

(c) has dissolved in sea water;

"storage", in relation to carbon dioxide, means any storage with a view to the permanent containment of carbon dioxide.

(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 Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

68 Direction to offer to contract with eligible carbon capture entity

(1) The Secretary of State may, in accordance with any provision made by revenue support regulations, direct a carbon capture counterparty to offer to contract with an eligible carbon capture entity 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 carbon capture entity.

(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).

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".

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.

(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).

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 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.

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,

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.

Allocation of contracts

73 Power to appoint allocation bodies

(1) The Secretary of State may by regulations appoint—

(a) a person to carry out functions in connection with the allocation of hydrogen production revenue support contracts;

(b) a person to carry out functions in connection with the allocation of carbon capture revenue support contracts.

(2) The power under each paragraph of subsection (1) may be exercised so that more than one appointment has effect under that paragraph 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—

(a) the Secretary of State by regulations revokes the appointment, or

(b) the person withdraws consent.

(5) Regulations under subsection (1) may make provision with regard to the cessation of an appointment, including—

(a) provision requiring a person appointed under subsection (1) to give a period of notice no shorter than a period specified in the regulations when withdrawing their consent to appointment, or otherwise restricting or subjecting to conditions a person's power under subsection (4) to withdraw consent;

(b) provision enabling a person who has ceased to be appointed under subsection (1) to continue to be treated as if they were so appointed, including provision about the purposes for which, the circumstances in which, and the period for which, such a person may be so treated.

(6) In this Chapter—

(a) a person appointed under subsection (1)(a) is called a "hydrogen production allocation body";

(b) a person appointed under subsection (1)(b) is called a "carbon capture allocation body";

(c) references to "allocating" a hydrogen production revenue support contract or carbon capture revenue support contract to a person are to specifying the person in a notification under section 75(1) or (2) (and references to the "allocation" of such a contract are to be interpreted accordingly);

(d) "allocation body" means a hydrogen production allocation body or a carbon capture allocation body.

(7) Regulations under this section, other than regulations under subsection (4)(a), are subject to the negative procedure.

74 Standard terms of revenue support contracts

(1) The Secretary of State may issue standard terms and conditions ("standard terms") of—

(a) hydrogen production revenue support contracts;

(b) carbon capture revenue support contracts.

(2) The Secretary of State may from time to time revise standard terms.

(3) Standard terms issued or revised under this section must be in accordance with provision made in revenue support regulations.

(4) The Secretary of State must publish standard terms as issued or revised under this section.

(5) In publishing standard terms the Secretary of State may designate particular standard terms as terms that may not be modified under section 78.

(6) Different standard terms may be issued for different categories of hydrogen production revenue support contract or carbon capture revenue support contract.

75 Allocation notifications

(1) A hydrogen production allocation body may, in accordance with provision made by revenue support regulations, give a notification to a hydrogen production counterparty specifying—

(a) an eligible low carbon hydrogen producer, and

(b) such other information as may be required for the purpose of making an offer under section 77 to contract with that low carbon hydrogen producer.

(2) A carbon capture allocation body may, in accordance with provision made by revenue support regulations, give a notification to a carbon capture counterparty specifying—

(a) an eligible carbon capture entity, and

(b) such other information as may be required for the purpose of making an offer under section 77 to contract with that carbon capture entity.

(3) A notification given under subsection (1) or (2) is called an "allocation notification".

(4) Revenue support regulations may make further provision about allocation notifications and in particular provision about—

(a) the circumstances in which an allocation notification may or must be given;

(b) the kinds of information that must be specified in an allocation notification in accordance with subsection (1)(b) or (2)(b);

(c) appeals against decisions not to give allocation notifications.

76 Allocation of contracts

(1) Provision that may be made in revenue support regulations for the purposes of section 75(1) and (2) includes provision about how determinations are to be made as regards—

(a) which eligible low carbon hydrogen producer a hydrogen production revenue support contract is to be allocated to;

(b) which eligible carbon capture entity a carbon capture revenue support contract is to be allocated to.

(2) Provision made by revenue support regulations falling within subsection (1) may include—

(a) provision conferring power on the Secretary of State to make rules (an "allocation framework") about the allocation of hydrogen production revenue support contracts or carbon capture revenue support contracts;

(b) provision for different periods within which hydrogen production revenue support contracts or carbon capture revenue support contracts are to be allocated ("allocation rounds");

(c) provision for different allocation frameworks to apply in respect of different allocation rounds;

(d) provision for the publication of allocation frameworks;

(e) provision about matters in relation to which provision may or must be made in an allocation framework.

(3) Provision made by revenue support regulations falling within subsection (2) may impose requirements on the Secretary of State, including in particular—

(a) requirements as to the giving of notice before an allocation round is commenced;

(b) restrictions on the circumstances in which amendments may be made during an allocation round to an allocation framework or to any other matter relevant to an allocation round (including any amount by reference to which a limit on the contracts allocated during the round is to be determined).

(4) An allocation framework may—

(a) confer functions on an allocation body with respect to the allocation of hydrogen production revenue support contracts or carbon capture revenue support contracts;

(b) specify targets to be met or taken into account by an allocation body in giving allocation notifications by virtue of section 75, including targets relating to—

(i) the process used for producing hydrogen or for capturing carbon dioxide;

(ii) outputs or capacity (whether in respect of hydrogen production or capture of carbon dioxide);

(iii) the geographical location of an applicant's activities;

(c) make provision by reference to standards or other published documents (as they have effect from time to time);

(d) make any provision that may be made by regulations by virtue of subsection (3).

(5) An allocation framework may include provision for—

(a) the determination of a matter on a competitive basis;

(b) calculations or determinations to be made under the framework, 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 framework.

(6) An allocation framework may—

(a) include incidental, supplementary and consequential provision;

(b) make transitory or transitional provision and savings;

(c) make different provision for different cases or circumstances or for different purposes;

(d) make provision subject to exceptions.

(7) Any power conferred by virtue of subsection (2) to make an allocation framework includes a power to amend, add to or remove an allocation framework.

(8) Subsections (4) to (7) are subject to any provision contained in revenue support regulations.

77 Duty to offer to contract following allocation

(1) Where an allocation notification is given to a hydrogen production counterparty under section 75(1), the counterparty must, in accordance with provision made by revenue support regulations, offer to contract with the eligible low carbon hydrogen producer specified in the notification on—

(a) standard terms, or

(b) standard terms as modified in accordance with any modification agreement entered into between the counterparty and the eligible low carbon hydrogen producer for the purposes of the allocation notification (see section 78).

(2) Where an allocation notification is given to a carbon capture counterparty under section 75(2), the counterparty must, in accordance with provision made by revenue support regulations, offer to contract with the eligible carbon capture entity specified in the notification on—

(a) standard terms, or

(b) standard terms as modified in accordance with any modification agreement entered into between the counterparty and the eligible carbon capture entity for the purposes of the allocation notification (see section 78).

(3) Revenue support regulations may make further provision about an offer to contract made under this section, including provision about—

(a) how a hydrogen production counterparty or carbon capture counterparty is to apply or complete standard terms in relation to the offer in accordance with information specified in an allocation notification;

(b) the time within which the offer must be made;

(c) how the eligible low carbon hydrogen producer or eligible carbon capture entity to whom the offer is made may enter into a hydrogen production revenue support contract or (as the case may be) carbon capture revenue support contract as a result of the offer;

(d) what is to happen if the eligible low carbon hydrogen producer or eligible carbon capture entity does not enter into such a contract as a result of the offer.

(4) In this section, "standard terms", in relation to an allocation notification, means standard terms published under section 74, determined in accordance with revenue support regulations as the standard terms that are to apply in relation to the allocation notification.

78 Modification of standard terms

(1) This section applies where a person wishes to be specified as an eligible low carbon hydrogen producer, or an eligible carbon capture entity, in an allocation notification ("the potential allocation notification").

(2) A hydrogen production counterparty or (as the case requires) carbon capture counterparty and the person may, in accordance with provision made by revenue support regulations, agree to modify standard terms for the purposes of any offer that would be required under section 77 if the potential allocation notification is given (a "modification agreement").

(3) A hydrogen production counterparty or carbon capture counterparty may enter into a modification agreement providing for the modification of any particular standard term only if—

(a) the counterparty is satisfied that—

(i) the effect of the modification is minor, and

(ii) the modification is necessary; and

(b) the standard term has not been designated under section 74(5) as a term that may not be modified under this section.

(4) Revenue support regulations may make further provision about modification agreements, including—

(a) the circumstances in which a person may make an application for a modification agreement;

(b) the time by which an application must be made;

(c) the procedure to be followed, and the information to be given, by the person in making an application;

(d) how a hydrogen production counterparty or carbon capture counterparty is to determine an application (including how it is to determine whether the effect of a modification is minor and whether it is necessary);

(e) the time by which determinations must be made;

(f) the form of modification agreements.

(5) Provision made by virtue of subsection (4)(d) may include provision under which the counterparty may make alternative proposals for modifications in response to an application.

(6) In this section "modify" includes add to, alter or omit, and "modification" is to be read accordingly.

79 Sections 75 to 78: supplementary

Provision made by regulations by virtue of any of sections 75 to 78 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.

80 Licence conditions regarding functions of certain allocation bodies

(1) In section 7B of the Gas Act 1986, after subsection (5) insert—

"(5ZA) Without prejudice to the generality of paragraph (a) of subsection (4), conditions for or in connection with the purpose set out in subsection (5ZB) may be included in a licence under section 7AA by virtue of that paragraph.

(5ZB) The purpose is to facilitate or ensure the effective performance (whether in relation to Northern Ireland or any other part of the United Kingdom), at relevant times, of functions of a hydrogen production allocation body under Chapter 1 of Part 2 of the Energy Act 2023.

(5ZC) In subsection (5ZB) "relevant times" means times when the hydrogen production allocation body holds a licence under section 7AA."

(2) Where—

(a) the GEMA proposes by a modification under section 23 of the Gas Act 1986 of a licence under section 7AA of that Act to add, remove or alter a condition such as is mentioned in section 7B(5ZA) of that Act, and

(b) that condition relates to functions of a hydrogen production allocation body that are exercisable in relation to Northern Ireland,

section 23 of that Act has effect as if the persons listed in subsection (4)(b) of that section included the Department for the Economy in Northern Ireland.

