Climate Change Act 2008

2008 CHAPTER 27

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An Act to set a target for the year 2050 for the reduction of targeted greenhouse gas emissions; to provide for a system of carbon budgeting; to establish a Committee on Climate Change; to confer powers to establish trading schemes for the purpose of limiting greenhouse gas emissions or encouraging activities that reduce such emissions or remove greenhouse gas from the atmosphere; to make provision about adaptation to climate change; to confer powers to make schemes for providing financial incentives to produce less domestic waste and to recycle more of what is produced; to make provision about the collection of household waste; to confer powers to make provision about charging for single use carrier bags; to amend the provisions of the Energy Act 2004 about renewable transport fuel obligations; to make provision about carbon emissions reduction targets; to make other provision about climate change; and for connected purposes.

[26th November 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent

Preamble: United Kingdom

PART 1

CARBON TARGET AND BUDGETING

The target for 2050

Law In Force

1 The target for 2050

(1) It is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least **[** 100% **]** [1] lower than the 1990 baseline.

(2) "The 1990 baseline" means the aggregate amount of—

(a) net UK emissions of carbon dioxide for that year, and

(b) net UK emissions of each of the other targeted greenhouse gases for the year that is the base year for that gas.

Notes

[1] Word substituted by Climate Change Act 2008 (2050 Target Amendment) Order 2019/1056 art.2(2) (June 27, 2019)

Commencement

Pt 1 s. 1(1)-(2)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 1(1)-(2)(b): United Kingdom

Law In Force

2 Amendment of 2050 target or baseline year

(1) The Secretary of State may by order—

(a) amend the percentage specified in section 1(1);

(b) amend section 1 to provide for a different year to be the baseline year.

(2) The power in subsection (1)(a) may only be exercised—

(a) if it appears to the Secretary of State that there have been significant developments in—

(i) scientific knowledge about climate change, or

(ii) European or international law or policy,

that make it appropriate to do so, or

(b) in connection with the making of—

(i) an order under section 24 (designation of further greenhouse gases as targeted greenhouse gases), or

(ii) regulations under section 30 (emissions from international aviation or international shipping).

(3) The developments in scientific knowledge referred to in subsection (2) are—

(a) in relation to the first exercise of the power in subsection (1)(a), developments since the passing of this Act;

(b) in relation to a subsequent exercise of that power, developments since the evidential basis for the previous exercise was established.

(4) The power in subsection (1)(b) may only be exercised if it appears to the Secretary of State that there have been significant developments in European or international law or policy that make it appropriate to do so.

(5) An order under subsection (1)(b) may make consequential amendments of other references in this Act to the baseline year.

(6) An order under this section is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 2(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 2(1)-(6): United Kingdom

Law In Force

3 Consultation on order amending 2050 target or baseline year

(1) Before laying before Parliament a draft of a statutory instrument containing an order under section 2 (order amending the 2050 target or the baseline year), the Secretary of State must—

(a) obtain, and take into account, the advice of the Committee on Climate Change, and

(b) take into account any representations made by the other national authorities.

(2) The Committee must, at the time it gives its advice to the Secretary of State, send a copy to the other national authorities.

(3) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(4) The Secretary of State may proceed to lay such a draft statutory instrument before Parliament without having received a national authority's representations if the authority does not provide them before the end of the period of three months beginning with the date the Committee's advice was sent to the authority.

(5) At the same time as laying such a draft statutory instrument before Parliament, the Secretary of State must publish a statement setting out whether and how the order takes account of any representations made by the other national authorities.

(6) If the order makes provision different from that recommended by the Committee, the Secretary of State must also publish a statement setting out the reasons for that decision.

(7) A statement under this section may be published in such manner as the Secretary of State thinks fit.

Commencement

Pt 1 s. 3(1)-(7): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 3(1)-(7): United Kingdom

Carbon budgeting

Law In Force

4 Carbon budgets

(1) It is the duty of the Secretary of State—

(a) to set for each succeeding period of five years beginning with the period 2008–2012 ("budgetary periods") an amount for the net UK carbon account (the "carbon budget"), and

(b) to ensure that the net UK carbon account for a budgetary period does not exceed the carbon budget.

(2) The carbon budget for a budgetary period may be set at any time after this Part comes into force, and must be set—

(a) for the periods 2008–2012, 2013–2017 and 2018–2022, before 1st June 2009;

(b) for any later period, not later than 30th June in the 12th year before the beginning of the period in question.

Commencement

Pt 1 s. 4(1)-(2)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 4(1)-(2)(b): United Kingdom

Law In Force

5 Level of carbon budgets

(1) The carbon budget—

(a) for the budgetary period including the year 2020, must be such that the annual equivalent of the carbon budget for the period is at least **[** 34% **]** [1] lower than the 1990 baseline;

(b) for the budgetary period including the year 2050, must be such that the annual equivalent of the carbon budget for the period is lower than the 1990 baseline by at least the percentage specified in section 1 (the target for 2050);

(c) for the budgetary period including any later year specified by order of the Secretary of State, must be such that the annual equivalent of the carbon budget for the period is—

(i) lower than the 1990 baseline by at least the percentage so specified, or

(ii) at least the minimum percentage so specified, and not more than the maximum percentage so specified, lower than the 1990 baseline.

(2) The "annual equivalent", in relation to the carbon budget for a period, means the amount of the carbon budget for the period divided by the number of years in the period.

(3) An order under this section is subject to affirmative resolution procedure.

(4) **[…]**[2]

Notes

[1] Figure substituted by Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009/1258 art.2(2) (May 31, 2009)

[2] Repealed by Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009/1258 art.2(3) (May 31, 2009)

Commencement

Pt 1 s. 5(1)-(4)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 5(1)-(4)(b): United Kingdom

Law In Force

6 Amendment of target percentages

(1) The Secretary of State may by order amend—

(a) the percentage specified in section 5(1)(a);

(b) any percentage specified under section 5(1)(c).

