Department for Transport

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House of Commons
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Dear Ruth,

Thank you for your letter of 25 June 2025 on the Sustainable Aviation Fuel Bill.

I'd like to extend my thanks to the Committee for their review and scrutiny of the SAF Bill and to you personally for your support during the Bill's Second Reading. I have copied and responded to each point from your letter below, and my officials and I are happy to discuss any of these points in more detail.

As a first general point, the Committee would welcome further information about why the Bill provides that the Secretary of State may designate a counterparty (clause 4(1)) to enter into revenue certainty contracts with producers of sustainable aviation fuel, rather than entering into such contracts directly.

Designating a counterparty to enter into revenue certainty contracts rather than the Secretary of State entering into contracts directly is in line with similar schemes for renewable electricity generation and for hydrogen production and carbon capture under the Energy Act 2013 and Energy Act 2023 respectively. For these schemes, the Low Carbon Contracts Company (LCCC), a government owned private company, acts as the private law counterparty in place of UK government. This is critical for investor confidence with investors and a private law contract enforceable outside of statute. LCCC's Framework Document makes clear that it has day-to-day operational independence from its sponsor department, subject to certain limited exceptions (for example LCCC would require shareholder consent to materially alter a subsidy contract). It is recognised that LCCC is a separate corporate entity and that its governance and decision-making processes flow

through its board of directors which is majority independent. Importantly, LCCC is required to administer the contract in line with its terms, providing the legal certainty investors require for these sizeable investments.

LCCC have significant experience in delivering similar low carbon, guaranteed strike price energy schemes and as such, when we consulted with industry on the proposed operation of the Revenue Certainty Mechanism, there was significant support for the LCCC being appointed as the counterparty. This appointment is still subject to the relevant assessment and approvals.

a. In the Bill as drafted, a designated counterparty must be a company limited by shares, where those shares are owned wholly by the Government (clause 4(3)). Why does the Secretary of State need also to be empowered to direct that company, which would in any case be entirely under the Government's control through its exclusive ownership, to take certain actions (see clauses 1(1) and 12)?

While the Government, as the sole shareholder of the designated counterparty, will be able to exercise significant control over the company, investors will expect that the company, through its board of directors, will have operational independence on day-to-day matters. The operational independence is critical to provide investor confidence in the scheme, as it reduces the risk of change or interference which could result from political change.

The Secretary of State will determine the allocation of revenue certainty contracts through an allocation process and those contracts will provide significant funding to SAF producers over many years. As a result, it is important that the Secretary of State can exercise a degree of control over how, when and on what terms the counterparty enters into revenue certainty contracts. The ability for the Secretary of State to direct the counterparty as set out in the Bill is consistent with the Secretary of State's ability to direct the counterparty under the Energy Act 2013 and the Energy Act 2023.

b. In a situation where the Government controls the designated counterparty through ownership, in what circumstances does the Department consider that the designated counterparty would fail to provide, or would withdraw, its consent to act as that counterparty (clause 4(4) and (6))? We note that the explanatory note in relation to clause 5 refers to a situation in which "…for some reason, it is no longer appropriate for the designated counterparty to continue as the counterparty", but it is not clear what any such reason might be. What would be the position of, and what would in practice happen to, a company that had formerly been the designated counterparty if it withdrew consent to act as such?

In practice, it is very unlikely that a designated counterparty would fail to provide or withdraw their consent. However, it is important for any private law company where directors owe fiduciary duties to that company, that there is a theoretical exit option as Government cannot force a private entity to undertake actions that may be to its detriment. In theory this could happen if the operation and management of SAF revenue certainty contracts conflicts with a counterparty's other legislative or contractual obligations. This also allows the counterparty to retain its credibility with the investor and finance community, as it can show it is only taking forward schemes its Executive and Board consider is within its capacity and capability.

In the unlikely event that a counterparty withdraws consent, the Secretary of State would need to designate a new counterparty, but the existing counterparty would remain in place until that happens.

c. We further note that, as currently drafted, the designated counterparty remains in that role until it is "replaced" (clause 4(6)). However, the power to make a transfer scheme provided for by clause 5 relies on a revocation of the company's designation (clause 5(1)). Is it intended that a revocation of designation would always follow withdrawal of consent to act as the counterparty by the previously designated company, to unlock the transfer scheme power? The current drafting of clause 4(6) is not specific on this point, however, as it makes no reference to revocation.