General provision about counterparties

81 Further provision about designations

(1) A designation under section 59, 61, 63, 65, or 67 ceases to have effect if—

(a) the Secretary of State revokes the designation by notice given to the person designated (in which case the designation ends on the date specified in the notice), or

(b) the person withdraws consent to the designation by giving not less than 3 months' notice in writing to the Secretary of State.

(2) At any time after the first designation under section 59, 61, 63, 65 or 67 has effect, the Secretary of State must, except where the Secretary of State considers it unnecessary or not reasonably practicable to do so, exercise the power to designate so as to ensure that at least one designation has effect under that section.

(3) The Secretary of State must publish a notice given to a person under—

(a) section 59(1), 61(1), 63(1), 65(1) or 67(1), or

(b) subsection (1)(a).

(4) Revenue support regulations may make provision enabling a person who has ceased to be a carbon dioxide transport and storage counterparty, hydrogen transport counterparty, hydrogen storage counterparty, hydrogen production counterparty or carbon capture counterparty to continue to be treated as such a counterparty, including provision about the circumstances in which, and the period for which, such a person may be so treated.

82 Application of sums held by a revenue support counterparty

(1) Revenue support regulations may make provision for apportioning sums—

(a) received by a revenue support counterparty from a hydrogen levy administrator under provision made by virtue of section 70, or

(b) received by a revenue support counterparty under a revenue support contract,

in circumstances where the revenue support counterparty is unable to fully meet its liabilities under a revenue support contract.

(2) The provision that may be made by virtue of subsection (1) includes provision about the meaning of "unable to fully meet its liabilities under a revenue support contract".

(3) In making provision by virtue of subsection (1), the Secretary of State must have regard to the principle that sums should be apportioned in proportion to the amounts that are owed.

(4) Revenue support regulations may make provision about the application of sums held by a revenue support counterparty.

(5) The provision that may be made by virtue of subsection (4) includes provision that sums are to be paid, or not to be paid, into the Consolidated Fund.

Information and advice

83 Information and advice

(1) Revenue support regulations may make provision about the provision and publication of information and advice.

(2) The provision that may be made by virtue of subsection (1) includes provision—

(a) for the Secretary of State to require a revenue support counterparty, to provide advice to the Secretary of State or any other person, or persons of any description, specified in the regulations;

(b) for the Secretary of State to require any party to a revenue support contract to provide information to the Secretary of State or any other person, or persons of any description, specified in the regulations;

(c) for the Secretary of State to require any of the following to provide information or advice to the Secretary of State or any other person, or persons of any description, specified in the regulations—

(i) a hydrogen levy administrator;

(ii) an allocation body;

(iii) the GEMA;

(iv) any other person or description of persons specified in the regulations;

(d) for a revenue support counterparty to require a person specified, or of a description specified, in the regulations to provide information to it;

(e) for a hydrogen levy administrator to require—

(i) a revenue support counterparty,

(ii) an allocation body,

(iii) a relevant market participant, or

(iv) any other person or description of persons specified in the regulations,

to provide information to it;

(f) for an allocation body to require any party to a hydrogen production revenue support contract or carbon capture revenue support contract to provide information to it;

(g) for the classification and protection of confidential or sensitive information;

(h) for the enforcement of any requirement imposed by virtue of paragraphs (a) to (g).

(3) The prohibition on disclosure of information by—

(a) section 105(1) of the Utilities Act 2000;

(b) Article 63(1) of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6));

does not apply to a disclosure required by virtue of this section.

Enforcement

84 Enforcement

(1) Revenue support regulations may make provision—

(a) for requirements imposed under the regulations on a GB gas shipper to be enforceable by the GEMA as if they were relevant requirements within the meaning of sections 28 to 30O of that Act;

(b) for requirements imposed under the regulations on a person who holds a licence under Article 8(1)(c) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)) to be enforceable by the Northern Ireland Authority for Utility Regulation as if they were relevant requirements within the meaning of Part 6 of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)).

(2) References in subsection (1) to enforcement include enforcement under the terms of a licence mentioned in any of paragraphs (a) and (b) of that subsection.

(3) Revenue support regulations may make provision for special allocation body requirements (or a subset of such requirements) to be enforceable by the GEMA as if they were relevant requirements within the meaning of sections 28 to 30O of the Gas Act 1986.

(4) In this section "special allocation body requirements" means requirements imposed by or under revenue support regulations or regulations under section 73 on a hydrogen production allocation body, so far as the requirements relate to times when the body holds a licence under section 7AA of the Gas Act 1986 (including requirements in respect of functions of the body that relate to Northern Ireland).

Consultation

85 Consultation

(1) Before making revenue support regulations the Secretary of State must—

(a) consult the persons mentioned in subsection (2), and

(b) specify a period of not less than 28 days for the purposes of subsection (3).

(2) The persons to be consulted under subsection (1) are—

(a) 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;

(b) 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);

(c) 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;

(d) such other persons as the Secretary of State considers appropriate.

(3) The Secretary of State must consider any representations that are—

(a) duly made within the period specified under subsection (1)(b) by persons consulted under subsection (1), and

(b) not withdrawn.

(4) Before making regulations under section 73(1) (power to appoint allocation bodies) the Secretary of State must consult—

(a) 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;

(b) 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);

(c) 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,

and the Secretary of State must consider any representations duly made by persons consulted under this subsection and not withdrawn.

(5) Before publishing standard terms under section 74 the Secretary of State must—

(a) consult the persons mentioned in subsection (6), and

(b) specify a period of not less than 28 days for the purposes of subsection (7).

(6) The persons to be consulted under subsection (5) are—

(a) the Scottish Ministers, if the standard terms contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;

(b) the Welsh Ministers, if the standard terms 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);

(c) the Department for the Economy in Northern Ireland, if the standard terms 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;

(d) such other persons as the Secretary of State considers appropriate.

(7) The Secretary of State must consider any representations that are—

(a) duly made within the period specified under subsection (5)(b) by persons consulted under subsection (5), and

(b) not withdrawn.

(8) A requirement under this section to consult may be satisfied by consultation before, as well as consultation after, the passing of this Act.

Transfer schemes

86 Transfer schemes

(1) The Secretary of State may make—

(a) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a revenue support counterparty to a person who is a revenue support counterparty;

(b) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a hydrogen levy administrator to a person who is a hydrogen levy administrator;

(c) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a hydrogen levy administrator to the Secretary of State;

(d) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be an allocation body to a person who is an allocation body.

(2) In this section—

"transferee" means—

(a) in a case within subsection (1)(a), the person who is a revenue support counterparty;

(b) in a case within subsection (1)(b), the person who is a hydrogen levy administrator;

(c) in a case within subsection (1)(c), the Secretary of State;

(d) in a case within subsection (1)(d), the person who is an allocation body;

"transferor" means the person who has ceased to be a revenue support counterparty, a hydrogen levy administrator or an allocation body (as the case may be).

(3) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.

(4) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.

(5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.

(6) A scheme may make provision—

(a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;

(b) for references to the transferor in any agreement (whether written or not), instrument or other document relating to any property, rights or liabilities transferred by the scheme to be treated as references to the transferee;

(c) about the continuation of legal proceedings;

(d) for transferring property, rights or liabilities that could not otherwise be transferred or assigned;

(e) for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;

(f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;

(g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;

(h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;

(i) for apportioning property, rights or liabilities;

(j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;

(k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.

(7) Subsection (6)(b) does not apply to references in—

(a) primary legislation, or

(b) an instrument made under primary legislation.

(8) A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

(9) A transfer scheme may—

(a) include incidental, supplementary or consequential provision;

(b) make transitory or transitional provision or savings;

(c) make different provision for different cases or circumstances or for different purposes;

(d) make provision subject to exceptions.

(10) In this section—

"designated", in relation to a scheme, means specified in or determined in accordance with the scheme;

"primary legislation" means—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) an Act or Measure of Senedd Cymru, or

(d) Northern Ireland legislation;

"property" includes interests of any description;

"the transfer date" means a date specified by a scheme as the date on which the scheme is to have effect.

87 Modification of transfer schemes

(1) The Secretary of State may modify a transfer scheme made under section 86, subject to subsection (2).

(2) If a transfer under the scheme has taken effect, any modification under subsection (1) that relates to the transfer may be made only with the agreement of the transferor or transferee affected by the modification (or, where both the transferor and transferee are affected, with the agreement of both of them).

(3) A modification takes effect from such date as the Secretary of State may specify (which may be the date when the original scheme came into effect).

(4) In this section "transferor" and "transferee" have the same meaning as in section 86.

General

88 Shadow directors, etc

(1) The Secretary of State is not, by virtue of the exercise of a power conferred by or by virtue of this Chapter, to be regarded as—

(a) a person occupying the position of director in relation to a Chapter 1 entity;

(b) a person in accordance with whose directions or instructions the directors of a Chapter 1 entity are accustomed to act;

(c) a person in accordance with whose directions or instructions the members of a Chapter 1 entity which is a limited liability partnership are accustomed to act;

(d) exercising any function of management in a Chapter 1 entity;

(e) a principal of a Chapter 1 entity.

(2) An allocation body is not, by virtue of the exercise of a power conferred by or by virtue of this Chapter, to be regarded as—

(a) a person occupying the position of director in relation to a revenue support counterparty;

(b) a person in accordance with whose directions or instructions the directors of a revenue support counterparty are accustomed to act;

(c) a person in accordance with whose directions or instructions the members of a revenue support counterparty which is a limited liability partnership are accustomed to act;

(d) exercising any function of management in a revenue support counterparty;

(e) a principal of a revenue support counterparty.

(3) In this section "Chapter 1 entity" means the following—

(a) a revenue support counterparty;

(b) a hydrogen levy administrator;

(c) an allocation body.

89 Modifications of licences etc for purposes related to levy obligations

(1) The Secretary of State may modify—

(a) a condition of a particular licence under section 7 of the Gas Act 1986 (licensing of gas transporters);

(b) the standard conditions incorporated in licences under section 7 of the Gas Act 1986 by virtue of section 8 of that Act;

(c) a document maintained in accordance with the conditions of licences under section 7 of the Gas Act 1986, or an agreement that gives effect to a document so maintained.