(2) That power may only be exercised—

(a) if it appears to the Secretary of State that there have been significant developments in—

(i) scientific knowledge about climate change, or

(ii) European or international law or policy,

that make it appropriate to do so, or

(b) in connection with the making of—

(i) an order under section 24 (designation of further greenhouse gases as targeted greenhouse gases), or

(ii) regulations under section 30 (emissions from international aviation or international shipping).

(3) The developments in scientific knowledge referred to in subsection (2)(a) are—

(a) in relation to the first exercise of the power conferred by this section in relation to the percentage specified in section 5(1)(a), developments since June 2000 (the date of the Royal Commission on Environmental Pollution's 22nd Report, "Energy — the Changing Climate");

(b) in relation to the first exercise of the power conferred by this section in relation to any percentage specified under section 5(1)(c), developments since the evidential basis for the order setting that percentage was established;

(c) in relation to a subsequent exercise of any of those powers, developments since the evidential basis for the previous exercise was established.

(4) The power conferred by this section to amend the percentage in section 5(1)(a) includes power to amend or repeal section 5(4) (which directs that targeted greenhouse gases other than carbon dioxide are to be left out of account for the purposes of that provision).

(5) An order under this section is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 6(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 6(1)-(5): United Kingdom

Law In Force

7 Consultation on order setting or amending target percentages

(1) Before laying before Parliament a draft of a statutory instrument containing an order under section 5(1)(c) (order setting target percentage) or section 6 (order amending target percentage), the Secretary of State must—

(a) obtain, and take into account, the advice of the Committee on Climate Change, and

(b) take into account any representations made by the other national authorities.

(2) The Committee must, at the time it gives its advice to the Secretary of State, send a copy to the other national authorities.

(3) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(4) The Secretary of State may proceed to lay such a draft statutory instrument before Parliament without having received a national authority's representations if the authority does not provide them before the end of the period of three months beginning with the date the Committee's advice was sent to the authority.

(5) At the same time as laying such a draft statutory instrument before Parliament, the Secretary of State must publish a statement setting out whether and how the order takes account of any representations made by the other national authorities.

(6) If the order makes provision different from that recommended by the Committee, the Secretary of State must also publish a statement setting out the reasons for that decision.

(7) A statement under this section may be published in such manner as the Secretary of State thinks fit.

Commencement

Pt 1 s. 7(1)-(7): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 7(1)-(7): United Kingdom

Law In Force

8 Setting of carbon budgets for budgetary periods

(1) The Secretary of State must set the carbon budget for a budgetary period by order.

(2) The carbon budget for a period must be set with a view to meeting—

(a) the target in section 1 (the target for 2050), and

(b) the requirements of section 5 (requirements as to level of carbon budgets),

and complying with the European and international obligations of the United Kingdom.

(3) An order setting a carbon budget is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 8(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 8(1)-(3): United Kingdom

Law In Force

9 Consultation on carbon budgets

(1) Before laying before Parliament a draft of a statutory instrument containing an order under section 8 (order setting carbon budget), the Secretary of State must—

(a) take into account the advice of the Committee on Climate Change under section 34 (advice in connection with carbon budgets), and

(b) take into account any representations made by the other national authorities.

(2) The Secretary of State may proceed to lay such a draft statutory instrument before Parliament without having received a national authority's representations if the authority does not provide them before the end of the period of three months beginning with the date the Committee's advice was sent to the authority.

(3) At the same time as laying such a draft statutory instrument before Parliament, the Secretary of State must publish a statement setting out whether and how the order takes account of any representations made by the other national authorities.

(4) If the order sets the carbon budget at a different level from that recommended by the Committee, the Secretary of State must also publish a statement setting out the reasons for that decision.

(5) A statement under this section may be published in such manner as the Secretary of State thinks fit.

Commencement

Pt 1 s. 9(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 9(1)-(5): United Kingdom

Law In Force

10 Matters to be taken into account in connection with carbon budgets

(1) The following matters must be taken into account—

(a) by the Secretary of State in coming to any decision under this Part relating to carbon budgets, and

(b) by the Committee on Climate Change in considering its advice in relation to any such decision.

(2) The matters to be taken into account are—

(a) scientific knowledge about climate change;

(b) technology relevant to climate change;

(c) economic circumstances, and in particular the likely impact of the decision on the economy and the competitiveness of particular sectors of the economy;

(d) fiscal circumstances, and in particular the likely impact of the decision on taxation, public spending and public borrowing;

(e) social circumstances, and in particular the likely impact of the decision on fuel poverty;

(f) energy policy, and in particular the likely impact of the decision on energy supplies and the carbon and energy intensity of the economy;

(g) differences in circumstances between England, Wales, Scotland and Northern Ireland;

(h) circumstances at European and international level;

(i) the estimated amount of reportable emissions from international aviation and international shipping for the budgetary period or periods in question.

(3) In subsection (2)(i) "the estimated amount of reportable emissions from international aviation and international shipping", in relation to a budgetary period, means the aggregate of the amounts relating to emissions of targeted greenhouse gases from international aviation and international shipping that the Secretary or State or (as the case may be) the Committee estimates the United Kingdom will be required to report for that period in accordance with international carbon reporting practice.

(4) Such amounts may be estimated using such reasonable method or methods as the Secretary of State or (as the case may be) the Committee considers appropriate.

(5) The duty in subsection (2)(i) applies if and to the extent that regulations under section 30 do not provide for emissions of targeted greenhouse gases from international aviation and international shipping in the budgetary period or periods in question to be treated as emissions from sources in the United Kingdom for the purposes of this Part.

