

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT CARBON CAPTURE REVENUE SUPPORT  
(DIRECTIONS, ELIGIBILITY AND  
COUNTERPARTY) REGULATIONS 2024

DRAFT CARBON DIOXIDE TRANSPORT AND  
STORAGE REVENUE SUPPORT (DIRECTIONS AND  
COUNTERPARTY) REGULATIONS 2024

*Monday 13 May 2024*

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**The Committee consisted of the following Members:**

*Chair:* MR PHILIP HOLLOBONE

Blake, Olivia ( <i>Sheffield, Hallam</i> ) (Lab)	† Hussain, Imran ( <i>Bradford East</i> ) (Lab)
† Bowie, Andrew ( <i>Parliamentary Under-Secretary of State for Energy Security and Net Zero</i> )	† Jones, Andrew ( <i>Harrogate and Knaresborough</i> ) (Con)
Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)	† Lopresti, Jack ( <i>Filton and Bradley Stoke</i> ) (Con)
Butler, Dawn ( <i>Brent Central</i> ) (Lab)	† Scully, Paul ( <i>Sutton and Cheam</i> ) (Con)
† Crosbie, Virginia ( <i>Ynys Môn</i> ) (Con)	† Smith, Jeff ( <i>Manchester, Withington</i> ) (Lab)
† Fletcher, Mark ( <i>Bolsover</i> ) (Con)	† Tracey, Craig ( <i>North Warwickshire</i> ) (Con)
† Freeman, George ( <i>Mid Norfolk</i> ) (Con)	† Whitehead, Dr Alan ( <i>Southampton, Test</i> ) (Lab)
† French, Mr Louie ( <i>Old Bexley and Sidcup</i> ) (Con)	Liam Laurence Smyth, <i>Committee Clerk</i>
† Gibson, Peter ( <i>Darlington</i> ) (Con)	† <b>attended the Committee</b>
Hamilton, Fabian ( <i>Leeds North East</i> ) (Lab)	

# First Delegated Legislation Committee

Monday 13 May 2024

[MR PHILIP HOLLOBONE *in the Chair*]

## Draft Carbon Capture Revenue Support (Directions, Eligibility and Counterparty) Regulations 2024

4.30 pm

**The Chair:** Is it the wish of the Committee that the regulations be taken together?

**Hon. Members:** Aye.

**The Chair:** Thank goodness for that.

**The Parliamentary Under-Secretary of State for Energy Security and Net Zero (Andrew Bowie):** I beg to move,

That the Committee has considered the draft Carbon Capture Revenue Support (Directions, Eligibility and Counterparty) Regulations 2024.

**The Chair:** With this it will be convenient to discuss the draft Carbon Dioxide Transport and Storage Revenue Support (Directions and Counterparty) Regulations 2024.

**Andrew Bowie:** It is a pleasure to serve under your chairmanship this afternoon, Mr Hollobone. The regulations were laid before the House on 15 April 2024 under the affirmative process. I will refer to the two sets of regulations as the carbon dioxide transport and storage regulations and the carbon capture regulations. They are part of a series of pieces of secondary legislation made under powers in the Energy Act 2023, which is a landmark piece of legislation that I and the Opposition spokesperson, the hon. Member for Southampton, Test, debated at length, and which received Royal Assent on 26 October 2023.

I will first provide some important background on the UK's carbon capture landscape, before turning to the rationale and detail of the regulations. Carbon capture, usage and storage—CCUS—supports the UK's legally binding commitment to reduce greenhouse gas emissions to net zero by 2050. In 2021, the HyNet and East Coast clusters were announced as the UK's first CCUS clusters, where CO<sub>2</sub> will be captured from a range of sources to support the low carbon economic transformation of our industrial regions. The CO<sub>2</sub> transport and storage—T&S—network is essential for building CCUS capability, and it is the enabling infrastructure for captured CO<sub>2</sub> to be transported to permanent offshore storage.

To facilitate the development of the T&S infrastructure, the Energy Act makes provision for revenue support to be available to any transport and storage company. Revenue support is part of the broader T&S regulatory investment model, or TRI model. Under the TRI model, an allowed revenue will be determined for T&S companies, and exposure to revenue gaps—instances in which annual

revenue from user charges is less than a T&S company's allowed revenue—will be mitigated. For example, where a revenue gap arises beyond a T&S company's control, such as where a network user is late in joining the network, a shortfall in the allowed revenue may arise. In such instances, T&S companies can increase charges across the user base, up to a cap. We propose that, should the increase in charges across the user base up to the cap be insufficient, the T&S companies will be entitled to revenue support as a last resort mechanism, funded by His Majesty's Government. That will enable T&S companies to recover shortfalls through a revenue support agreement, or RSA. Without that, there would remain a significant barrier to investment in the T&S infrastructure in the early stages of the CCUS sector's development.