(2) The Secretary of State may modify—

(a) a condition of a particular licence under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)) (licences to convey gas);

(b) the standard conditions of licences under Article 8(1)(a) of that Order;

(c) a document maintained in accordance with the conditions of licences under Article 8(1)(a) of that Order, or an agreement that gives effect to a document so maintained.

(3) The powers conferred by subsections (1) and (2) may be exercised only for the purpose of facilitating or supporting enforcement of, and administration in connection with, obligations under regulations within section 70 (including facilitation and support by way of allowing or requiring the provision of services).

(4) Provision included in a licence, or in a document or agreement relating to licences, by virtue of any power under subsection (1) or (2) may in particular include provision of a kind that may be included in revenue support regulations.

(5) Provision included in a licence, or in a document or agreement relating to licences, by virtue of a power conferred by this section may do anything authorised for licences of that type by—

(a) section 7B(5)(a), (6) or (7) of the Gas Act 1986, or

(b) Article 10(3)(a) to (d), (4), (5) or (6A) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)).

(6) For the purposes of subsection (5)(b), the provisions referred to in that paragraph are to be read as if references to the Northern Ireland Authority for Utility Regulation included the Secretary of State.

(7) If under subsection (1) the Secretary of State makes modifications of the standard conditions of a licence, the GEMA must—

(a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and

(b) publish the modification.

(8) If under subsection (2) the Secretary of State makes modifications of the standard conditions of a licence, the Northern Ireland Authority for Utility Regulation must—

(a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and

(b) publish the modification.

(9) Before making a modification under this section, the Secretary of State must consult—

(a) the holder of any licence being modified, and

(b) such other persons as the Secretary of State considers it appropriate to consult.

(10) Subsection (9) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.

90 Electricity system operator and gas system planner licences: modifications

(1) The Secretary of State may, for the purpose of facilitating or ensuring the effective performance of functions specified in subsection (3), modify—

(a) the conditions of a licence under section 6(1)(da) of the Electricity Act 1989 (electricity system operator licence);

(b) a document maintained in accordance with the conditions of such a licence, or an agreement that gives effect to a document so maintained.

(2) The Secretary of State may, for the purpose of facilitating or ensuring the effective performance of functions specified in subsection (3), modify—

(a) the conditions of a licence under section 7AA of the Gas Act 1986 (gas system planner licence);

(b) a document maintained in accordance with the conditions of such a licence, or an agreement that gives effect to a document so maintained.

(3) The functions referred to in subsections (1) and (2) are—

(a) functions of hydrogen production allocation bodies, and

(b) other functions under this Chapter which are related to such functions.

(4) Modifications under subsections (1) and (2) may only make provision in relation to times when the person holding the licence is a hydrogen production allocation body.

(5) The provision referred to in subsection (4) includes consequential or transitional provision in relation to times when it is no longer the case that the person holding the licence is a hydrogen production allocation body.

(6) Provision included in a licence, or in a document or agreement relating to licences, by virtue of a power under this section may in particular—

(a) include provision of any kind that may be included in revenue support regulations or regulations under section 73;

(b) do any of the things authorised for licences of that type by—

(i) section 7B(5)(a), (5ZA), (6) or (7) of the Gas Act 1986, or

(ii) section 7(3), (4), (5) or (6A) of the Electricity Act 1989.

(7) Before making a modification under this section the Secretary of State must consult—

(a) the holder of any licence being modified;

(b) the GEMA;

(c) such other persons as the Secretary of State considers it appropriate to consult.

(8) Subsection (7) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.

91 Sections 89 and 90: supplementary

(1) In this section "relevant power" means a power conferred by—

(a) subsection (1) or (2) of section 89, or

(b) section 90.

(2) Before making modifications under a relevant power, the Secretary of State must lay a draft of the modifications before Parliament.

(3) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the Secretary of State may not take any further steps in relation to the proposed modifications.

(4) If no such resolution is made within that period, the Secretary of State may make the modifications in the form of the draft.

(5) Subsection (3) does not prevent a new draft of proposed modifications being laid before Parliament.

(6) In this section "40-day period", in relation to a draft of proposed modifications, means the period of 40 days beginning with the day on which the draft is laid before

Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).

(7) For the purposes of calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

(8) A relevant power—

(a) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);

(b) may be exercised differently in different cases or circumstances;

(c) includes a power to make incidental, supplementary, consequential or transitional modifications.

(9) Provision included in a licence, or in a document or agreement relating to licences, by virtue of a relevant power—

(a) may make different provision for different cases;

(b) need not relate to the activities authorised by the licence.

(10) The Secretary of State must publish details of any modifications made under a relevant power as soon as reasonably practicable after they are made.

(11) A modification made under a relevant power of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 or the Gas (Northern Ireland) Order 1996.

(12) The power conferred by a relevant power to "modify" (in relation to licence conditions or a document) includes a power to amend, add to or remove, and references to modifications are to be construed accordingly.

(13) In section 81 of the Utilities Act 2000 (standard conditions of gas licences), in subsection (2), after "Energy Prices Act 2022" insert "or under section 89 or sections 245 to 247 of the Energy Act 2023".

CHAPTER 2

DECOMMISSIONING OF CARBON STORAGE INSTALLATIONS

Financing of costs of decommissioning etc

92 Financing of costs of decommissioning etc

(1) The Secretary of State may by regulations make provision for requiring relevant persons to provide security for the performance of obligations relating to the future abandonment or decommissioning of carbon dioxide-related sites, pipelines or installations.

(2) For the purposes of subsection (1) an installation, site or pipeline is "carbon dioxide-related" if it is, or is to be, used for a purpose related to the geological storage, or transportation, of carbon dioxide.

(3) In this section references to an installation, site or pipeline include one that is located in, under or over—

(a) the territorial sea adjacent to the United Kingdom, or

(b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

(4) The following provisions of this section are without prejudice to the generality of subsection (1).

(5) In this section "relevant person" means a person who—

(a) holds a licence under section 7, or

(b) is a person to whom a notice has been, or may be, given under section 29 of the Petroleum Act 1998 (preparation of abandonment programmes) in respect of a carbon storage installation.

(6) Regulations under subsection (1) may—

(a) require relevant persons to provide the Secretary of State with estimates of costs that are likely to be incurred in connection with obligations such as are mentioned in subsection (1) ("decommissioning costs");

(b) make provision about the estimation of decommissioning costs and about the manner in which such estimates are to be verified (which may include provision requiring verification by an independent third party);

(c) require relevant persons to review estimates of decommissioning costs at times, or at intervals, specified in the regulations;

(d) make provision about the approval by the Secretary of State of estimates of such costs;

(e) provide for information specified, or of a description specified, in the regulations to be supplied to the Secretary of State by relevant persons at such intervals, or on such occasions, as may be prescribed by the regulations;

(f) require the Secretary of State to consult the Oil and Gas Authority or any other person specified in the regulations before exercising functions by virtue of paragraph (d).

(7) Regulations under subsection (1) may make provision—

(a) requiring that security for the discharge of liabilities in respect of decommissioning costs must be provided by way of a fund (a "decommissioning fund");

(b) about the management of decommissioning funds;

(c) about payments to a relevant person, or another person, from such funds;

(d) providing for payments from such funds to be subject to the approval of the Secretary of State;

(e) imposing on a relevant authority functions with regard to—

(i) the monitoring and oversight of decommissioning funds;

(ii) the approval of any matter relating to such a fund.

(8) This section is without prejudice to the breadth of subsection (4) of section 30 of the Energy Act 2008.

(9) Regulations under subsection (1) may require the Secretary of State to publish guidance about—

(a) estimates of decommissioning costs (including factors which it may be appropriate to consider in deciding whether or not to approve estimates of such costs);

(b) the structure, accrual and management of decommissioning funds.

(10) Guidance by virtue of this section may make different provision for different cases or circumstances.

(11) In this section—

"carbon storage installation" has the same meaning as in section 30 of the Energy Act 2008;

"decommissioning costs" is to be interpreted in accordance with subsection (6)(a);

"decommissioning fund" is to be interpreted in accordance with subsection (7)(a);

"economic regulator" has the same meaning as in Part 1 (see section 55);

"geological storage" has the same meaning as in Part 1 (see section 55);

"relevant authority" means the Secretary of State, the economic regulator or the Oil and Gas Authority.

93 Section 92: supplementary

(1) Regulations under section 92(1) may make provision—

(a) enabling a relevant authority to charge fees to relevant persons in order to cover the costs of the exercise of the authority's functions under the regulations;

(b) about how fees payable by virtue of the regulations are to be determined;

(c) about when fees payable by virtue of the regulations are to be paid.

(2) Regulations under section 92(1) may make provision about the supplying of information, including—

(a) provision for the Secretary of State to require any other person to supply information to the Secretary of State for the purposes of the Secretary of State's functions under regulations under that section;

(b) about the sharing by the Secretary of State with the Oil and Gas Authority or the economic regulator of information about funds established as mentioned in section 92(7)(a).

(3) Regulations under section 92(1) may make provision about compliance with requirements imposed by or under the regulations, including—

(a) provision imposing civil penalties;

(b) provision making it an offence to contravene specified provisions of the regulations.

(4) Where regulations under section 92(1) provide for the imposition of a civil penalty, they must also provide for a right of appeal against the imposition of the penalty.

(5) Where regulations under section 92(1) create an offence, they must also make provision as to the mode of trial and punishment of offences, but—

(a) any provision as to punishment on summary conviction must not authorise imprisonment or, in the case of summary conviction in Scotland or Northern Ireland, a fine exceeding the statutory maximum;

(b) any provision as to punishment on conviction on indictment must not authorise imprisonment for a term exceeding 2 years.

(6) Regulations under section 92(1) may—

(a) make different provision for different purposes;

(b) create exceptions to any requirement imposed by the regulations.

(7) Regulations under section 92(1) may confer any function on any person.

(8) Regulations under section 92(1) may provide for a function conferred on a person to be exercisable on that person's behalf by another person.

(9) In this section—

"economic regulator" has the same meaning as in Part 1 (see section 55);

"relevant authority" means the Secretary of State, the economic regulator or the Oil and Gas Authority;

"relevant person" has the same meaning as in section 92.