(6) Section 30(1) (emissions from international aviation and international shipping not to count as emissions from UK sources for the purposes of this Part, except as provided by regulations) does not prevent the Secretary of State or the Committee from taking into account the matter referred to in subsection (2)(i) for the purposes of this section.

(7) Nothing in this section is to be read as restricting the matters that the Secretary of State or the Committee may take into account.

Commencement

Pt 1 s. 10(1)-(7): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 10(1)-(7): United Kingdom

Limit on use of carbon units

Law In Force

11 Limit on use of carbon units

(1) It is the duty of the Secretary of State to set a limit on the net amount of carbon units that may be credited to the net UK carbon account for each budgetary period.

(2) The "net amount of carbon units" means—

(a) the amount of carbon units credited to the net UK carbon account for the period in accordance with regulations under section 27, less

(b) the amount of carbon units debited from the net UK carbon account for the period in accordance with such regulations.

(3) The limit for a budgetary period must be set—

(a) for the period 2008–2012, not later than 1st June 2009, and

(b) for any later period, not later than 18 months before the beginning of the period in question.

(4) The Secretary of State must set a limit under this section by order.

(5) The order may provide that carbon units of a description specified in the order do not count towards the limit.

(6) An order under this section is subject to affirmative resolution procedure.

(7) Before laying before Parliament a draft of a statutory instrument containing an order under this section in relation to a budgetary period, the Secretary of State must—

(a) take into account the advice of the Committee on Climate Change under section 34(1)(b) (advice on use of carbon units) in relation to that period, and

(b) consult the other national authorities.

Commencement

Pt 1 s. 11(1)-(7)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 11(1)-(7)(b): United Kingdom

Indicative annual ranges

Law In Force

12 Duty to provide indicative annual ranges for net UK carbon account

(1) As soon as is reasonably practicable after making an order setting the carbon budget for a budgetary period, the Secretary of State must lay before Parliament a report setting out an indicative annual range for the net UK carbon account for each year within the period.

(2) An "indicative annual range", in relation to a year, is a range within which the Secretary of State expects the amount of the net UK carbon account for the year to fall.

(3) Before laying a report under this section before Parliament, the Secretary of State must consult the other national authorities on the indicative annual ranges set out in the report.

(4) The Secretary of State must send a copy of the report to those authorities.

Commencement

Pt 1 s. 12(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 12(1)-(4): United Kingdom

Proposals and policies for meeting carbon budgets

Law In Force

13 Duty to prepare proposals and policies for meeting carbon budgets

(1) The Secretary of State must prepare such proposals and policies as the Secretary of State considers will enable the carbon budgets that have been set under this Act to be met.

(2) The proposals and policies must be prepared with a view to meeting—

(a) the target in section 1 (the target for 2050), and

(b) any target set under section 5(1)(c) (power to set targets for later years).

(3) The proposals and policies, taken as a whole, must be such as to contribute to sustainable development.

(4) In preparing the proposals and policies, the Secretary of State may take into account the proposals and policies the Secretary of State considers may be prepared by other national authorities.

Commencement

Pt 1 s. 13(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 13(1)-(4): United Kingdom

Law In Force

14 Duty to report on proposals and policies for meeting carbon budgets

(1) As soon as is reasonably practicable after making an order setting the carbon budget for a budgetary period, the Secretary of State must lay before Parliament a report setting out proposals and policies for meeting the carbon budgets for the current and future budgetary periods up to and including that period.

(2) The report must, in particular, set out—

(a) the Secretary of State's current proposals and policies under section 13, and

(b) the time-scales over which those proposals and policies are expected to take effect.

(3) The report must explain how the proposals and policies set out in the report affect different sectors of the economy.

(4) The report must outline the implications of the proposals and policies as regards the crediting of carbon units to the net UK carbon account for each budgetary period covered by the report.

(5) So far as the report relates to proposals and policies of the Scottish Ministers, the Welsh Ministers or a Northern Ireland department, it must be prepared in consultation with that authority.

(6) The Secretary of State must send a copy of the report to those authorities.

Commencement

Pt 1 s. 14(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 14(1)-(6): United Kingdom

Law In Force

15 Duty to have regard to need for UK domestic action on climate change

(1) In exercising functions under this Part involving consideration of how to meet—

(a) the target in section 1(1) (the target for 2050), or

(b) the carbon budget for any period,

the Secretary of State must have regard to the need for UK domestic action on climate change.

(2) "UK domestic action on climate change" means reductions in UK emissions of targeted greenhouse gases or increases in UK removals of such gases (or both).

Commencement

Pt 1 s. 15(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 15(1)-(2): United Kingdom

Determination whether objectives met

Law In Force

16 Annual statement of UK emissions

(1) It is the duty of the Secretary of State to lay before Parliament in respect of each year, beginning with the year 2008, a statement containing the following information.

(2) In respect of each greenhouse gas (whether or not a targeted greenhouse gas), it must—

(a) state the amount for the year of UK emissions, UK removals and net UK emissions of that gas,

(b) identify the methods used to measure or calculate those amounts, and

(c) state whether any of those amounts represents an increase or decrease compared to the equivalent amount for the previous year.

(3) It must state the aggregate amount for the year of UK emissions, UK removals and net UK emissions of all greenhouse gases.

(4) If in accordance with international carbon reporting practice a change of method is such as to require adjustment of an amount for an earlier year in the same budgetary period, it must specify the adjustment required and state the adjusted amount.

(5) If emissions of a greenhouse gas from international aviation or international shipping are not required to be included in the statement by virtue of subsection (2), it must state any amounts relating to such emissions that the United Kingdom is required to report for the year in accordance with international carbon reporting practice.

