



The Carbon Capture, Utilisation And Storage Act 2025: Laying The Legal Foundation For A Regional CCUS Hub

29 June 2026

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Malaysia has taken a significant step towards positioning itself as a regional carbon capture, utilisation and storage (CCUS) hub with the enactment of the Carbon Capture, Utilisation and Storage Act 2025 (CCUS Act). The accompanying Carbon Capture, Utilisation and Storage (Offshore Permit and Licensing) Regulations 2025 (CCUS Regulations) came into force on 1 October 2025.

More than simply introducing a new licensing regime, the legislation establishes the legal certainty that investors, project developers and financiers have long regarded as a prerequisite for large-scale CCUS investment. As governments and industries accelerate decarbonisation efforts, the availability of a dedicated regulatory framework is likely to become an increasingly important factor in attracting both domestic and cross-border carbon management projects.

The legislation is intended to facilitate the development of both domestic and cross-border CCUS projects in Peninsular Malaysia and the Federal Territory of Labuan. This alert examines the principal legal and commercial implications of Malaysia's new regulatory framework.

From Project-Specific Approvals To A Dedicated Regulatory Regime

Prior to the enactment of the CCUS Act, carbon capture and storage activities in Malaysia were undertaken through project-specific arrangements within the broader framework of existing legislation, including the Petroleum Development Act 1974 and the Environmental Quality Act 1974. While these laws provided a degree of regulatory oversight, they were never designed to regulate the entire CCUS value chain.

The CCUS Act does not replace these existing legislative regimes. Instead, it establishes a standalone framework intended to operate alongside Malaysia's existing petroleum, environmental and offshore regulatory regimes.

The legislation serves two principal functions. First, it establishes the Malaysia Carbon Capture, Utilisation and Storage Agency (MyCCUS) as the country's dedicated regulator for CCUS activities. Secondly, it introduces a comprehensive regulatory framework governing the capture, transportation, utilisation and permanent geological storage of carbon dioxide (CO₂).

The CCUS Act applies only to Peninsular Malaysia and the Federal Territory of Labuan as the CCUS activities in Sabah and Sarawak remain subject to separate state regulatory regimes. For investors considering projects across multiple jurisdictions, this may result in differing approval pathways, regulatory standards and project structures depending on where storage facilities are located.

MyCCUS: A Centralised Regulatory Authority

One of the CCUS Act's most significant institutional reforms is the establishment of MyCCUS under the Ministry of Economy as the principal authority responsible for administering Malaysia's CCUS regime.

Its responsibilities include advising the Government on national CCUS policy, administering permits and licences, regulating the importation of CO₂ for permanent storage and managing the Post-Closure Stewardship Fund.

The establishment of a single federal regulator should reduce regulatory fragmentation and provide greater certainty for project developers and investors, particularly in relation to licensing, compliance and long-term stewardship obligations.

Technical Standards Will Continue To Evolve

The CCUS Act also empowers the Minister to appoint one or more Competent Technical Entities (CTEs) to advise MyCCUS on specialised technical matters across the CCUS value chain, including carbon capture, transportation, utilisation and both offshore and onshore storage.

The significance of the CTEs extends beyond providing technical advice. Key operational standards under the CCUS Act including the meaning of "prudent CCUS practices" and the methodology for determining storage-related levies are to be developed in consultation with the relevant CTEs.

Accordingly, much of the practical operation of Malaysia's CCUS regime will ultimately depend less on the Act itself than on the technical standards and guidance subsequently developed by these entities. Investors and project sponsors should therefore closely monitor future appointments and regulatory guidance.

Registration As The First Regulatory Gateway

The CCUS Act introduces a preliminary registration requirement for participants across key segments of the CCUS value chain before permits or licences may be obtained.

Registration is required for:

- owners or operators of carbon capture installations;
- persons transporting captured CO₂ by road, railway, water, pipeline or other means; and
- persons undertaking the utilisation of captured CO₂ in Malaysia.

This registration regime effectively creates the first regulatory gateway into Malaysia's emerging CCUS industry, enabling MyCCUS to maintain oversight over industry participants from the earliest stages of project development.

A Phased Permitting Framework

The CCUS Act adopts a staged regulatory approach by distinguishing between geological assessment activities and permanent storage operations. Separate permits and licences are required for offshore and onshore projects.

This separation recognises that geological appraisal, site characterisation and long-term storage involve distinct technical and regulatory considerations requiring different levels of oversight.

Although the licensing framework has now been established, approval remains discretionary. MyCCUS retains broad powers to impose operational, technical, environmental and monitoring conditions tailored to individual projects.