(10) Regulations under section 92(1) may make any amendments of—

(a) the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 (S.I. 2010/2221),

(b) the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011 (S.S.I. 2011/24),

(c) the Storage of Carbon Dioxide (Termination of Licences) Regulations 2011 (S.I. 2011/1483), or

(d) the Storage of Carbon Dioxide (Licensing etc.) Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 387),

that the Secretary of State considers appropriate in consequence of, or of provision made under, section 92 or this section.

(11) Regulations under section 92(1) containing any of the following (with or without other provision) are subject to the affirmative procedure—

(a) provision creating a criminal offence;

(b) provision creating a civil penalty.

(12) Any other regulations under section 92(1) are subject to the negative procedure.

94 Regulations under section 92(1): procedure with devolved authorities

(1) Before making regulations under section 92(1) that contain provision within devolved competence, the Secretary of State must give notice to each relevant devolved authority—

(a) stating that the Secretary of State proposes to make regulations under section 92(1), and

(b) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to the provision within the relevant devolved competence,

and must consider any representations duly made and not withdrawn.

(2) In this section, "relevant devolved authority", in relation to regulations, means—

(a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;

(b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;

(c) the Department for the Economy in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence;

and "the relevant devolved competence", in relation to a relevant devolved authority, is to be construed accordingly.

(3) For the purposes of this section, provision—

(a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;

(b) is within Welsh devolved competence if it 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);

(c) is within Northern Ireland devolved competence if it—

(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;

and references to provision being within devolved competence are to provision that is within Scottish, Welsh or Northern Ireland devolved competence.

Abandonment of carbon storage installations etc

95 Provisions relating to Part 4 of the Petroleum Act 1998

(1) Section 30 of the Energy Act 2008 (abandonment of installations) is amended in accordance with subsections (2) to (6).

(2) In subsection (1), for ", (2)" substitute "to (2)".

(3) After subsection (1A) insert—

"(1AA) Part 4 of the 1998 Act, in its application in relation to carbon storage installations, has effect with the modifications set out in subsection (1AB).

(1AB) The modifications are as follows—

(a) in section 30 of the 1998 Act, for subsections (5) and (6) substitute—

"(5) This subsection applies to a person in relation to a carbon storage installation if—

(a) the person has the right—

(i) to use a controlled place for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal),

(ii) to convert any natural feature in a controlled place for the purpose of storing carbon dioxide (with a view to its permanent

disposal, or as an interim measure prior to its permanent disposal), or

(iii) to explore a controlled place with a view to, or in connection with, the carrying on of the activities within sub-paragraph (i) or (ii), and

(b) either—

(i) any activity mentioned in subsection (6) is carried on from, by means of or on the installation, or

(ii) the person intends to carry on an activity mentioned in that subsection from, by means of or on the installation,

or if the person had such a right when any such activity was last so carried on.

(6) The activities referred to in subsection (5) are—

(a) the use of a controlled place for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) in the exercise of the right mentioned in subsection (5)(a);

(b) the conversion of any natural feature in a controlled place for the purpose of storing carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) in the exercise of the right mentioned in subsection (5)(a);

(c) the exploration of a controlled place in the exercise of the right mentioned in subsection (5)(a) with a view to, or in connection with, the carrying on of activities within paragraph (a) or (b) of this subsection;

(d) the conveyance in the controlled place mentioned in subsection (5)(a) of carbon dioxide by means of a pipe or system of pipes, in the exercise of the right mentioned in subsection (5)(a); and

(e) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within any of paragraphs (a) to (d) of this subsection.";

(b) in section 30(7) of that Act, in the words before paragraph (a), for "(c)" substitute "(e)";

(c) in section 31 of that Act, for subsection (B1) substitute—

"(B1) This subsection applies to an activity if—

(a) where the activity is within paragraph (a), (b) or (c) of section 30(6), the controlled place mentioned in that paragraph is one for which the installation is, or is to be, established or maintained;

(b) where the activity is within paragraph (d) of section 30(6), the conveyance of the carbon dioxide

relates to a controlled place for which the installation is, or is to be, established;

(c) where the activity is within paragraph (e) of section 30(6), the installation is in a controlled place in respect of which P has a licence under section 18 of the Energy Act 2008.";

(d) in section 31 of that Act, omit subsection (C1);

(e) in section 45 of that Act, in the appropriate place insert—

""controlled place" has the same meaning as in section 17 of the Energy Act 2008;"."

(4) After subsection (4A) insert—

"(4B) The powers in subsections (2)(b) and (4) include power to amend or repeal subsections (1AA) and (1AB)."

(5) In subsection (5), for the words from "falling" to the end substitute "which is or has been maintained, or is intended to be established, for the purposes of an activity mentioned in section 17(2)(a), (b) or (c) to which subsection (6) applies."

(6) In subsection (6), for the words from the beginning to "it" substitute "This subsection applies to any activity which is carried on from, by means of or on an installation which".

(7) The power of the Scottish Ministers under section 30(2)(b) of the Energy Act 2008 to modify Part 4 of the Petroleum Act 1998 in its application to certain carbon storage installations includes power to make any modifications of that Part of that Act (in its application to the installations in question) that the Scottish Ministers consider appropriate in consequence of provision made by or under section 92 or 93.

(8) The power of the Secretary of State under section 30(4) of the Energy Act 2008 to modify Part 4 of the Petroleum Act 1998 in its application to certain carbon storage installations includes power to make any modifications of that Part of that Act (in its application to the installations in question) that the Secretary considers appropriate in consequence of provision made by or under section 92 or 93.

(9) In section 29 of the Petroleum Act 1998 (preparation of programmes), in subsection (6), for the words from "in question," to the end substitute "in question if the Secretary of State has under section 32—

(a) rejected that programme, or

(b) approved it (whether or not the approval has been withdrawn)."

(10) Section 38A of the Petroleum Act 1998 (protection of funds set aside for the purposes of abandonment programme) has effect as if the reference in subsection (1) of that section to the performance of obligations under an approved abandonment programme included a reference to the meeting of liabilities in respect of decommissioning costs in relation to carbon storage installations.

(11) In this section—

"carbon storage installation" has the same meaning as in section 30 of the Energy Act 2008;

"decommissioning costs" has the meaning given by section 92.

Change of use relief

96 Change of use relief: installations

(1) Section 30A of the Energy Act 2008 (installations converted for CCS demonstration projects) is amended as follows.

(2) For the heading substitute "Change of use relief for certain installations".

(3) In subsection (1), for "by order" insert ", on an application made by a relevant person, by notice".

(4) Omit subsections (2) and (3).

(5) Before subsection (4) insert—

"(3A) The Secretary of State must consult the Oil and Gas Authority before deciding—

(a) whether to designate an installation under subsection (1);

(b) whether to make a certification under subsection (5)(b)."

(6) For subsection (4) substitute—

"(4) An eligible CCS installation qualifies for change of use relief if—

(a) the Secretary of State has given a CCS-related abandonment programme notice to a person in relation to the abandonment of the installation, and

(b) the trigger event has occurred in relation to the installation.

(4A) In subsection (4) "CCS-related abandonment programme notice" means an abandonment programme notice given under section 29 of the 1998 Act in that section's application in relation to carbon storage installations (by virtue of section 30 of this Act)."

(7) For subsection (5) substitute—

"(5) The trigger event occurs in relation to an eligible CCS installation when—

(a) a decommissioning fund (as defined in section 92(7) of the Energy Act 2023) has been established for providing security for the discharge of liabilities in respect of decommissioning costs in relation to the installation, and

(b) the Secretary of State certifies by notice in writing (an "approval notice") that one or more relevant persons have paid into the fund an amount or amounts the total of which is not less than the required amount.

(5A) In subsection (5)—

(a) "relevant person" means a person of a description specified in regulations made by the Secretary of State;

(b) "the required amount" means an amount determined by the Secretary of State in accordance with regulations made by the Secretary of State.

(5B) Where the Secretary of State gives an approval notice in relation to an eligible CCS installation the Secretary of State must—

(a) give a copy of the approval notice to every person to whom a notice has been given under section 29(1) of the 1998 Act in relation to the installation, and

(b) publish a notice that—

(i) specifies the installation, and

(ii) states that the Secretary of State has given an approval notice under subsection (5)(b) in relation to it."

(8) In subsection (11), for "an order made" substitute "a notice given".

(9) After subsection (11) insert—

"(11A) The Secretary of State must publish a notice given under subsection (1)."

(10) In subsection (12)—

(a) for ""CCS demonstration project" and "commercial electricity generation" have the same meanings" substitute "has the same meaning";

(b) omit the definition of "carbon storage facility";

(c) at the appropriate places insert—

""decommissioning costs" has the meaning given by section 92 of the Energy Act 2023;";

"""relevant person" means a person to whom a notice may be given under section 29(1) of the 1998 Act in relation to an offshore installation (within the meaning given by section 44 of the 1998 Act);".

97 Change of use relief: carbon storage network pipelines

(1) Section 30B of the Energy Act 2008 (submarine pipelines converted for CCS demonstration projects) is amended as follows.

(2) For the heading substitute "Change of use relief: carbon storage network pipelines".

(3) For "CCS pipeline", in each place it occurs, substitute "carbon storage network pipeline".

(4) In subsection (1), for "by order" insert ", on an application made by a relevant person, by notice".

(5) After subsection (1) insert—

"(1A) The Secretary of State must consult the Oil and Gas Authority before deciding—

(a) whether to designate a pipeline under subsection (1);

(b) whether to make a certification under subsection (3)(b)."

(6) For subsection (2) substitute—

"(2) An eligible carbon storage network pipeline qualifies for change of use relief if—

(a) the Secretary of State has given a CCS-related abandonment programme notice to a person in relation to the abandonment of the pipeline, and

(b) the trigger event has occurred in relation to the pipeline.

(2A) In subsection (2) "CCS-related abandonment programme notice" means an abandonment programme notice under section 29 of the 1998 Act given at a time when the pipeline is used, or is to be used wholly or mainly—

(a) for the purpose of disposing of carbon dioxide by way of geological storage, or

(b) as a licensable means of transportation."