Our intention with this drafting is that, if a counterparty withdraws, before designating its replacement the Secretary of State would revoke the old designation. This revocation would include the date from which revocation takes effect. When designating a new counterparty, we would include a date where designation takes effect which matches the revocation.

3.. a. Clause 1(6) gives the Secretary of State a power by regulations to extend the period of time during which directions under sub-section 1(5) may be given, by up to 5 years "at a time". The Committee notes that the phrase "at a time" is ambiguous. As the provision is currently drafted, it would arguably be within powers for the Secretary of State to lay before Parliament a number of draft regulations on, for example, consecutive days, each of which provided for a 5- year extension to come into force at the appropriate point. Thus, the initial 10- year period could be extended, albeit subject to Parliamentary approval, for a significant period of time within a very short space of time. If that is not the Department's intention, it may wish to consider the drafting of this clause accordingly.

We agree that read literally, the power to extend regulations by 5 years "at a time" could be used to extend the regulations for a more significant period of

time within a very short period of time. However, there is no intention for the power to be used in this way. The principle that a power may only be used for the purpose for which it is conferred to promote the statutory policy and the objects of the enabling Act. Therefore, the government believes the type of multiple extension outlined in your letter would likely be unlawful. In addition, as you note, this power is subject to affirmative procedure so there would be parliamentary oversight and control over any extension.

b. There appears to be some overlap between clause 6(6) and clause 9, which both make provision in relation to methodology and calculations under levy regulations.

These provisions are derived from the Energy Act 2023 precedent, and while there may be some overlap, we think on balance this it is helpful to have both as the clauses are intended to do different things.

Clause 6(6) enables the levy regulations to make provision about the method for determining the amounts of levy paid by suppliers of aviation fuel. This is likely to be a formula into which certain information is input to determine the amount payable for a specified period. Clause 9 is primarily intended to enable the levy regulations to delegate calculations or determinations.

c. Clause 6(8) refers to levy regulations specifying a period in relation to the supply of aviation fuel. What is the relation of any period so specified to the duration of the scheme for revenue certainty contracts provided for in clause 1(5) to (6)?

There is no relationship between these two time periods. The specified period in relation to the supply of aviation fuel will be determined by what is most administratively efficient for all parties and will likely be a year or shorter. This will bear no relation to contract length.

d. Clause 10(1)(b) refers to regulations requiring a person who has received a payment from the designated counterparty, in the event it has a surplus, to ensure that its customers receive such benefits from the payment as may be specified in those regulations. How far down the supply chain is it intended that such benefits should be received? The Committee notes that it may ultimately be airline passengers who are subject to some increase in prices as a result of any levy imposed on aviation fuel suppliers. However, passengers are not the direct customers of those suppliers, and so it is unclear whether regulations under this provision would be able (if that is the intention) to provide for passengers to receive benefits resulting from these types of payments.

This clause only enables the Secretary of State to require a supplier of aviation fuel (that has paid the levy) to pass the benefit of any surplus on to its customers, which will likely be airlines or air freight companies, not passengers. The pass through of any surplus to passengers via ticket price reductions would be a commercial choice for airlines.

Requiring this surplus to be passed further down the chain would require additional powers. Airlines will need to make a reasonable commercial choice about how they manage potential changes in costs and income because of the changes in the cost of SAF and impact of the RCM more broadly. In addition, passengers who had contributed to any surplus which was now being passed to airlines would have flown in a previous year, and would not necessarily benefit from reduced ticket prices in a later year. Addressing this by tying the payment to specific passengers would require airlines to make very small payments to passengers who had flown with them in a previous levy period, and as such be administratively very challenging.

e. In clause 11(3), should the conjunction between (a) and (b) be "or" rather than "and"?

We believe that "and" is the correct conjunction as the proposition requires a comparison of two things. "And" is also used in the similar provision in section 129(3) of the Energy Act 2004.

f. Clause 12 provides for directions to be published, but the Committee notes that there is no such requirement in respect of directions under section 1(1). What is the reason for the difference?

