

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT CARBON DIOXIDE TRANSPORT AND
STORAGE (DETERMINATION OF TURNOVER
FOR PENALTIES) REGULATIONS 2024

Wednesday 9 October 2024

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Sunday 13 October 2024

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The Committee consisted of the following Members:

Chair: DAVID MUNDELL

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| † Asato, Jess (<i>Lowestoft</i>) (Lab) | † Pearce, Jon (<i>High Peak</i>) (Lab) |
| † Garnier, Mark (<i>Wyre Forest</i>) (Con) | † Platt, Jo (<i>Leigh and Atherton</i>) (Lab/Co-op) |
| † Heylings, Pippa (<i>South Cambridgeshire</i>) (LD) | † Rigby, Lucy (<i>Northampton North</i>) (Lab) |
| Hobhouse, Wera (<i>Bath</i>) (LD) | † Stafford, Gregory (<i>Farnham and Bordon</i>) (Con) |
| Irons, Natasha (<i>Croydon East</i>) (Lab) | † Stephenson, Blake (<i>Mid Bedfordshire</i>) (Con) |
| Jermy, Terry (<i>South West Norfolk</i>) (Lab) | Tapp, Mike (<i>Dover and Deal</i>) (Lab) |
| † Jones, Sarah (<i>Minister of State, Department for
Energy Security and Net Zero</i>) | † Turley, Anna (<i>Lord Commissioner of His Majesty's
Treasury</i>) |
| † McDonald, Chris (<i>Stockton North</i>) (Lab) | Jonathan Edwards, <i>Committee Clerk</i> |
| † Morrissey, Joy (<i>Beaconsfield</i>) (Con) | |
| † Newbury, Josh (<i>Cannock Chase</i>) (Lab) | † attended the Committee |

Fourth Delegated Legislation Committee

Wednesday 9 October 2024

[DAVID MUNDELL *in the Chair*]

Draft Carbon Dioxide Transport and Storage (Determination of Turnover for Penalties) Regulations 2024

9.25 am

The Minister of State, Department for Energy Security and Net Zero (Sarah Jones): I beg to move,

That the Committee has considered the draft Carbon Dioxide Transport and Storage (Determination of Turnover for Penalties) Regulations 2024.

It is a pleasure to serve under your chairmanship, Mr Mundell; it is also a pleasure to be on this side of the Committee Room for the first time.

The regulations were laid before the House on 30 July under the affirmative process. These are technical but important regulations that form part of the implementation of the economic regulation framework for carbon dioxide transport and storage established in the Energy Act 2023. Carbon capture, usage and storage—CCUS, as we call it—is critical to delivering this Government’s mission to make Britain a clean energy superpower and to accelerating our journey to net zero.

Last week was a historic week, as 142 years of coal-fired electricity generation came to an end. As one era ended, a new one began, as we announced £21.7 billion over 25 years for five carbon capture, usage and storage projects across two clusters. There are two transport and storage clusters: one in HyNet, in the north-west and north Wales, and one in the East Coast Cluster, in the north-east.

Given the potentially monopolistic characteristics of carbon dioxide pipeline, storage and transport infrastructure, it is appropriate to have a framework of economic licensing and regulation to prevent anti-competitive behaviours by infrastructure operators and to ensure protections for users and consumers of the networks. Under this framework, an operator of a carbon dioxide transport and storage network requires a licence, which allows the operator to charge users of the network a fee for delivering and operating the network. The licence will determine the allowed revenue that a transport and storage operator may receive, which should reflect its efficient costs and a reasonable return on its capital investment. The economic regulator, Ofgem, has oversight of charges and will determine whether costs are allowed to be passed on to users, in line with the agreed economic framework.

To ensure that the economic regulation framework operates as it should, Ofgem has powers of enforcement to ensure that licence conditions are adhered to and that there is appropriate redress for any regulatory breaches. Such redress includes the imposition of financial penalties by Ofgem on licence holders for licence contraventions, up to a maximum amount of 10% of company turnover. The regulations provide for how a

company’s turnover is to be determined for the purposes of calculating the maximum amount of penalty that can be imposed.

The amount of financial penalty will not automatically be set at the maximum; the maximum penalty of 10% of turnover is a cap, not a target. Any penalty imposed should be at a reasonable and appropriate level, taking account of all the circumstances of the case. Ofgem is required by primary legislation to prepare and publish a statement of policy setting out its approach to enforcement and penalties in the carbon dioxide transport and storage sector. This statement of policy should include the factors and circumstances that would be considered in deciding whether to impose a financial penalty and in determining the amount of any financial penalty. Ofgem has consulted on documents outlining how it will conduct its enforcement activities. The consultation closed in early July; Ofgem issued its consultation response and published the final version of those documents in September.

To conclude, these are technical but important regulations, which provide clarity on what is meant by turnover when determining the amount of a financial penalty not exceeding the cap. The regulations represent an essential part of the economic regulation framework for carbon dioxide transport and storage—a regulatory framework that has been designed to overcome market barriers to deploying CCUS infrastructure in the UK and delivering our mission to accelerate our journey to net zero, while at the same time protecting the interests of users and consumers of this infrastructure. I commend the regulations to the Committee.

9.29 am

Mark Garnier (Wyre Forest) (Con): I was rather hoping on my debut on a Delegated Legislation Committee to use soaring rhetoric and make a fantastic speech, but actually there is very little to say, and I am sure the Committee would be delighted if I kept my words to under 30 seconds.

The regulations address a technical point arising from the Energy Act 2023 and follow on from the ambitions of the previous Government. This is a necessary measure to clarify the technical detail of how big the maximum fine can be, and we are 100% behind it.

The Chair: I call Pippa Heylings on behalf of the Liberal Democrats—if you would like to stand up.

9.30 am

Pippa Heylings (South Cambridgeshire) (LD): Thank you very much, Mr Mundell—learning so much in such a short time.

I thank the Minister for her opening remarks. This measure builds on the work in the Energy Act. It is critical, it is technical, and we support it; our only concern is this. These are not small or microbusinesses, and the provisions for determining turnover mention how the 10%—or up to 10%—would apply where companies have been operating for less than 12 months. Our only concern would be precautionary. If we are dealing with genuine start-ups, will that 10%—of, say, four months—be proportional to the impact of any leakage and the damage caused, and who will pay for the clean-up? I am just seeking some reassurance, so

that we do not have very new companies coming in—which we will have—but then, when there is a leakage three months in, only getting fined 10% of that.

9.31 am

Sarah Jones: I thank both hon. Members for their comments. On how this is regulated and how it works, I should say that the two transport and storage models that we have agreed to this week are collaborations involving quite large companies—for HyNet it is Eni, and for the East Coast Cluster it is BP, Equinor and Total. They have each set up their own separate companies as a group, and the turnover will be determined according to the revenue made within that, rather than, say, the whole of BP's revenue, so it will be related to the transport and storage.

If we have any concerns, there will be a process of engagement with the company at the earliest stages. It will not be that something terrible suddenly happens

and there will be mitigation; there will be engagement between Ofgem and the transport companies, and there are ways for that to happen, so that we see can problems as they arise.

The 10% financial penalty is a cap, but that is not the full amount; there will be a decision on what the percentage should be—it might be less than 10%, or it might be 10%. The level will be set according to lots of different factors—for example, whether there are mitigations will be one determining factor in deciding how much the costs are. There is a framework within which this will be set, which I hope will reassure the hon. Member for South Cambridgeshire, although we can happily send more details about that.

I commend the regulations to the Committee.

Question put and agreed to.

9.34 am

Committee rose.