(7) For subsection (3) substitute—

"(3) The trigger event occurs in relation to an eligible carbon storage network pipeline when—

(a) a decommissioning fund (as defined in section 92(7) of the Energy Act 2023) has been established for providing security for the discharge of liabilities in respect of decommissioning costs in relation to the pipeline, and

(b) the Secretary of State certifies by notice in writing (an "approval notice") that one or more relevant persons have paid into the fund an amount or amounts the total of which is not less than the required amount.

(3A) In subsection (3)—

(a) "relevant person" means a person of a description specified in regulations made by the Secretary of State;

(b) "the required amount" means an amount determined by the Secretary of State in accordance with regulations made by the Secretary of State.

(3B) Where the Secretary of State gives an approval notice in relation to an eligible carbon storage network pipeline, the Secretary of State must—

(a) give a copy of the approval notice to every person to whom a notice has been given under section 29(1) of the 1998 Act in relation to the pipeline, and

(b) publish a notice that—

(i) specifies the pipeline, and

(ii) states that the Secretary of State has given an approval notice under subsection (3)(b) in relation to it."

(8) In subsection (6), for "an order made" substitute "a notice given".

(9) After subsection (6) insert—

"(6A) The Secretary of State must publish a notice given under subsection (1)."

(10) In subsection (7)—

(a) for "and "CCS demonstration project" have the same meanings" substitute "has the same meaning";

(b) omit the definition of "carbon storage facility";

(c) at the appropriate places insert—

""decommissioning costs" has the meaning given by section 92 of the Energy Act 2023;";

""geological storage", in relation to carbon dioxide, has the same meaning as in Part 1 of the Energy Act 2023 (see section 55 of that Act);";

""""licensable means of transportation" has the meaning given by section 2(3) of the Energy Act 2023;";
""""relevant person" means a person to whom a notice may be given under section 29(1) of the 1998 Act in relation to a submarine pipeline;".

98 Change of use relief: supplementary

(1) In the Energy Act 2008, after section 30B insert—

"**30C Relief under sections 30A and 30B: supplementary**

(1) The Secretary of State may by regulations make provision about the obtaining of information required, and sharing of information held, for the purposes of functions of the Secretary of State under sections 30A and 30B, including provision—

(a) for the Secretary of State to require the holder of a licence under section 7 of the Energy Act 2023, or a person who qualifies for change of use relief under section 30A or 30B, to provide information to the Secretary of State;

(b) authorising His Majesty's Revenue and Customs (or anyone acting on their behalf) to disclose to the Secretary of State information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005;

(c) for the enforcement of any requirement imposed by virtue of the regulations.

(2) For the purposes of subsection (1), a person "qualifies for change of use relief" if—

(a) but for section 30A(6) they would be a person to whom a notice may be given under section 29(1) of the Petroleum Act 1998 in relation to a carbon storage installation, or

(b) but for section 30B(4) they would be a person to whom a proposal may be made under section 29(1) of the Petroleum Act 1998 in relation to a submarine pipeline.

(3) In this section—

"carbon storage installation" has the same meaning as in section 30 of the Energy Act 2008;

"submarine pipeline" has the same meaning as in Part 4 of the 1998 Act (see section 45 of that Act)."

(2) In section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation), in subsection (2) omit paragraph (aa).

CHAPTER 3

STRATEGY AND POLICY STATEMENT

99 Designation of strategy and policy statement

(1) The Secretary of State may designate a statement as the strategy and policy statement for the purposes of this Part ("the CCUS strategy and policy statement") if the requirements set out in section 102 are satisfied (consultation and laying requirements).

(2) The CCUS strategy and policy statement is a statement prepared by the Secretary of State that sets out—

(a) the strategic priorities, and other main considerations, of His Majesty's government in formulating its carbon dioxide capture, usage and storage policy for the United Kingdom ("strategic priorities"),

(b) the particular outcomes to be achieved as a result of the implementation of that policy ("policy outcomes"), and

(c) the roles and responsibilities of persons (whether the Secretary of State, the economic regulator or other persons) who are involved in implementing that policy or who have other functions that are affected by it.

(3) In preparing a statement for designation under subsection (1) (or undertaking a review under section 101), the Secretary of State must take account of any statement for the time being designated under section 131 of the Energy Act 2013 (strategy and policy statement in respect of energy policy).

(4) The Secretary of State must publish the CCUS strategy and policy statement (including any amended statement following a review under section 101) in such manner as the Secretary of State considers appropriate.

(5) For the purposes of this section, carbon dioxide capture, usage and storage policy "for the United Kingdom" includes such policy for—

(a) the territorial sea adjacent to the United Kingdom, or

(b) waters in a Gas Importation and Storage Zone (within the meaning given by section 1 of the Energy Act 2008).

(6) In this Chapter—

"the CCUS strategy and policy statement" means the statement for the time being designated under subsection (1) as the strategy and policy statement for the purposes of this Part;

"economic regulator" has the same meaning as in Part 1 (see section 55);

"policy outcomes" has the meaning given in subsection (2)(b);

"strategic priorities" has the meaning given in subsection (2)(a).

100 Duties with regard to considerations in the statement

(1) The economic regulator must have regard to the strategic priorities set out in the CCUS strategy and policy statement when carrying out CCUS-related functions under this Part or Part 1.

(2) The Secretary of State and the economic regulator must carry out their respective CCUS-related functions under Part 1 and this Part in the manner which the Secretary

of State or the economic regulator (as the case may be) considers is best calculated to further the delivery of the policy outcomes.

(3) Subsection (2) is subject to the application of the principal objectives in the carrying out of any such function.

(4) Subsections (1) and (2) do not apply to anything done by the economic regulator—

(a) in the exercise of functions relating to the determination of disputes;

(b) in the exercise of functions under section 36(1) or 37(1).

(5) The duties imposed by subsections (1) and (2) do not affect the obligation of the economic regulator or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment or otherwise).

(6) The economic regulator must give notice to the Secretary of State if at any time the economic regulator concludes that a policy outcome contained in the strategy and policy statement is not realistically achievable.

(7) A notice under subsection (6) must include—

(a) the grounds on which the conclusion was reached;

(b) what (if anything) the economic regulator is doing, or proposes to do, for the purpose of furthering the delivery of the outcome so far as reasonably practicable.

(8) In this section—

"CCUS-related functions" means functions to which the strategic priorities are relevant (not including functions under sections 69 to 72, 84(1) or (2) or 89, or other functions so far as carried out in connection with those functions);

"principal objectives" means the principal objectives of the Secretary of State and the economic regulator set out in section 1(1).

101 Review

(1) The Secretary of State must review the CCUS strategy and policy statement if a period of 5 years has elapsed since the relevant time.

(2) In this section "relevant time", in relation to the CCUS strategy and policy statement, means—

(a) the time when the statement was first designated under section 99, or

(b) if later, the time when a review of the statement under this section last took place.

(3) A review under subsection (1) must take place as soon as reasonably practicable after the end of the 5 year period.

(4) The Secretary of State may review the CCUS strategy and policy statement at any other time if—

(a) a Parliamentary general election has taken place since the relevant time,

(b) the economic regulator has given notice to the Secretary of State under section 100(6) since the relevant time,

(c) a significant change in the policy of His Majesty's government with regard to carbon dioxide capture, usage and storage has occurred since the relevant time,

(d) the Secretary of State has commenced a review under section 134 of the Energy Act 2013 since the relevant time,

(e) the Parliamentary approval requirement in relation to an amended statement was not met on the last review (see subsection (13)).

(5) The Secretary of State may determine that a significant change in the government's policy with regard to carbon dioxide capture, usage and storage has occurred for the purposes of subsection (4)(c) only if—

(a) the change was not anticipated at the relevant time, and

(b) if the change had been so anticipated, it appears to the Secretary of State likely that the statement would have been different in a material way.

(6) On a review under this section the Secretary of State may—

(a) amend the statement (including by replacing the whole or part of the statement with new content),

(b) leave the statement as it is, or

(c) withdraw the statement's designation as the strategy and policy statement.

(7) The amendment of a statement under subsection (6)(a) has effect only if the Secretary of State designates under section 99 the amended statement as the strategy and policy statement (and the procedural requirements under section 102 apply in relation to any such designation).

(8) For the purposes of this section, corrections of clerical or typographical errors are not to be treated as amendments made to the statement.

(9) The designation of a statement as the strategy and policy statement ceases to have effect upon a subsequent designation of an amended statement as the strategy and policy statement in accordance with subsection (7).

(10) Before proceeding under subsection (6)(b) or (c) the Secretary of State must give notice to the appropriate consultees—

(a) setting out the Secretary of State's proposed decision, 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,

and the Secretary of State must consider any representations which are duly made and not withdrawn.

(11) For the purposes of subsection (10), the "appropriate consultees" are—

(a) the economic regulator;

(b) so far as the decision as to whether or not to proceed relates to Scottish devolved matters, the Scottish Ministers;

(c) so far as that decision relates to Welsh devolved matters, the Welsh Ministers;

(d) so far as that decision relates to Northern Ireland devolved matters, the Department for the Economy in Northern Ireland.

(12) For the purposes of subsection (2)(b), a review of a statement takes place—

(a) where the decision on the review is to amend the statement under subsection (6)(a)—

(i) at the time when the amended statement is designated as the CCUS strategy and policy statement under section 99, or

(ii) if the amended statement is not so designated, at the time when the amended statement was laid before Parliament for approval under section 102(9);

(b) where the decision on the review is to leave the statement as it is under subsection (6)(b), at the time when that decision is taken.

(13) For the purposes of subsection (4)(e), the Parliamentary approval requirement in relation to an amended statement was not met on the last review if—

(a) on the last review of the strategy and policy statement to be held under this section, an amended statement was laid before Parliament for approval under section 102(9), but

(b) the amended statement was not designated because such approval was not given.

(14) For the purposes of this section—

(a) something relates to Welsh devolved matters so far as it relates to any matter provision about which 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);

(b) something relates to Scottish devolved matters so far as it relates to any matter provision about which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;

(c) something relates to Northern Ireland devolved matters so far as it relates to any matter provision about which—

(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.

102 Procedural requirements

(1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it as the CCUS strategy and policy statement.

(2) In this section references to a statement include references to a statement as amended following a review under section 101(6)(a).

(3) The Secretary of State must first—

(a) prepare a draft of the statement, and

(b) issue the draft to the required consultees for the purpose of consulting them about it.