The difference in approach is because directions under clause 1 would include contract terms and therefore confidential price-sensitive information that it would not be appropriate to publish. Instead, once the contracts are concluded, relevant information will be included in the register and the contracts will be published, except for any redactions made in accordance with the regulation under clause 4.

g. What other powers of a Minister of the Crown to provide financial assistance are being referred to in clause 14(4)?

The intention of this clause is to make it clear that this power to provide financial assistance does not affect any other financial assistance powers that have been passed by Parliament, of which there are many. It does not relate to any specific financial assistance powers. This is in line with similar provisions under the Energy Act 2013 and 2024.

h. In clause 15(3)(c) should the reference to section 11(4)(b) be to section 11(4)(a)? Further, 15(3)(c) and (d) appear wrongly ordered (in that the reference to section 10 in (c) follows the reference to section 11 in (d)).

We agree with these corrections and will update the references in the Bill in the normal way.

i. It might be helpful for readers and users of the legislation if clause 15(4) was specific in listing the regulation-making powers that are subject to the negative procedure.

It is not usual to list the regulation making powers that are subject to negative procedure in legislation, so we have not done so here.

j. In clause 16, the Committee notes that the definitions of "aviation fuel" and "sustainable aviation fuel" do not map exactly onto the definitions of those terms found in the Renewable Transport Fuel Obligations (Sustainable Aviation Fuel) Order 2024 ("the 2024 Order"), which is made under the powers in the Energy Act 2004. That Act is referenced in the definition of "renewable transport fuel" in this clause. Given that there is some relationship between the scheme set out in the 2024 Order and the revenue certainty contract scheme and related regulations provided for in this Bill (as set out in the Explanatory Notes), the Committee wonders whether these differences in definitions are intentional.

The definitions of "aviation fuel" and "sustainable aviation fuel" are not intended to match those found under the Renewable Transport Fuel Obligations (Sustainable Aviation Fuel) Order 2024. This is because matching the definitions would make the Bill significantly more complex, and require any future amendment to either piece of legislation to be tied to the other. We are content that our definition in this Bill is suitable.

It should be noted that our intention is for the Revenue Certainty Mechanism to only support SAF production which would be eligible for the SAF Mandate. This will be set out in the eligibility criteria during contract allocation.

k. In paragraph 6(1) of the Schedule, the drafting currently operates so as to unlock the recoverability provisions that follow (in sub-paragraphs (2) and (3)) before the end of the period that a person has in which to pay any penalty (because the paragraph would apply on day 1 of the period, being "before the end of the period", if the person has not paid at that point). The Committee assumes that the intention is that recovery should only be pursued after the end of that period, and if that assumption is correct the Department may wish to consider the drafting of this provision accordingly.

We disagree with the Committee's interpretation of this paragraph. The condition that a person has failed to pay can only be met once the period has ended. It does not apply at any time during the payment period at which a person has not yet paid, and we do not believe the Bill states this.

In practice, where a person receives a final notice, that notice will include the date by which the penalty must be paid, and that date must be more than 28 days after the date of the final notice. The period for payment starts on the date of the final notice and ends on payment date in the notice, providing the period is more than 28 days. The Secretary of State may only seek to recover the unpaid amount if the person has not paid the amount before the end of the period (the payment date in the notice), so the Secretary of State will not be able start recovering proceedings until the period has ended.

l. What is the position as to enforcement of recovery (as provided for by paragraph 6 of the Schedule) in Northern Ireland?

The position as to enforcement of recovery is the same in Northern Ireland as in England and Wales. We will correct this in the normal way.

m. As a final point, the Explanatory Notes make no reference to the provisions of the Subsidy Control Act 2022, but is it the Department's position that the scheme provided for by this Bill would be subject to the controls under that Act? The Committee notes that the Contracts for Difference scheme appears to be subject to that scheme.

It is the Department's position that the scheme provided for by this Bill would be subject to the controls under the Subsidy Control Act 2022.

I hope you and the committee find this response helpful, please do reach out if we can provide any more information on the Bill.

Yours sincerely,

Rt Hon Heidi Alexander MP

SECRETARY OF STATE FOR TRANSPORT