



# Energy Act 2010

## 2010 CHAPTER 27

### PART 1

#### CARBON CAPTURE AND STORAGE AND DECARBONISATION

##### *Financial assistance*

### **1 Financial assistance**

- (1) The Secretary of State may provide financial assistance in respect of CCS demonstration projects.
- (2) If relevant financial assistance is provided in respect of a CCS demonstration project, the Secretary of State may provide financial assistance in respect of additional CCS use at the demonstration station.
- (3) The Secretary of State may make a scheme specifying—
  - (a) a CCS demonstration project, and
  - (b) the person or persons carrying out the project,for the purpose of enabling the administrator to provide the person or persons with financial assistance in respect of the project.
- (4) If relevant financial assistance is provided in respect of a CCS demonstration project, the Secretary of State may make a scheme specifying—
  - (a) additional CCS use at the demonstration station, and
  - (b) the person or persons carrying out the additional CCS use,for the purpose of enabling the administrator to provide the person or persons with financial assistance in respect of the additional CCS use.
- (5) In this section “relevant financial assistance” means assistance provided—
  - (a) by the Secretary of State, or
  - (b) by the administrator under an assistance scheme.

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## 2 Assistance schemes: further provision

- (1) An assistance scheme may, in particular—
  - (a) make provision about any of the matters specified in subsection (2), and
  - (b) impose obligations or confer functions on a person (including the Secretary of State).
- (2) These are the matters referred to in subsection (1)(a)—
  - (a) what is to be carried out as part of the assisted activities;
  - (b) financial assistance to be given in respect of assisted activities, including determination of the amount of financial assistance to be given, or to be given at a particular time, by reference to particular matters;
  - (c) administration of the scheme;
  - (d) safety and other standards applicable to assisted activities;
  - (e) measurement and assessment of progress made in carrying out assisted activities;
  - (f) postponement, reduction or withdrawal of financial assistance to be given, and repayment of financial assistance given, in respect of assisted activities, including postponement, reduction, withdrawal and repayment on account of financial assistance given in respect of assisted activities from other sources;
  - (g) payments to the administrator by participants in assisted activities;
  - (h) disclosure of knowledge obtained in, or relating to, assisted activities, including its disclosure to third parties;
  - (i) audit of information (whether by the administrator or a third party), including requirements for audits to be paid for by the person whose information is subject to audit;
  - (j) provision of information, including its provision to third parties;
  - (k) changes to what is to be carried out as part of the assisted activities;
  - (l) changes to the persons who are the participants in relation to assisted activities;
  - (m) termination of the scheme;
  - (n) compliance with the scheme, except imposition of penalties for non-compliance;
  - (o) reviews and appeals.
- (3) The Secretary of State may amend or revoke an assistance scheme.
- (4) Before making, amending or revoking an assistance scheme, the Secretary of State must consult the following persons—
  - (a) the administrator;
  - (b) the Scottish Ministers, but only if the assisted activities are in Scotland;
  - (c) such other persons as the Secretary of State thinks it is appropriate to consult.
- (5) If the Secretary of State makes or amends an assistance scheme, the Secretary of State must lay before Parliament the scheme as made or amended.
- (6) If the Secretary of State revokes an assistance scheme, the Secretary of State must lay before Parliament a memorandum of revocation of the scheme.
- (7) The power under section 1(3) or (4) or under subsection (3) of this section may not be exercised—

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- (a) to make a scheme unless all persons who would, by the exercise of the power, be participants consent to the exercise of the power;
  - (b) to amend a scheme unless—
    - (i) the scheme allows for the exercise of the power,
    - (ii) regulations under section 3 allow for the exercise of the power, or
    - (iii) all relevant persons consent to the exercise of the power;
  - (c) to revoke a scheme unless—
    - (i) the scheme allows for the exercise of the power,
    - (ii) regulations under section 3 allow for the exercise of the power, or
    - (iii) all persons who are participants consent to the exercise of the power.
- (8) For the purposes of subsection (7)(b)(iii) each of the following is a relevant person in relation to a scheme that is to be amended—
- (a) each person who is a participant in relation to the scheme (including a person who would cease to be a participant by the exercise of the power);
  - (b) a person who would, by the exercise of the power, be a participant in relation to the scheme.