(4) The "required consultees" are—

(a) the economic regulator,

(b) the Scottish Ministers,

(c) the Department for the Economy in Northern Ireland, and

(d) the Welsh Ministers.

(5) The Secretary of State must then—

(a) make such revisions to the draft as the Secretary of State considers appropriate as a result of responses to the consultation under subsection (3)(b), and

(b) issue the revised draft for the purposes of further consultation about it to the required consultees and to such other persons as the Secretary of State considers appropriate.

(6) The Secretary of State must then—

(a) make any further revisions to the draft that the Secretary of State considers appropriate as a result of responses to the consultation under subsection (5)(b), and

(b) prepare a report summarising those responses and the changes (if any) that the Secretary of State has made to the draft as a result.

(7) In relation to required consultees within subsection (4)(b) to (d), references in subsections (3)(b) and (5)(b) to consultation about a draft are to consultation about the draft so far as it relates—

(a) in the case of the Scottish Ministers, to Scottish devolved matters;

(b) in the case of the Department for the Economy in Northern Ireland, to Northern Ireland devolved matters;

(c) in the case of the Welsh Ministers, to Welsh devolved matters.

(8) References in this section to relating to Scottish devolved matters, Northern Ireland devolved matters or Welsh devolved matters are to be interpreted in accordance with section 101(14).

(9) The Secretary of State must lay before Parliament—

(a) the statement as revised under subsection (6)(a), and

(b) the report prepared under subsection (6)(b).

(10) The statement as laid under subsection (9)(a) must have been approved by a resolution of each House of Parliament before the Secretary of State may designate it as the strategy and policy statement under section 99.

(11) The requirement under subsection (3)(a) to prepare a draft of a statement may be satisfied by preparation carried out before, as well as preparation carried out after, the passing of this Act.

CHAPTER 4

CARBON DIOXIDE STORAGE LICENCES

103 Specified provisions in carbon dioxide storage licences

(1) Schedule 6 amends Schedule 1 to the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 (S.I. 2010/2221) ("the 2010 Regulations").

(2) Subsections (3) to (5) apply in relation to a licence granted (or having effect as if granted) by the Oil and Gas Authority under section 18(1) of the Energy Act 2008 which is in force immediately before the commencement of Schedule 6.

(3) The licence has effect with the addition of provision having the same legal effect as paragraph 6 of Schedule 1 to the 2010 Regulations (as inserted by Schedule 6 to this Act).

(4) If the licence confers power on the Oil and Gas Authority to revoke a licence in connection with a change in control of a licence holder which is a company, the licence has effect—

(a) with the omission of such provision, and

(b) with the replacement of such provision by provision having the same legal effect as paragraph 7 of Schedule 1 to the 2010 Regulations (as inserted by Schedule 6 to this Act).

(5) If the licence confers power on the Oil and Gas Authority to partially revoke a licence in connection with a change in control of a licence holder which is a company, the licence has effect—

(a) with the omission of such provision, and

(b) with the replacement of such provision by provision having the same legal effect as paragraph 8 of Schedule 1 to the 2010 Regulations (as inserted by Schedule 6 to this Act).

(6) A reference in any document to provisions of a licence which are to have effect with amendments as provided for by Schedule 6 is to be construed, unless the nature of the document or the context otherwise requires, as a reference to those provisions as amended.

(7) A provision inserted in a licence by virtue of Schedule 6 may be altered or deleted by deed executed by the Secretary of State and the licence holder or, as respects Scotland, by an instrument subscribed or authenticated by the Secretary of State and the licence holder in accordance with the Requirements of Writing (Scotland) Act 1995.

104 Content of storage permits under carbon dioxide storage licences

(1) In the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 (S.I. 2010/2221) ("the 2010 Regulations"), regulation 8 (content of storage permits) is amended as follows—

(a) after paragraph (1) insert—

"(1A) If the operator is a company, a storage permit must also include the provisions contained in paragraph 6(2) to (11) of Schedule 1, read as if—

(a) any reference to a company were to the operator,

(b) the reference in paragraph 6(8)(b) to the licence were to the storage permit, and

(c) paragraph 6(10)(c) were omitted.";

(b) in paragraph (2), for "In this" substitute "In paragraph (1) of this".

(2) Subsection (4) applies in relation to a storage permit granted under an existing licence.

(3) "Existing licence" means a licence granted (or having effect as if granted) by the Oil and Gas Authority under section 18(1) of the Energy Act 2008 which is in force immediately before the commencement of subsection (1).

(4) The storage permit has effect with the addition of provision having the same legal effect as provision required to be included in the permit by reason of paragraph (1A) of regulation 8 of the 2010 Regulations (as inserted by subsection (1)(a)).

105 Offences relating to carbon dioxide storage licences

In section 23 of the Energy Act 2008 (offences relating to carbon dioxide storage licences), after subsection (1) insert—

"(1A) But a licence holder does not commit an offence under subsection (1)(a) or (b) if—

(a) the licence holder is a company, or, where there are joint licence holders, any of them is a company, and

(b) the thing mentioned in subsection (1)(a) or (b) is a change in the control of the company."

106 Power of OGA to require information about change in control of licence holder

After section 29 of the Energy Act 2008 insert—

"Information about change in control of licence holder

29A OGA's power to require information about change in control of licence holder

(1) This section applies in relation to a licence granted (or having effect as if granted) by the OGA which includes provisions prohibiting a change in control of a licence holder which is a company without the OGA's consent.

(2) The OGA may by notice in writing require a person within subsection (3) to provide the OGA with any information that it requires for the purpose of exercising its functions in relation to a change or potential change in control of a licence holder which is a company.

(3) The persons within this subsection are—

(a) the company;

(b) the person who (if consent were granted) would take control of the company;

(c) if the company is a joint licence holder with another person or other persons, that other person or those other persons;

(d) any person not within any of paragraphs (a) to (c) who appears to the OGA to have information that it requires as mentioned in subsection (2).

(4) The power conferred by this section does not include power to require the provision of any information that would be protected from disclosure or production in legal proceedings on grounds of legal professional privilege or, in Scotland, confidentiality of communications.

(5) Nothing in this section limits any power of the OGA to require information under—

(a) regulations under this Chapter,

(b) the terms of a licence, or

(c) the terms of a permit granted under a licence."

CHAPTER 5

CARBON STORAGE INFORMATION AND SAMPLES

Introductory

107 Chapter 5: key definitions

(1) This section applies for the purposes of this Chapter.

(2) "Carbon storage licence" means a licence granted, or having effect as if granted, by the OGA under section 18(1) of the Energy Act 2008 (and references to a "licensee" are to a person who holds such a licence).

(3) "Exploration operator", in relation to a carbon storage licence, means a person who is responsible for organising or supervising—

(a) the carrying on of exploration, within the area within which activities are authorised under the licence, with a view to, or in connection with, the carrying on of activities within section 17(2)(a) or (b) of the Energy Act 2008, or

(b) the establishment or maintenance in a controlled place (as defined in section 17 of the Energy Act 2008) of an installation for the purposes of such exploration.

(4) "Carbon storage information" means information acquired or created by or on behalf of a licensee in the course of carrying out activities under the licensee's carbon storage licence.

(5) "Carbon storage samples" means samples of substances acquired by or on behalf of a licensee in the course of carrying out activities under the licensee's carbon storage licence.

(6) "Sanctionable requirement" means a requirement imposed on a person by or under a provision of this Chapter which, by virtue of the provision, is sanctionable in accordance with this Chapter.

Requirements relating to information and samples

108 Retention of information and samples

(1) Regulations made by the Secretary of State may require—

(a) specified licensees to retain specified carbon storage information;

(b) specified licensees to retain specified carbon storage samples.

(2) "Specified" means specified, or of a description specified, in regulations under this section.

(3) Regulations under this section may include provision about—

(a) the form or manner in which information or samples are to be retained;

(b) the period for which information or samples are to be retained;

(c) the event that triggers the commencement of that period.

(4) Regulations under this section may provide for requirements imposed by the regulations to continue following a termination of rights under the licensee's carbon

storage licence (whether by transfer, surrender, expiry or revocation and whether in relation to all or only part of the licence).

(5) Regulations under this section may not impose requirements which have effect in relation to particular carbon storage information or particular carbon storage samples at any time when an information and samples plan dealing with the information or samples has effect.

(6) Requirements imposed by regulations under this section are sanctionable in accordance with this Chapter.

(7) Before making regulations under this section, the Secretary of State must consult each licensing authority that may under section 18(1) of the Energy Act 2008 grant a licence in respect of the carrying on, in a place to which the regulations would apply, of activities within section 17(2) of that Act.

(8) Regulations under this section are subject to the negative procedure.

109 Preparation and agreement of information and samples plans

(1) The responsible person must prepare an information and samples plan in connection with any of the following (each "a licence event")—

(a) where a licensee is a company, a change in control of the company within the meaning of paragraph 6 of Schedule 1 to the Carbon Dioxide (Licensing etc.) Regulations 2010 (S.I. 2010/2221) (inserted by Schedule 6 to this Act);

(b) a change in the identity of—

(i) the exploration operator under a carbon storage licence, or

(ii) where a storage permit has been granted under a carbon storage licence, the operator in relation to the storage permit (within the meaning of regulation 1(3) of the Carbon Dioxide (Licensing etc.) Regulations 2010);

(c) a transfer of rights under a carbon storage licence, whether in relation to all or part of the area in respect of which the licence was granted;

(d) a surrender of rights under a carbon storage licence in relation to all of the area in respect of which the licence was granted, or in relation to so much of that area in respect of which the licence continues to have effect;

(e) the expiry of a carbon storage licence;

(f) the termination of a carbon storage licence;

(g) the revocation of a storage permit.

(2) "Responsible person", in relation to a licence event, means the person who is or was, or the persons who are or were, the licensee in respect of the relevant licence immediately before the licence event.

(3) "Relevant licence", in relation to a licence event, means the carbon storage licence in respect of which the licence event occurs.

(4) "Information and samples plan", in relation to a licence event, means a plan dealing with what is to happen, following the event, to—

(a) carbon storage information held by the responsible person before the event, and

(b) carbon storage samples held by that person before the event.