Storage operators must also comply with prescribed CO₂ stream acceptance criteria and maintain comprehensive records concerning the quantity, composition and characteristics of all injected CO₂ streams.

"Prudent CCUS Practices" As A Dynamic Compliance Standard

Rather than prescribing fixed technical requirements, the CCUS Act requires storage operations to be conducted in accordance with "prudent carbon capture, utilisation and storage practices".

This standard incorporates ministerial requirements, guidance issued by the relevant CTEs and internationally recognised technical standards.

Compliance therefore becomes an ongoing obligation rather than a one-off exercise. As international best practices continue to evolve, operators should expect monitoring systems, operational procedures and remediation measures to evolve accordingly in order to remain compliant.

This flexible approach broadly aligns Malaysia with mature overseas jurisdictions that regulate CCUS through risk-based rather than prescriptive technical standards.

Positioning Malaysia As A Regional Carbon Storage Destination

Perhaps the CCUS Act's most commercially significant feature is its express recognition of cross-border importation of CO₂ for permanent geological storage in Malaysia.

An import permit issued by MyCCUS is required irrespective of the mode of transportation. Imported CO₂ may only be used for permanent storage and must satisfy prescribed acceptance criteria designed to safeguard storage integrity, transportation infrastructure, public safety and environmental protection.

The framework broadly reflects principles contained in the London Protocol concerning cross-border carbon storage, although those guidelines are not expressly incorporated into Malaysian legislation.

By providing a statutory mechanism for imported CO₂, Malaysia positions itself to compete as a regional carbon storage destination for jurisdictions with limited domestic storage capacity.

Long-Term Liability Remains A Key Commercial Consideration

The CCUS Act imposes continuing obligations on storage operators throughout both the operational and post-closure phases of a project. Operators remain responsible for environmental monitoring, implementing approved monitoring plans, undertaking remediation where necessary and reporting to MyCCUS.

Although MyCCUS may issue a closure certificate, this does not immediately terminate an operator's responsibilities.

For offshore projects, operators remain responsible for post-closure monitoring and remediation for at least ten years after closure unless MyCCUS is satisfied that permanent containment has been achieved.

Importantly, the transfer of post-closure responsibilities to the Government does not extinguish liability arising from an operator's fault, negligence, deceit or failure to exercise due diligence. Accordingly, closure certification should not be regarded as a complete transfer of legal risk. This continuing liability framework is likely to feature prominently in financing arrangements, insurance programmes and contractual risk allocation between project participants.

Injection Levies And Long-Term Stewardship

Offshore storage operators are required to pay injection levies designed to fund the Government's long-term stewardship obligations after responsibility has been transferred.

Levy rates are determined according to the risk profile of each storage site following consultation with the relevant CTE. Importantly, the Act prohibits cross-subsidisation between projects, providing greater pricing certainty by ensuring operators bear only project-specific risks.

Amounts collected are paid into the Post-Closure Stewardship Fund administered by MyCCUS. The Fund finances long-term monitoring, remediation activities and the Government's assumption of transferred responsibilities, while also supporting the broader development of Malaysia's CCUS industry.

Significant Penalties For Non-Compliance

The CCUS Act imposes substantial criminal sanctions for non-compliance with key regulatory requirements. For instance, operating storage facilities without the requisite permits or licences, importing CO₂ without approval and failing to comply with prescribed CO₂ stream requirements may attract imprisonment of up to five years, fines of up to RM2 million, or both.

These penalties reinforce the importance of maintaining regulatory compliance throughout the project lifecycle.

Conclusion

The CCUS Act represents an important milestone in Malaysia's energy transition and its ambition to become a regional carbon management hub. By introducing a dedicated licensing framework, long-term stewardship regime and statutory mechanism for cross-border CO₂ storage, the legislation addresses one of the principal barriers to large-scale CCUS investment regulatory certainty.

Nevertheless, the CCUS Act should be viewed as the beginning rather than the completion of Malaysia's CCUS framework. Much of the regime's practical operation will depend on future implementing regulations, evolving technical standards, the interaction between federal and state regulatory regimes, and the manner in which MyCCUS exercises its regulatory discretion.

For investors, project sponsors, lenders and carbon-intensive industries, early engagement with the evolving regulatory framework will be critical. As competition intensifies among jurisdictions seeking to attract low-carbon investment, legal certainty is likely to become as important as geology, infrastructure and commercial viability in determining Malaysia's competitiveness as a regional CCUS destination.

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