(6) It must—

(a) state the total amount of carbon units that have been credited to or debited from the net UK carbon account for the year, and

(b) give details of the number and type of those carbon units.

(7) It must state the amount of the net UK carbon account for the year.

(8) It must state—

(a) the amount of net UK emissions of carbon dioxide for the year 1990,

(b) the amount of net UK emissions of each targeted greenhouse gas other than carbon dioxide for the year that is the base year for that gas, and

(c) a baseline amount for each greenhouse gas that is not a targeted greenhouse gas, determined on such basis as the Secretary of State considers appropriate.

(9) The amount referred to in subsection (8)(c) may be—

(a) the amount of net UK emissions of the gas for the year 1990 or a different year, or

(b) the average amount of net UK emissions of the gas for a number of years.

(10) The statement required by this section must be laid before Parliament not later than 31st March in the second year following that to which it relates.

(11) The Secretary of State must send a copy of the statement to the other national authorities.

Commencement

Pt 1 s. 16(1)-(11): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 16(1)-(11): United Kingdom

Law In Force

17 Powers to carry amounts from one budgetary period to another

(1) The Secretary of State may decide to carry back part of the carbon budget for a budgetary period to the preceding budgetary period.
The carbon budget for the later period is reduced, and that for the earlier period increased, by the amount carried back.

(2) The amount carried back under subsection (1) must not exceed 1% of the carbon budget for the later period.

(3) The Secretary of State may decide to carry forward the whole or part of any amount by which the carbon budget for a budgetary period exceeds the net UK carbon account for the period.
The amount of the carbon budget for the next budgetary period is increased by the amount carried forward.

(4) Before deciding to carry an amount back or forward under this section, the Secretary of State must—

(a) consult the other national authorities, and

(b) obtain, and take into account, the advice of the Committee on Climate Change.

(5) Any such decision must be made no later than 31st May in the second year after the end of the earlier of the two budgetary periods affected.

Commencement

Pt 1 s. 17(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 17(1)-(5): United Kingdom

Law In Force

18 Final statement for budgetary period

(1) It is the duty of the Secretary of State to lay before Parliament in respect of each budgetary period a statement containing the following information.

(2) In respect of each targeted greenhouse gas, it must state the final amount for the period of UK emissions, UK removals and net UK emissions of that gas.
That is the total of the amounts (or adjusted amounts) stated under section 16 (annual statement of UK emissions) in respect of that gas for the years included in the period.

(3) It must—

(a) state the final amount of carbon units that have been credited to or debited from the net UK carbon account for the period, and

(b) give details of the number and type of those carbon units.

(4) It must state the final amount of the net UK carbon account for the period.

(5) It must state whether the Secretary of State has decided to carry an amount back under section 17(1) (power to carry amount back from the budget for the next budgetary period), and if so what amount.

(6) It must state the amount of the carbon budget for the period.
That is the amount originally set, subject to any exercise of the powers conferred by section 17 (powers to carry amounts from one budgetary period to another) and any alteration of the budget under section 21.

(7) Whether the carbon budget for a period has been met shall be determined by reference to the figures given in the statement laid before Parliament under this section in respect of that period.

(8) If the carbon budget for the period has not been met, the statement must explain why it has not been met.

(9) The statement required by this section must be laid before Parliament not later than 31st May in the second year following the end of the period to which it relates.

(10) The Secretary of State must send a copy of the statement to the other national authorities.

Commencement

Pt 1 s. 18(1)-(10): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 18(1)-(10): United Kingdom

Law In Force

19 Duty to report on proposals and policies for compensating for budget excess

(1) As soon as is reasonably practicable after laying a statement before Parliament under section 18 in respect of a period for which the net UK carbon account exceeds the carbon budget, the Secretary of State must lay before Parliament a report setting out proposals and policies to compensate in future periods for the excess emissions.

(2) So far as the report relates to proposals and policies of the Scottish Ministers, the Welsh Ministers or a Northern Ireland department, it must be prepared in consultation with that authority.

(3) The Secretary of State must send a copy of the report to those authorities.

Commencement

Pt 1 s. 19(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 19(1)-(3): United Kingdom

Law In Force

20 Final statement for 2050

(1) It is the duty of the Secretary of State to lay before Parliament in respect of the year 2050 a statement containing the following information.

(2) In respect of each targeted greenhouse gas, it must state the amount for that year of UK emissions, UK removals and net UK emissions of that gas.
That is the amount stated for that year in respect of that gas under section 16 (annual statement of UK emissions).

(3) It must—

(a) state the amount of carbon units that have been credited to or debited from the net UK carbon account for the year, and

(b) give details of the number and type of those carbon units.

(4) It must state the amount of the net UK carbon account for that year.

(5) Whether the target in section 1 (the target for 2050) has been met shall be determined by reference to the figures given in the statement laid before Parliament under this section.

(6) If the target has not been met, the statement must explain why it has not been met.

(7) The statement required by this section must be laid before Parliament not later than 31st May 2052.

(8) The Secretary of State must send a copy of the statement to the other national authorities.

Commencement

Pt 1 s. 20(1)-(8): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 20(1)-(8): United Kingdom

Alteration of budgets or budgetary periods

Law In Force

21 Alteration of carbon budgets

(1) An order setting the carbon budget for a period may not be revoked after the date by which a budget for the period was required to be set.

(2) An order setting the carbon budget for a period may be amended after the date by which a budget for the period was required to be set only if it appears to the Secretary of State that, since the budget was originally set (or previously altered), there have been significant changes affecting the basis on which the previous decision was made.

(3) An order setting the carbon budget for a period may be amended after the period has begun only if it appears to the Secretary of State that there have been such changes since the period began.

(4) An order setting the carbon budget for a period may not be amended after the period has ended.