(5) The responsible person must agree the information and samples plan with the OGA—

(a) in the case of a licence event mentioned in subsection (1)(a), (b), (c), (d) or (e), before the licence event takes place, or

(b) in the case of a licence event mentioned in subsection (1)(f) or (g), within a reasonable period after the termination of the carbon storage licence or revocation of the storage permit.

(6) An information and samples plan has effect once it is agreed with the OGA.

(7) If an information and samples plan is not agreed with the OGA as mentioned in subsection (5)(a) or (b), the OGA—

(a) may itself prepare an information and samples plan in connection with the licence event, and

(b) may require the responsible person to provide it with such information as the OGA may require to enable it to do so.

(8) The OGA must inform the responsible person of the terms of any information and samples plan it prepares in connection with a licence event.

(9) Where the OGA—

(a) prepares an information and samples plan in connection with a licence event, and

(b) informs the responsible person of the terms of the plan,

the plan has effect as if it had been prepared by the responsible person and agreed with the OGA.

(10) Where an information and samples plan has effect in connection with a licence event, the responsible person must comply with the plan.

(11) The requirements imposed by subsection (5) and (10), or under subsection (7)(b), are sanctionable in accordance with this Chapter.

110 Information and samples plans: supplementary

(1) Where an information and samples plan has effect in relation to a licence event, the OGA and the responsible person may agree changes to the plan.

(2) Once changes are agreed, the plan has effect subject to those changes.

(3) Where—

(a) two or more persons are the responsible person in relation to a licence event, and

(b) those persons include a company that has, since the licence event, been dissolved,

the reference to the responsible person in subsection (1) does not include that company.

(4) An information and samples plan, in relation to a licence event, may provide as appropriate for—

(a) the retention, by the responsible person, of any carbon storage information or carbon storage samples held by or on behalf of that person before the licence event,

(b) the transfer of any such information or samples to a new licensee, or

(c) appropriate storage of such information or samples.

(5) Where an information and samples plan makes provision under subsection (4) for a person, other than the responsible person, to hold information or samples in accordance with the plan—

(a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and

(b) any such requirements are sanctionable in accordance with this Chapter.

(6) An information and samples plan prepared by the OGA under section 109 may not include provision under subsection (4)(b) for the transfer of information or samples to another person without the consent of the responsible person.

(7) An information and samples plan may provide for the storage of information or samples as mentioned in subsection (4)(c) to be the responsibility of the OGA.

(8) Where a transfer of rights under a carbon storage licence relates to only part of the area in relation to which the licence was granted, the information and samples plan prepared in connection with the transfer is to relate to all carbon storage information and carbon storage samples held by the responsible person before the licence event, and not only information and samples in respect of that part of the area.

(9) In this section, "licence event" and "responsible person" have the same meaning as in section 109.

111 Information and samples coordinators

(1) A person within subsection (2) (a "relevant person") must—

(a) appoint an individual to act as an information and samples coordinator, and

(b) notify the OGA of that individual's name and contact details.

(2) The following persons are within this subsection—

(a) a licensee, and

(b) an exploration operator under a carbon storage licence.

(3) The information and samples coordinator is to be responsible for monitoring the relevant person's compliance with its obligations under this Chapter.

(4) A relevant person must comply with subsection (1) within a reasonable period after—

(a) the date on which this section comes into force, if the person is a relevant person on that date, or

(b) becoming a relevant person, in any other case.

(5) The relevant person must notify the OGA of any change in the identity or contact details of the information and samples coordinator within a reasonable period of the change taking place.

(6) The requirements imposed by this section are sanctionable in accordance with this Chapter.

112 Power of OGA to require information and samples

(1) The OGA may by notice in writing, for the purpose of carrying out any of its functions under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), require—

(a) a licensee to provide it with any carbon storage information, or a portion of any carbon storage sample, held by or on behalf of the licensee;

(b) a person who holds information or samples in accordance with an information and samples plan to provide it with any such information or a portion of any such sample.

(2) The notice must specify—

(a) the form or manner in which the information or the portion of a sample must be provided;

(b) the time at which, or period within which, the information or the portion of a sample must be provided.

(3) Information requested under subsection (1) may not include items subject to legal privilege.

(4) Requirements imposed by a notice under this section are sanctionable in accordance with this Chapter.

(5) Where a person provides information or a portion of a sample to the OGA in accordance with a notice under this section, any requirements imposed on the person in respect of that information or sample by regulations under section 108 are unaffected.

113 Prohibition on disclosure of information or samples by OGA

(1) Protected material must not be disclosed—

(a) by the OGA, or

(b) by a subsequent holder,

except in accordance with section 114 or Schedule 7.

(2) In this section and in Schedule 7—

"protected material" means information or samples which have been obtained by the OGA under section 112 or 124;

"subsequent holder", in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with Schedule 7.

(3) References to disclosing protected material include references to making the protected material available to other persons (where the protected material includes samples).

114 Power of Secretary of State to require information and samples

(1) The Secretary of State may require the OGA to provide the Secretary of State with such information or samples held by or on behalf of the OGA as the Secretary of State may require for the purpose of—

(a) carrying out any function conferred by or under any Act,

(b) monitoring the OGA's performance of its functions, or

(c) any Parliamentary proceedings.

(2) The Secretary of State may use information or samples acquired under subsection (1) ("acquired material") only for the purpose for which it is provided.

(3) Acquired material must not be disclosed—

(a) by the Secretary of State, or

(b) by a subsequent holder,

except in accordance with this section.

(4) For the purposes of subsection (3)(b), "subsequent holder", in relation to acquired material, means a person who receives acquired material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.

(5) Subsection (3) does not prohibit the Secretary of State from disclosing acquired material so far as necessary for the purpose for which it was provided.

(6) Subsection (3) does not prohibit a disclosure of acquired material if—

(a) the disclosure is required by virtue of an obligation imposed by or under any Act, or

(b) the OGA consents to the disclosure and, where the acquired material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure.

(7) References in this section to disclosing acquired material include references to making the acquired material available to other persons (where the acquired material includes samples).

Enforcement of sanctionable requirements

115 Power of OGA to give sanction notices

(1) If the OGA considers that a person has failed to comply with a sanctionable requirement imposed on the person, it may give the person a sanction notice in respect of that failure.

(2) If the OGA considers that there has a been a failure to comply with a sanctionable requirement imposed jointly on two or more persons, it may give a sanction notice in respect of that failure—

(a) to one only of those persons (subject to section 118(2)),

(b) jointly to two or more of them, or

(c) jointly to all of them,

but it may not give separate sanction notices to each of them in respect of the failure.

(3) In this Chapter "sanction notice" means—

(a) an enforcement notice (see section 116),

(b) a financial penalty notice (see section 117),

(c) a revocation notice (see section 118), or

(d) an operator removal notice (see section 119).

(4) Sanction notices, other than enforcement notices, may be given in respect of a failure to comply with a sanctionable requirement even if, at the time the notice is given, the failure to comply has already been remedied.

(5) Where the OGA gives a sanction notice to a person in respect of a particular failure to comply with a sanctionable requirement—

(a) it may, at the same time, give another type of sanction notice to the person in respect of that failure to comply;

(b) it may give subsequent sanction notices in respect of that failure only in accordance with section 122 (subsequent sanction notices).

(6) The OGA's power to give sanction notices under this section is subject to section 120 (duty of OGA to give sanction warning notices).

(7) Where the OGA gives a sanction notice to a licensee in respect of a failure to comply with a sanctionable requirement—

(a) the matter is to be dealt with in accordance with this Chapter, and

(b) any requirement under the licensee's carbon storage licence to deal with the matter in a certain way (including by arbitration) does not apply in respect of that failure to comply.

116 Enforcement notices

(1) An enforcement notice is a notice which—

(a) specifies the sanctionable requirement in question,

(b) gives details of the failure to comply with the requirement, and

(c) informs the person or persons to whom the notice is given that the person or persons must comply with—

(i) the sanctionable requirement, and

(ii) any directions included in the notice as mentioned in subsection (2),

before the end of the period specified in the notice.

(2) The notice may include directions as to the measures to be taken for the purposes of compliance with the sanctionable requirement.

(3) Requirements imposed by directions included in an enforcement notice as mentioned in subsection (2) are sanctionable in accordance with this Chapter.

117 Financial penalty notices

(1) A financial penalty notice is a notice which—

(a) specifies the sanctionable requirement in question,

(b) gives details of the failure to comply with the requirement, and

(c) informs the person or persons to whom the notice is given that the person or persons must—

(i) comply with the sanctionable requirement before the end of a period specified in the notice, where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and

(ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.

(2) The period specified under subsection (1)(c)(ii) must not end earlier than the end of the period of 28 days beginning with the day on which the financial penalty notice is given.

(3) The financial penalty payable under a financial penalty notice in respect of a failure to comply with a sanctionable requirement (whether payable by one person, or jointly by two or more persons) must not exceed £1 million.

(4) If a financial penalty notice is given jointly to two or more persons, those persons are jointly and severally liable to pay the financial penalty under it.

(5) A financial penalty payable under a financial penalty notice is to be recoverable as a civil debt if it is not paid before the end of the period specified under subsection (1)(c)(ii).

(6) The OGA must—

(a) issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice, and

(b) have regard to the guidance when determining the amount of the penalty in any particular case.

(7) The OGA may from time to time review guidance issued under subsection (6)(a) and, if it considers appropriate, revise it.

(8) Before issuing or revising guidance under this section, the OGA must consult such persons as it considers appropriate.

(9) The OGA must—

(a) lay any guidance issued under this section, and any revision of it, before each House of Parliament;

(b) publish any guidance issued under this section, and any revision of it, in such manner as the OGA considers appropriate.

(10) The Secretary of State may by regulations subject to the affirmative procedure amend subsection (3) to change the amount specified to an amount not exceeding £5 million.

(11) Money received by the OGA under a financial penalty notice must be paid into the Consolidated Fund.

118 Revocation notices

(1) A revocation notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on a licensee in that capacity.

(2) Where two or more persons are the licensee in respect of a carbon storage licence, the revocation notice must be given jointly to all of those persons.