Let me turn to the detail of the transport and storage regulations. RSAs will be offered as a contract between a T&S company and a counterparty, under the direction of the Secretary of State, in accordance with section 60(1) of the Energy Act. To maintain the integrity of RSA allocation, the regulations place requirements on the Secretary of State's directions, and sets out circumstances in which a direction ceases to have effect, including where the Secretary of State revokes a direction before a T&S company accepts a contract in writing. The counterparty will be responsible for publishing each RSA contract, as well as for establishing and maintaining a public register of key project information. Ensuring the transparency of the contracts is essential for encouraging greater understanding of the level of support for, and confidence in, this critical but nascent sector.

To be clear, the regulations allow the Secretary of State to redact sensitive information, ensuring that sensitive commercial information, information that constitutes trade secrets and personal data are removed before the documents are made public. The regulations also require the counterparty to promptly notify the Secretary of State if it is unable to perform its duties.

Let me turn to the carbon capture regulations, and set out the context of industrial carbon capture. ICC is critical to decarbonising industries with hard-to-abate emissions and to achieving net zero by 2050. The Government's ambition is to capture and store 6 megatonnes of CO<sub>2</sub> from industrial emissions annually by 2030, increasing to 9 megatonnes of CO<sub>2</sub> by 2035. The ICC business models are designed to incentivise deployment of carbon capture technology by industrial and waste users, who often have no viable alternative to achieve deep decarbonisation.

Let me turn to the carbon capture regulations and their role in facilitating the business models. These regulations broadly mirror those that I have detailed on transport and storage in respect of the Secretary of State's directions to a counterparty for offering to contract with an eligible carbon capture entity, including where directions cease to have effect or may be revoked. The reporting requirements for a counterparty also remain. This includes a duty to publish contracts entered into, to establish a public register and to promptly notify the Secretary of State if it is, or considers that it is likely to be, unable to carry out its functions.

However, these regulations also satisfy the duty in section 68(4) of the Energy Act by determining the meaning of "eligible" in relation to a carbon capture entity, specifically one where the CO<sub>2</sub> to be captured and stored

is produced by commercial or industrial activities, as set out in the Act. In short, the regulations set out who can be eligible for support. The transport and storage regulations do not include a definition of eligibility, as an eligible T&S company is defined under section 60(2) of the Act as a person who holds an economic licence, or has been notified in writing by the appropriate parties that an economic licence is to be granted.

The ICC business models have been developed to support decarbonisation of the industrial sector, including the waste management sector. We do not consider it appropriate for the ICC business models to support carbon capture deployment for certain parts of the power sector. Therefore, the regulations set out that an entity will be ineligible if it is capturing CO<sub>2</sub> produced by the generation of electricity and is connected to the transmission and/or distribution system in respect of all the electricity that the generation station produces. However, capture from combined heat and power plants and energy recovery generating stations will be eligible regardless of how or whether they are connected to the transmission and distribution systems. It should be noted that the regulations form only one part of the assessment for whether projects would be awarded an ICC or waste ICC contract. Further eligibility criteria are expected to be set for individual allocation rounds in allocation guidance.

In conclusion, in implementing transport and storage infrastructure and the industrial carbon capture business models, the regulations represent an essential step towards achieving our 2030 deployment ambitions and net zero. I commend the regulations to the Committee.

4.37 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): I ought to start by saying that we not only have no objections to these regulations but certainly plan to support them, inasmuch as they are a reasonably timely response to the Energy Act, which, as the Minister says, went through the House last autumn. One day, when the BBC gets round to broadcasting the episode of “The Reunion” about the Energy Act, the Minister and I will probably be hauled up to give our amusing anecdotes about the Bill’s riotous—and lengthy—passage through the House. But until then we will have to keep those secrets to ourselves.

These two statutory instruments stem from, as I have said, a pretty timely next stage in the business arrangements for carbon capture and storage and stem primarily from sections 59 and 60 of the Energy Act. I will not draw the Committee’s attention to what exactly is in the regulations, because the Minister has already set it out in a very straightforward and comprehensive way. I will just say that they establish the relationship of the contract-giving process to the counterparty, the circumstances under which those eligible for revenue support under those arrangements can or cannot receive it, and who is and is not an eligible transporter and storer. That is all very good and very straightforward.

By way of clarification, I have two brief questions, which are about the process rather than the validity or otherwise of the measures. Hon. Members will have noticed two things about the SIs. The first is that they talk about “a” counterparty; indeed, the consultation a little while ago indicated that the Government would

probably designate the Low Carbon Contracts Company as the counterparty for these processes. The explanatory memorandum to the directions, eligibility and counterparty regulations sets out why the LCCC is a good fit as the counterparty, and noted that its costs will be no more than £350,000 a year, making it a good fit for the amount of work it is supposed to do.

What I cannot find anywhere is whether the Government actually have designated the LCCC as the counterparty. Section 59 of the Act states:

“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”,

which are the subject of the carbon dioxide transport and storage revenue support regulations. Is that a secretly given notice that we do not know about, or is it a public action that we should know about? Is it an action that has not yet been taken but that may be taken in the not-too-distant future, or are there considerations still outstanding as to whether the LCCC should be designated?