### **3 Regulations relating to assistance schemes**

- (1) The Secretary of State may, by regulations, make provision about assistance schemes.
- (2) Regulations under this section may, in particular—
  - (a) make provision about any of the matters specified in section 2(2); and
  - (b) despite the exception in section 2(2)(n), impose penalties (whether financial or not) in respect of failures to comply with the scheme;but the regulations may not create criminal offences.
- (3) Regulations under this section may not apply to an assistance scheme that is in existence at the time the regulations are made, except with the consent of each person who is, at that time, a participant in relation to that scheme.
- (4) Before making regulations under this section, the Secretary of State must consult the following persons—
  - (a) the administrator;
  - (b) the Scottish Ministers;
  - (c) such other persons as the Secretary of State thinks it is appropriate to consult.
- (5) Subsection (4) may be satisfied by consultation before, as well as by consultation after, this section comes into force.
- (6) The following are subject to regulations under this section—
  - (a) assistance schemes;
  - (b) section 1(3) and (4);
  - (c) section 2.

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### *Electricity supply levy*

#### **4 Electricity supply levy**

- (1) The Secretary of State may by regulations provide for an electricity supply levy to be charged in connection with provision of financial assistance—
  - (a) in respect of CCS demonstration projects, and
  - (b) in respect of additional CCS use at demonstration stations.
- (2) An electricity supply levy is a levy—
  - (a) charged in respect of supplies of electricity that have been, or are expected to be, made, and
  - (b) paid by the persons who make, or are expected to make, the supplies in respect of which the levy is charged.
- (3) The regulations may provide for different rates or different amounts of levy to be charged in different cases.
- (4) The regulations may secure that the levy is not to be charged in respect of particular descriptions of supplies of electricity.
- (5) The regulations may, in particular, make provision about any of the following matters—
  - (a) what is a supply of electricity for the purposes of the levy;
  - (b) when a supply of electricity is, or is expected to be, made for those purposes;
  - (c) who makes, or is expected to make, a supply of electricity for those purposes;
  - (d) payment of the levy, including interest in respect of late payment;
  - (e) administration of the levy;
  - (f) audit of information (whether by the administrator or a third party), including requirements for audits to be paid for by the person whose information is subject to audit;
  - (g) provision of information, including its provision to third parties;
  - (h) enforcement of the levy, including—
    - (i) imposition of penalties (whether financial or not, and whether or not in addition to interest charged in respect of late payment), and
    - (ii) recovery of the levy as a debt due to the Crown,  
but not including the creation of criminal offences;
  - (i) insolvency of persons liable to pay the levy;
  - (j) reviews and appeals.
- (6) Before making regulations under this section, the Secretary of State must consult the following persons—
  - (a) the administrator;
  - (b) such other persons as the Secretary of State thinks it is appropriate to consult.
- (7) Subsection (6) may be satisfied by consultation before, as well as by consultation after, this section comes into force.