(3) A revocation notice is a notice which—

(a) specifies the sanctionable requirement in question,

(b) gives details of the failure to comply with the requirement,

(c) informs the person or persons to whom the notice is given that—

(i) where no storage permit has been granted under the carbon storage licence, the licence is to be terminated, or

(ii) where a storage permit has been granted under the carbon storage licence, the permit is to be revoked,

on the date specified in the notice ("the revocation date").

(4) The revocation date must not be earlier than the end of the period of 28 days beginning with the day on which the revocation notice is given.

(5) A revocation notice may not be given in circumstances where the carbon storage licence to be terminated, or the storage permit to be revoked, in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant.

(6) Where a carbon storage licence is terminated in accordance with a revocation notice—

(a) the rights granted to the licensee by the licence cease on the revocation date;

(b) the revocation does not affect any obligation or liability imposed on or incurred by the licensee under the terms and conditions of the licence;

(c) the terms and conditions of the licence apply as if the licence had been terminated in accordance with those terms and conditions, subject to section 115(7)(b).

(7) Where a storage permit is revoked in accordance with a revocation notice—

(a) the authorisation granted by the storage permit ceases on the revocation date;

(b) the revocation does not affect any obligation or liability imposed or incurred under the terms and conditions of the storage permit;

(c) the terms and conditions of the carbon storage licence apply as if the storage permit had been revoked in accordance with those terms and conditions, subject to section 115(7)(b).

119 Operator removal notices

(1) An operator removal notice may be given only in respect of a failure to comply with a sanctionable requirement imposed on an exploration operator under a carbon storage licence in that capacity.

(2) An operator removal notice is a notice which—

(a) specifies the sanctionable requirement,

(b) gives details of the failure to comply with the requirement, and

(c) informs the exploration operator to whom it is given that, with effect from a date specified in the notice ("the removal date"), the licensee under whose carbon storage licence the exploration operator operates ("the relevant licensee") is to be required to remove the exploration operator (see subsection (4)).

(3) The OGA must—

(a) give a copy of the operator removal notice to the relevant licensee, and

(b) require the relevant licensee to remove the exploration operator with effect from the removal date.

(4) Where a licensee is required to remove an exploration operator from a specified date, the licensee must ensure that, with effect from that date, the exploration operator does not exercise any function of organising or supervising any of the activities referred to in paragraphs (a) and (b) of section 107(3).

(5) The removal date must not be earlier than the end of the period of 28 days beginning with the day on which the operator removal notice is given.

(6) An operator removal notice may not be given in circumstances where the carbon storage licence under which the exploration operator operates is one which, on the date the notice is given, the OGA would not have the power to grant.

(7) A requirement imposed on a licensee under subsection (3)(b) is sanctionable in accordance with this Chapter.

120 Duty of OGA to give sanction warning notices

(1) This section applies where the OGA proposes to give a sanction notice in respect of a failure to comply with a sanctionable requirement.

(2) The OGA must give a sanction warning notice in respect of the sanctionable requirement to—

(a) the person or persons to whom it proposes to give a sanction notice, and

(b) where it proposes to give an operator removal notice, the relevant licensee (see section 119(2)(c)).

(3) A sanction warning notice, in respect of a sanctionable requirement, is a notice which—

(a) specifies the sanctionable requirement,

(b) informs the person or persons to whom it is given that the OGA proposes to give a sanction notice in respect of a failure to comply with the requirement,

(c) gives details of the failure to comply with the sanctionable requirement, and

(d) informs the person or persons to whom it is given that the person or persons may, within the period specified in the notice ("the representations period"), make representations to the OGA in relation to the matters dealt with in the notice.

(4) The representations period must be such period as the OGA considers appropriate in the circumstances.

(5) Subsections (6) and (7) apply where the OGA gives a sanction warning notice to a person or persons in respect of a sanctionable requirement.

(6) The OGA must not give a sanction notice to the person or persons in respect of a failure to comply with the requirement until after the end of the representations period specified in the sanction warning notice.

(7) Having regard to representations made during the representations period specified in the sanction warning notice, the OGA may decide—

(a) to give the person or persons a sanction notice in respect of the failure to comply with the requirement detailed in the sanction warning notice under subsection (3)(c),

(b) to give the person or persons a sanction notice in respect of a failure to comply with the requirement which differs from the failure detailed in the sanction warning notice under subsection (3)(c), or

(c) not to give the person or persons a sanction notice in respect of a failure to comply with the requirement.

121 Publication of details of sanctions

(1) The OGA may publish details of any sanction notice given in accordance with this Chapter.

(2) But the OGA may not publish anything that, in its opinion—

(a) is commercially sensitive,
(b) is not in the public interest to publish, or
(c) is otherwise not appropriate for publication.

(3) If, after details of a sanction notice are published by the OGA, the sanction notice is—
(a) cancelled on appeal, or
(b) withdrawn under section 123,
the OGA must publish details of the cancellation or withdrawal.

122 Subsequent sanction notices

(1) This section applies where the OGA gives a sanction notice in respect of a particular failure to comply with a sanctionable requirement (whether the notice is given alone or at the same time as another type of sanction notice).

(2) If the sanction notice given is a revocation notice or an operator removal notice, no further sanction notices may be given in respect of the failure to comply.

(3) If the sanction notice given is a financial penalty notice which does not require compliance with the sanctionable requirement, no further sanction notices may be given in respect of the failure to comply.

(4) Subsection (5) applies if the sanction notice given is—
(a) an enforcement notice, or
(b) a financial penalty notice which requires compliance with the sanctionable requirement.

(5) No further sanction notices may be given in respect of the failure to comply before the end of the period specified under section 116(1)(c) or 117(1)(c)(i), as the case may be (period for compliance with sanctionable requirement).

123 Withdrawal of sanction notices

(1) The OGA may, at any time after giving a sanction notice, withdraw the sanction notice.

(2) If a sanction notice is withdrawn by the OGA—
(a) the notice ceases to have effect, and
(b) the OGA must notify the following persons of the withdrawal of the notice—
(i) the person or persons to whom the notice was given;
(ii) in the case of an operator removal notice, the licensee under whose carbon storage licence the exploration operator operates.

124 Sanctions: information powers

(1) This section applies for the purposes of an investigation which—
(a) concerns whether a person has failed to comply with a sanctionable requirement, and
(b) is carried out by the OGA for the purpose of enabling it to decide whether to give the person a sanction notice, or on what terms a sanction notice should be given to the person.

(2) The OGA may by notice in writing, for the purposes of that investigation, require the person to provide specified documents or other information.

(3) "Specified" means specified, or of a description specified, in a notice under this section.

(4) A requirement under subsection (2) applies only to the extent—

(a) that the documents requested are documents in the person's possession or control, or

(b) that the information requested is information in the person's possession or control.

(5) A requirement imposed by a notice under subsection (2) is sanctionable in accordance with this Chapter.

(6) The documents or information requested—

(a) may include documents or information held in any form (including in electronic form);

(b) may include documents or information that may be regarded as commercially sensitive;

(c) may not include items that are subject to legal privilege.

(7) The notice must specify—

(a) to whom the information is to be provided;

(b) where it is to be provided;

(c) when it is to be provided;

(d) the form and manner in which it is to be provided.

General

125 Appeals

In Schedule 8—

(a) Part 1 contains provision about appeals against decisions by the OGA relating to the preparation of an information and samples plan and appeals against the giving of a notice under section 112, and

(b) Part 2 contains provision about appeals against the imposition of sanction notices and appeals against the giving of a notice under section 124.

126 Procedure for enforcement decisions

(1) The OGA—

(a) must determine the procedure that it proposes to follow in relation to enforcement decisions, and

(b) must issue a statement of its proposals.

(2) The procedure mentioned in subsection (1)(a) must be designed to secure, among other things, that an enforcement decision is taken—

(a) by a person falling within subsection (3), or

(b) by two or more persons, each of whom falls within subsection (3).

(3) A person falls within this subsection if the person was not directly involved in establishing the evidence on which the enforcement decision is based.

(4) The statement mentioned in subsection (1)(b) must be published in whatever way appears to the OGA to be best calculated to bring the statement to the attention of the public.

(5) When the OGA takes an enforcement decision, the OGA must follow its stated procedure.

(6) If the OGA changes its procedure in a material way, it must publish a revised statement.

(7) A failure of the OGA in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of an enforcement decision taken in that case.

(8) But subsection (7) does not prevent the Tribunal from taking into account any such failure in considering an appeal under paragraph 4 or 5 of Schedule 8 in relation to a sanction notice.

(9) In this section, "enforcement decision" means—

(a) a decision to give a sanction notice in respect of a failure to comply with a sanctionable requirement, or

(b) a decision as to the details of the sanction to be imposed by the notice.

127 Interpretation of Chapter 5

In this Chapter—

"information and samples plan" has the meaning given in section 109;

"items subject to legal privilege"—

(a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);

(b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002;

(c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (NI 12));

"OGA" means the Oil and Gas Authority;

"protected material" has the meaning given in section 113;

"sanction notice" has the meaning given in section 115;

"storage permit" has the same meaning as in the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 (S.I. 2010/2221) (see regulation 1(3) of those Regulations);

"subsequent holder" has the meaning given in section 113;

"Tribunal" means the First-tier Tribunal.

CHAPTER 6

GENERAL

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;

(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

(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).

129 Financial assistance

(1) The Secretary of State may provide financial assistance to any person for the purpose of encouraging, supporting or facilitating—

(a) transportation of carbon dioxide;

(b) storage of carbon dioxide;

(c) carbon dioxide capture facilities which operate (or are to operate) in association with facilities for any activity mentioned in paragraph (a) or (b);

(d) low carbon hydrogen production;

(e) transportation of hydrogen;

(f) 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—

(a) the establishment of a revenue support counterparty, a hydrogen levy administrator or an allocation body;

(b) making payments to a revenue support counterparty.

(3) Financial assistance under this section—

(a) may be provided in any form and in particular by way of grants, loans, guarantees or indemnities or by the provision of insurance;

(b) may be provided subject to conditions (which may include conditions about repayment with or without interest or other return);

(c) may be provided pursuant to a contract;

(d) may be provided to an investment fund for onward investment or for administrative costs relating to onward investment;

(e) may be provided by incurring expenditure for the benefit of the person assisted;

(f) may be provided by the acquisition of shares or any other interest in, or securities of, a body corporate;

(g) 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—

"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.