That is not a completely academic point, because the SIs talk as if the LCCC has already been designated, but there appears to be at least a technical possibility that it has not been and that another person might be so designated, if the designation has not already, by notice, been finalised. It would be helpful if the Minister said whether that notice of designation has been given and I have missed it, or whether it is still to be given and there are issues outstanding in the issuing of it.

The second thing hon. Members may have noticed is the extent of the carbon dioxide transport and storage revenue support regulations. The explanatory memorandum states:

“The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland...The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom. The activities of a carbon dioxide transport and storage company may take place in the United Kingdom, above or below the territorial sea adjacent to the United Kingdom, and waters in a Gas Importation and Storage Zone”—

and we have discussed gas importation and storage zones previously. The point is that it is not immediately apparent that all the activities of a carbon capture and storage transportation company will land within the UK’s territorial waters, inasmuch as it is widely anticipated that captured carbon will, at a fairly early stage in the development of CCS arrangements, be barged in from jurisdictions outside the UK for storage in UK territorial waters. Indeed, one ambition of a number of the hub-based storage arrangements is that they will attract custom from other European jurisdictions, outside the UK. The position of the hubs in the North sea makes that an enticing proposition for countries whose storage facilities are not as developed as those we are likely to have in the UK.

In those circumstances, the question for the Minister is: how do the draft regulations apply? When things come into the UK’s jurisdiction—things that do not originate from within the UK, but which still fall within the purposes of carbon capture and storage in general—what part of that is covered by the revenue support arrangements, or is it all covered? If there are problems with what part is in or what part is out, is it the Minister’s view that in general they should be outside the regulations?

[Dr Alan Whitehead]

Or, does he intend to produce arrangements whereby what he sees as actions within UK territorial waters can be revenue supported as part of the whole process?

Those are a couple of minor questions to keep the Minister on his toes. Other than that, we have no objections to the arrangements.

4.47 pm

**Andrew Bowie:** I thank the hon. Gentleman for his contribution; as ever, it was thoughtful and thought provoking. The two draft instruments we are discussing are broadly administrative in nature, as I am sure everyone will have judged, but they outline the vital operational procedures for enabling Government's proposed business models for carbon capture, transportation and storage.

To respond to the hon. Gentleman's first point, I, too, look forward to that episode of "The Reunion" on Radio 4. Indeed, to extend his analogy, if hon. Members were ever on "Desert Island Discs", I am sure they would find the *Hansard* of our proceedings and discussions on the Energy Act an essential tool to take with them to the desert island. I would suggest that an audio version might be useful in getting some sleep on said desert island.

On the hon. Gentleman's questions about a counterparty, as he said, the Low Carbon Contracts Company is expected to be the counterparty to the RSA. On his specific point about whether it has already been appointed, the LCCC is the existing counterparty for the contracts for difference for low-carbon electricity. It is the resource-efficient and cost-effective option to act as the RSA counterparty, and stakeholders can therefore be confident in the LCCC's ability to carry out the counterparty functions.

**Dr Whitehead:** Has it been designated?

**Andrew Bowie:** As I just said, it has already been designated as the existing counterparty for contracts for difference, and there is an assumption that it will be designated for the transportation and storage moving forward.

**Dr Whitehead:** So the answer is no.

**Andrew Bowie:** As yet, it has not been designated, but the assumption is that it will be; it already is for CfD.

On the territorial application, of course we can only legislate for domestic legislation here in this House. The draft regulations will apply to transportation and storage within the United Kingdom and to any imported carbon that we would be looking to store here in the UK when it reaches our territorial waters or UK land. However, I am in discussions already with partners in Europe and beyond about how we can work together to ensure the safe delivery of carbon capture, utilisation and storage, which will benefit this country, this continent and the entire world moving forward. The discussions are indeed ongoing, he will be pleased to hear. I hope that the Department, the Government and I have provided the necessary assurances to approve the draft statutory instrument before us.

The carbon dioxide transport and storage regulations will enable the effective delivery of the RSA, which is essential to build a functioning T&S network. This is one part of the TRI model that has been designed to overcome barriers to private investment that exist when building first-of-a-kind infrastructure to support the nation's carbon capture, utilisation and storage sector to thrive. The deployment of transport and storage infrastructure is key to our ambition to capture and store 20 million to 30 million tonnes of carbon dioxide by 2030. We are well placed to lead the world in CCS technology, with an estimated potential 78 gigatonnes of CO<sub>2</sub> storage capacity on the UK continental shelf.

We have selected three industrial carbon capture projects and two waste industrial carbon projects to progress to negotiations and to help to form the first two carbon storage clusters, the HyNet and East Coast clusters. We expect to award the first contracts to projects later this year. I therefore commend the regulations to the Committee.

*Question put and agreed to.*

#### **DRAFT CARBON DIOXIDE TRANSPORT AND STORAGE REVENUE SUPPORT (DIRECTIONS AND COUNTERPARTY) REGULATIONS 2024**

*Resolved,*

That the Committee has considered the draft Carbon Dioxide Transport and Storage Revenue Support (Directions and Counterparty) Regulations 2024.—(*Andrew Bowie.*)

4.51 pm

*Committee rose.*