(5) An order revoking or amending an order setting a carbon budget is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 21(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 21(1)-(5): United Kingdom

Law In Force

22 Consultation on alteration of carbon budgets

(1) Before laying before Parliament a draft of a statutory instrument containing an order under section 21 (alteration of carbon budgets), the Secretary of State must—

(a) obtain, and take into account, the advice of the Committee on Climate Change, and

(b) take into account any representations made by the other national authorities.

(2) The Committee must, at the time it gives its advice to the Secretary of State, send a copy to the other national authorities.

(3) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(4) The Secretary of State may proceed to lay such a draft statutory instrument before Parliament without having received a national authority's representations if the authority does not provide them before the end of the relevant period.

(5) The relevant period is—

(a) if the budgetary period to which the order relates has begun, one month beginning with the date the Committee's advice was sent to the authority, or

(b) otherwise, three months beginning with that date.

(6) At the same time as laying such a draft statutory instrument before Parliament, the Secretary of State must publish a statement setting out whether and how the order takes account of any representations made by the other national authorities.

(7) If the order makes provision different from that recommended by the Committee, the Secretary of State must also publish a statement setting out the reasons for that decision.

(8) A statement under this section may be published in such manner as the Secretary of State thinks fit.

Commencement

Pt 1 s. 22(1)-(8): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 22(1)-(8): United Kingdom

Law In Force

23 Alteration of budgetary periods

(1) The Secretary of State may by order amend section 4(1)(a) so as to alter—

(a) the length of the budgetary periods, or

(b) the dates in the calendar year on which the budgetary periods begin and end.

(2) This power may only be exercised if it appears to the Secretary of State necessary to do so in order to keep the budgetary periods under this Part in line with similar periods under any agreement at European or international level to which the United Kingdom is a party.

(3) The power may not be exercised in such a way that any period falls outside a budgetary period.

(4) An order may make such consequential amendments of the provisions of this Act as appear to the Secretary of State to be necessary or expedient.

(5) Before making an order under this section the Secretary of State must consult the other national authorities.

(6) An order under this section is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 23(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 23(1)-(6): United Kingdom

Targeted greenhouse gases

Law In Force

24 Targeted greenhouse gases

(1) In this Part a "targeted greenhouse gas" means—

(a) carbon dioxide,
(b) methane,
(c) nitrous oxide,
(d) hydrofluorocarbons,
(e) perfluorocarbons,
(f) sulphur hexafluoride, and
(g) any other greenhouse gas designated as a targeted greenhouse gas by order made by the Secretary of State.

(2) The order may make such consequential amendments of the provisions of this Act as appear to the Secretary of State to be necessary or expedient.

(3) Before making an order under this section, the Secretary of State must—
(a) consult the other national authorities, and
(b) obtain, and take into account, the advice of the Committee on Climate Change.

(4) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(5) If the order makes provision different from that recommended by the Committee, the Secretary of State must publish a statement setting out the reasons for that decision.

(6) The statement may be published in such manner as the Secretary of State thinks fit.

(7) An order under this section is subject to affirmative resolution procedure.

Commencement

Pt 1 s. 24(1)-(7): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 24(1)-(7): United Kingdom

Law In Force

25 Base years for targeted greenhouse gases other than CO2

(1) The base years for the purposes of this Act for targeted greenhouse gases other than carbon dioxide are—

Gas	*Base year*
methane	1990
nitrous oxide	1990
hydrofluorocarbons	1995
perfluorocarbons	1995
sulphur hexafluoride	1995
[nitrogen trifluoride	1995**]**[1]

(2) The Secretary of State may make provision by order amending the table in subsection (1) so as to—

(a) specify the base year for a gas designated as a targeted greenhouse gas by order under section 24(1), or

(b) specify a different base year from that for the time being specified in relation to any targeted greenhouse gas other than carbon dioxide.

(3) An order may—

(a) designate a particular base year, or

(b) designate a number of base years and provide that the average amount of net UK emissions of a gas for those years is to be treated for the purposes of this Act as the amount of net UK emissions for the base year.

(4) The power in subsection (2)(b) may only be exercised if it appears to the Secretary of State that there have been significant developments in European or international law or policy that make it appropriate to do so.

(5) Before making an order under this section, the Secretary of State must—

(a) consult the other national authorities, and

(b) obtain, and take into account, the advice of the Committee on Climate Change.

(6) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(7) If the order makes provision different from that recommended by the Committee, the Secretary of State must publish a statement setting out the reasons for that decision.

(8) The statement may be published in such manner as the Secretary of State thinks fit.

(9) An order under this section is subject to affirmative resolution procedure.

Notes

[1] Entry inserted by Climate Change (Targeted Greenhouse Gases) Order 2023/118 art.3(2) (February 3, 2023 immediately after SI 2023/118 art.3(3) comes into force)

Commencement

Pt 1 s. 25(1)-(9): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 25(1)-(9): United Kingdom

Carbon units, carbon accounting and the net UK carbon account

Law In Force

26 Carbon units and carbon accounting

(1) In this Part a "carbon unit" means a unit of a kind specified in regulations made by the Secretary of State and representing—

(a) a reduction in an amount of greenhouse gas emissions,

(b) the removal of an amount of greenhouse gas from the atmosphere, or

(c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.

(2) The Secretary of State may make provision by regulations for a scheme—

(a) for registering or otherwise keeping track of carbon units, or

(b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Secretary of State.

The regulations may, in particular, provide for an existing scheme to be adapted for these purposes.