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## Reports

### 5 Reports on decarbonisation and CCS progress

- (1) The Secretary of State must, for each reporting period, prepare a report on progress during the reporting period—
  - (a) in decarbonising electricity generation in Great Britain (covering separately generation by coal-fired generating stations), and
  - (b) in the development and use of carbon capture and storage technology in Great Britain.
- (2) Each of the first three reports under subsection (1) must include an assessment by the Secretary of State—
  - (a) of whether use of carbon capture and storage technology in generation of electricity on a commercial scale has been, or when it will be, successfully demonstrated;
  - (b) of whether coal-fired generating stations for which appropriate consent is given on or after 1st January 2020 that are built in Great Britain can be expected to be constructed so as to enable use of carbon capture and storage technology on all their generating capacity.
- (3) A report under subsection (1) must also include a review of whether, having regard to the other matters contained in the report, any government policies should be revised and, if so, why.
- (4) In preparing a report under subsection (1), the Secretary of State must—
  - (a) consult the Scottish Ministers and the Welsh Ministers;
  - (b) take into account any relevant points raised by reports by the Committee on Climate Change under section 36 of the Climate Change Act 2008 (reports on progress).
- (5) The Secretary of State must, within 1 year after the end of a reporting period, lay before Parliament a document containing the report under subsection (1) for that period.
- (6) In this section—

“appropriate consent” means consent under section 36 of the Electricity Act 1989 or section 114(1)(a) of the Planning Act 2008;

“coal-fired generating station” means an electricity generating station powered wholly or mainly by coal;

“decarbonising electricity generation” means reducing the amount of carbon dioxide emitted into the atmosphere from electricity generation;

“reporting period” means—

  - (a) the period beginning with the passing of this Act and ending with 2011;
  - (b) the 3 year period beginning with 2012 and each subsequent 3 year period;

and “the reporting period”, in relation to a report under subsection (1), means the reporting period to which the report relates.

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**Modifications etc. (not altering text)**

**C1** S. 5 power to repeal conferred (18.12.2013) by [Energy Act 2013 \(c. 32\)](#), **ss. 1(8)(b)**, 156(3)

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## General

### 6 The administrator

- (1) The Authority is the administrator for the purposes of this Part.
- (2) But the Secretary of State may, by regulations, make provision for a public body to become the administrator (whether in place of the Authority or a person who is administrator by virtue of previous regulations under this section).
- (3) Before making regulations under this section, the Secretary of State must consult the following persons—
  - (a) the person who would cease to be administrator by virtue of the regulations;
  - (b) such other persons as the Secretary of State thinks it is appropriate to consult.
- (4) In this section “public body” includes the Secretary of State.

### 7 CCS demonstration projects and additional CCS use

- (1) In this Part, “CCS demonstration project” means—
  - (a) a project to demonstrate and assess carbon capture and storage technology through its use in commercial electricity generation, or
  - (b) a project to prepare for, or assess the feasibility of, a project falling within paragraph (a) of this definition.
- (2) In this Part, “additional CCS use” means—
  - (a) the use of carbon capture and storage technology in commercial electricity generation (including bringing the technology into such use), apart from such use in a CCS demonstration project, or
  - (b) activities to prepare for, or assess the feasibility of, use of carbon capture and storage technology falling within paragraph (a) of this definition.
- (3) In this Part, “carbon capture and storage technology” means technology for doing, or contributing to the doing of, any of the following things—
  - (a) capturing carbon dioxide that has been produced by, or in connection with, commercial electricity generation;
  - (b) transporting such carbon dioxide that has been captured;
  - (c) disposing of such carbon dioxide that has been captured, by way of permanent storage.
- (4) For the purposes of this section—
 

“carbon dioxide” includes any substance consisting primarily of carbon dioxide;

“commercial electricity generation” means generation of electricity, on a commercial scale.

### 8 Interpretation of Part

In this Part—

- “additional CCS use” has the meaning given in section 7;
- “administrator” means the person who is the administrator by virtue of section 6;

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- “assistance scheme” means a scheme under section 1(3) or (4);
- “assisted activities”, in relation to an assistance scheme, means the CCS demonstration project or additional CCS use specified in an assistance scheme;
- “carbon capture and storage technology” has the meaning given in section 7;
- “CCS demonstration project” has the meaning given in section 7;
- “demonstration station” means an electricity generating station at which a CCS demonstration project is carried out;
- “functions” includes functions involving the exercise of a discretion;
- “participant”, in relation to an assistance scheme, means the person or persons carrying out the assisted activities.

**Changes to legislation:**

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