(3) The regulations may make provision—

(a) appointing a body to administer the scheme;

(b) establishing a body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise as the Secretary of State considers appropriate;

(c) conferring power on the Secretary of State to give guidance or directions to the body administering the scheme;

(d) conferring power on the Secretary of State to delegate the performance of any of the functions conferred or imposed on the Secretary of State by the regulations;

(e) requiring the payment by persons using the scheme of charges (of an amount determined by or under the regulations) towards the cost of operating it.

(4) If an existing body is appointed to administer the scheme, the regulations may make such modifications of any enactment relating to that body as the Secretary of State considers appropriate.

Commencement

Pt 1 s. 26(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 26(1)-(4): United Kingdom

Law In Force

27 Net UK carbon account

(1) In this Part the "net UK carbon account" for a period means the amount of net UK emissions of targeted greenhouse gases for the period—

(a) reduced by the amount of carbon units credited to the net UK carbon account for the period in accordance with regulations under this section, and

(b) increased by the amount of carbon units that in accordance with such regulations are to be debited from the net UK carbon account for the period.

(2) The net amount of carbon units credited to the net UK carbon account for a budgetary period must not exceed the limit set under section 11 (limit on use of carbon units) for the period.

(3) The Secretary of State must make provision by regulations about—

(a) the circumstances in which carbon units may be credited to the net UK carbon account for a period,

(b) the circumstances in which such units must be debited from that account for a period, and

(c) the manner in which this is to be done.

(4) The regulations must contain provision for ensuring that carbon units that are credited to the net UK carbon account for a period cease to be available to offset other greenhouse gas emissions.

(5) The regulations must contain provision—

(a) for determining whether the total amount of carbon units allocated to the United Kingdom for each budgetary period under schemes or arrangements imposing a limit on emissions from sources in the United Kingdom represent an amount of net UK emissions of targeted greenhouse gases for the period greater than the carbon budget for the period, and

(b) for ensuring that, if this is the case, carbon units representing the amount of such emissions in excess of the budget are not used to offset greenhouse gas emissions in the United Kingdom or elsewhere.

Commencement

Pt 1 s. 27(1)-(5)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 27(1)-(5)(b): United Kingdom

Law In Force

28 Procedure for regulations under section 26 or 27

(1) The following provisions apply in relation to regulations under section 26 (carbon units and carbon accounting) or section 27 (net UK carbon account).

(2) The regulations are subject to affirmative resolution procedure if—

(a) they are the first regulations to be made under those sections,

(b) they specify a carbon unit of a kind not previously specified in regulations made under those sections,

(c) they alter the amount by which—

(i) a carbon unit that is credited to the net UK carbon account for a period reduces the net UK carbon account for that period, or

(ii) a carbon unit that is debited from the net UK carbon account for a period increases the net UK carbon account for that period, or

(d) they make modifications of an enactment contained in primary legislation.

(3) Otherwise the regulations are subject to negative resolution procedure.

(4) The Secretary of State must consult the other national authorities—

(a) in the case of regulations subject to affirmative resolution procedure, before laying before Parliament a draft of a statutory instrument containing the regulations;

(b) in the case of regulations subject to negative resolution procedure, before making the regulations.

(5) The Secretary of State must obtain, and take into account, the advice of the Committee on Climate Change before laying before Parliament a draft of a statutory instrument containing—

(a) the first regulations to be made under those sections, or

(b) regulations making provision of the kind described in paragraph (b) or (c) of subsection (2).

Commencement

Pt 1 s. 28(1)-(5)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 28(1)-(5)(b): United Kingdom

Other supplementary provisions

Law In Force

29 UK emissions and removals of greenhouse gases

(1) In this Part—

(a) "UK emissions", in relation to a greenhouse gas, means emissions of that gas from sources in the United Kingdom;

(b) "UK removals", in relation to a greenhouse gas, means removals of that gas from the atmosphere due to **[** processes, mechanisms or **]** [1] activities in the United Kingdom ;

(c) the "net UK emissions" for a period, in relation to a greenhouse gas, means the amount of UK emissions of that gas for the period reduced by the amount for the period of UK removals of that gas.

(2) The amount of UK emissions and UK removals of a greenhouse gas for a period must be determined consistently with international carbon reporting practice.

Notes

[1] Words substituted by Energy Act 2023 c. 52 Pt 4 c.3 s.160 (December 26, 2023)

Commencement

Pt 1 s. 29(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 29(1)-(2): United Kingdom

Law In Force

30 Emissions from international aviation or international shipping

(1) Emissions of greenhouse gases from international aviation or international shipping do not count as emissions from sources in the United Kingdom for the purposes of this Part, except as provided by regulations made by the Secretary of State.

(2) The Secretary of State may by order define what is to be regarded for this purpose as international aviation or international shipping.
Any such order is subject to affirmative resolution procedure.

(3) The Secretary of State must, before expiry of the period ending with 31st December 2012—

(a) make provision by regulations as to the circumstances in which, and the extent to which, emissions from international aviation or international shipping are to be regarded for the purposes of this Part as emissions from sources in the United Kingdom, or

(b) lay before Parliament a report explaining why regulations making such provision have not been made.

(4) The expiry of the period mentioned in subsection (3) does not affect the power of the Secretary of State to make regulations under this section.

(5) Regulations under this section—

(a) may make provision only in relation to emissions of a targeted greenhouse gas;

(b) may, in particular, provide for such emissions to be regarded as emissions from sources in the United Kingdom if they relate to the transport of passengers or goods to or from the United Kingdom.

(6) Regulations under this section may make provision—

(a) as to the period or periods (whether past or future) in which emissions of the targeted greenhouse gas are to be taken into account as UK emissions of that gas, and

(b) as to the manner in which such emissions are to be taken into account in determining UK emissions of that gas for the year that is the base year for that gas.

(7) They may, in particular—

(a) designate a different base year, or

(b) designate a number of base years,

and provide for the emissions in that year, or the average amount of emissions in those years, to be treated for the purposes of this Act as UK emissions of that gas for the year that is the base year for that gas.

(8) For the purposes of this section the base year for carbon dioxide is the year that is the baseline year for the purposes of this Part.

Commencement

Pt 1 s. 30(1)-(8): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 30(1)-(8): United Kingdom

 Law In Force

31 Procedure for regulations under section 30

(1) Before making regulations under section 30, the Secretary of State must obtain, and take into account, the advice of the Committee on Climate Change.

(2) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

(3) If the regulations make provision different from that recommended by the Committee, the Secretary of State must publish a statement setting out the reasons for that decision.

(4) The statement may be published in such manner as the Secretary of State thinks fit.

(5) Regulations under section 30 are subject to affirmative resolution procedure.

Commencement

Pt 1 s. 31(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 1 s. 31(1)-(5): United Kingdom

PART 2

THE COMMITTEE ON CLIMATE CHANGE

The Committee

Law In Force

32 The Committee on Climate Change

(1) There shall be a body corporate to be known as the Committee on Climate Change or, in Welsh, as y Pwyllgor ar Newid Hinsawdd (referred to in this Part as "the Committee").

(2) Schedule 1 contains further provisions about the Committee.

Commencement

Pt 2 s. 32(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 32(1)-(2): United Kingdom

Functions of the Committee

Law In Force

33 Advice on level of 2050 target

(1) It is the duty of the Committee to advise the Secretary of State on—

(a) whether the percentage specified in section 1(1) (the target for 2050) should be amended, and

(b) if so, what the amended percentage should be.

(2) Advice given by the Committee under this section must also contain the reasons for that advice.

(3) The Committee must give its advice under this section not later than 1st December 2008.

(4) The Committee must, at the time it gives its advice under this section to the Secretary of State, send a copy to the other national authorities.

(5) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

Commencement

Pt 2 s. 33(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 33(1)-(5): United Kingdom

Law In Force

34 Advice in connection with carbon budgets

(1) It is the duty of the Committee to advise the Secretary of State, in relation to each budgetary period, on—

(a) the level of the carbon budget for the period,

(b) the extent to which the carbon budget for the period should be met—

(i) by reducing the amount of net UK emissions of targeted greenhouse gases, or

(ii) by the use of carbon units that in accordance with regulations under sections 26 and 27 may be credited to the net UK carbon account for the period,

(c) the respective contributions towards meeting the carbon budget for the period that should be made—

(i) by the sectors of the economy covered by trading schemes (taken as a whole);

(ii) by the sectors of the economy not so covered (taken as a whole), and

(d) the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of targeted greenhouse gases.

(2) In relation to the budgetary period 2008–2012, the Committee must also advise the Secretary of State on—

(a) whether it would be consistent with its advice on the level of the carbon budget for the period to set a carbon budget such that the annual equivalent for the period was lower than the 1990 baseline by 20%, and

(b) the costs and benefits of setting such a budget.

(3) Advice given by the Committee under this section must also contain the reasons for that advice.

(4) The Committee must give its advice under this section—

(a) for the budgetary periods 2008–2012, 2013–2017 and 2018–2022, not later than 1st December 2008;

(b) for any later period, not later than six months before the last date for setting the carbon budget for the period (see section 4(2)(b)).

(5) The Committee must, at the time it gives its advice under this section to the Secretary of State, send a copy to the other national authorities.

(6) As soon as is reasonably practicable after giving its advice under this section the Committee must publish that advice in such manner as it considers appropriate.

Commencement

Pt 2 s. 34(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 34(1)-(6): United Kingdom

Law In Force

35 Advice on emissions from international aviation and international shipping

(1) It is the duty of the Committee to advise the Secretary of State on the consequences of treating emissions of targeted greenhouse gases from—

(a) international aviation, and

(b) international shipping,

as emissions from sources in the United Kingdom for the purposes of Part 1.

(2) The duty applies if and to the extent that regulations under section 30 do not provide for such emissions to be so treated.

(3) Advice given by the Committee under this section must also contain the reasons for that advice.

(4) The Committee must give its advice under this section—

(a) when it gives its advice under section 34 for the budgetary period 2023–2027, and

(b) when it gives its advice under that section for each subsequent budgetary period.

(5) The Committee must, at the time it gives its advice under this section to the Secretary of State, send a copy to the other national authorities.

(6) As soon as is reasonably practicable after giving its advice to the Secretary of State, the Committee must publish that advice in such manner as it considers appropriate.

Commencement

Pt 2 s. 35(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 35(1)-(6): United Kingdom

Law In Force

36 Reports on progress

(1) It is the duty of the Committee to lay before Parliament and each of the devolved legislatures each year, beginning with the year 2009, a report setting out the Committee's views on—

(a) the progress that has been made towards meeting the carbon budgets that have been set under Part 1 and the target in section 1 (the target for 2050),

(b) the further progress that is needed to meet those budgets and that target, and

(c) whether those budgets and that target are likely to be met.

(2) The Committee's report in the second year after the end of a budgetary period must also set out the Committee's general views on—

(a) the way in which the budget for the period was or was not met, and

(b) action taken during the period to reduce net UK emissions of targeted greenhouse gases.

(3) The first report under this section must be laid before Parliament and the devolved legislatures not later than 30th September 2009.

(4) Each subsequent report under this section, other than one in the second year after the end of a budgetary period, must be laid before Parliament and the devolved legislatures not later than 30th June in the year in which it is made.

(5) A report in the second year after the end of a budgetary period must be laid before Parliament and the devolved legislatures not later than 15th July in the year in which it is made.

(6) The Secretary of State may by order extend the period mentioned in subsection (4) or (5).

(7) Before making such an order the Secretary of State must consult the other national authorities.

(8) Any such order is subject to negative resolution procedure.

Commencement

Pt 2 s. 36(1)-(8): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 36(1)-(8): United Kingdom

Law In Force

37 Response to Committee's reports on progress

(1) The Secretary of State must lay before Parliament a response to the points raised by each report of the Committee under section 36 (reports on progress).

(2) Before doing so, the Secretary of State must consult the other national authorities on a draft of the response.

(3) The response to the Committee's first report under section 36 must be laid before Parliament not later than 15th January 2010.

(4) Each subsequent response must be laid before Parliament not later than 15th October in the year in which the Committee's report is made.

(5) The Secretary of State may by order extend that period.

(6) Any such order is subject to negative resolution procedure.

Commencement

Pt 2 s. 37(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 37(1)-(6): United Kingdom

Law In Force

38 Duty to provide advice or other assistance on request

(1) The Committee must, at the request of a national authority, provide advice, analysis, information or other assistance to the authority in connection with—

(a) the authority's functions under this Act,

(b) the progress made towards meeting the objectives set by or under this Act,

(c) adaptation to climate change, or

(d) any other matter relating to climate change.

(2) In particular, the Committee must, at the request of a national authority—

(a) advise the authority about any limit proposed to be set by a trading scheme on the total amount of the activities to which the scheme applies, or

(b) assist the authority in connection with the preparation of statistics relating to greenhouse gas emissions.

(3) The Committee must, at the request of a national authority other than the Secretary of State, provide advice, analysis, information or other assistance to the authority in connection with any target, budget or similar requirement relating to emissions of greenhouse gas that has been adopted by the authority or to which the authority is otherwise subject.

Commencement

Pt 2 s. 38(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 38(1)-(3): United Kingdom

Supplementary provisions

Law In Force

39 General ancillary powers

(1) The Committee may do anything that appears to it necessary or appropriate for the purpose of, or in connection with, the carrying out of its functions.

(2) In particular the Committee may—

(a) enter into contracts,
(b) acquire, hold and dispose of property,
(c) borrow money,
(d) accept gifts, and
(e) invest money.

(3) In exercising its functions, the Committee may—

(a) gather information and carry out research and analysis,
(b) commission others to carry out such activities, and
(c) publish the results of such activities carried out by the Committee or others.

(4) The Committee must have regard to the desirability of involving the public in the exercise of its functions.

Commencement

Pt 2 s. 39(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 39(1)-(4): United Kingdom

Law In Force

40 Grants to the Committee

A national authority may make grants to the Committee of such amount and subject to such conditions as the authority thinks fit.

Commencement

Pt 2 s. 40: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 40: United Kingdom

Law In Force

41 Powers to give guidance

(1) The national authorities may give the Committee guidance as to the matters it is to take into account in the exercise of—

(a) its functions generally, or
(b) any of its functions under Schedule 1.

(2) The Secretary of State may give the Committee guidance as to the matters it is to take into account in the exercise of its functions under—

(a) Part 1 (carbon target and budgeting),
(b) section 33 (advice on level of 2050 target),
(c) section 34 (advice in connection with carbon budgets),
(d) section 35 (advice on emissions from international aviation and international shipping),
(e) section 36 (reports on progress),
(f) section 57 (advice on report on impact of climate change), or
(g) section 59 (reporting on progress in connection with adaptation).

Before giving guidance under any of paragraphs (a) to (f), the Secretary of State must consult the other national authorities.

(3) A national authority that requests the Committee to provide advice, analysis, information or other assistance under—

(a) section 38 (duty to provide advice or assistance on request), or
(b) section 48 (advice on trading scheme regulations),

may give the Committee guidance as to the matters it is to take into account in responding to that request.

If the request is made by two or more national authorities, the guidance must be given by them jointly.

(4) The power to give guidance under this section includes power to vary or revoke it.

(5) In performing its functions the Committee must have regard to any guidance given under this section.

Commencement

Pt 2 s. 41(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 41(1)-(5): United Kingdom

Law In Force

42 Powers to give directions

(1) The national authorities may give the Committee directions as to the exercise of—

(a) its functions generally, or
(b) any of its functions under Schedule 1.

(2) The Secretary of State may give the Committee directions as to the exercise of its functions under—

(a) Part 1 (carbon target and budgeting),
(b) section 33 (advice on level of 2050 target),
(c) section 34 (advice in connection with carbon budgets),
(d) section 35 (advice on emissions from international aviation and international shipping),
(e) section 36 (reports on progress),
(f) section 57 (advice on report on impact of climate change), or

(g) section 59 (reporting on progress in connection with adaptation).

Before giving directions under any of paragraphs (a) to (f), the Secretary of State must consult the other national authorities.

(3) A national authority that requests the Committee to provide advice, analysis, information or other assistance under—

(a) section 38 (duty to provide advice or assistance on request), or

(b) section 48 (advice on trading scheme regulations),

may give the Committee directions as to the exercise of its functions in responding to that request. If the request is made by two or more national authorities, the directions must be given by them jointly.

(4) The power to give directions under this section does not include power to direct the Committee as to the content of any advice or report.

(5) The power to give directions under this section includes power to vary or revoke the directions.

(6) The Committee must comply with any directions given under this section.

Commencement

Pt 2 s. 42(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 42(1)-(6): United Kingdom

Interpretation

Law In Force

43 Interpretation of Part 2

Expressions used in this Part that are defined in Part 1 (carbon target and budgeting) have the same meaning as in that Part.

Commencement

Pt 2 s. 43: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 2 s. 43: United Kingdom

PART 3

TRADING SCHEMES

Trading schemes

Law In Force

44 Trading schemes

(1) The relevant national authority may make provision by regulations for trading schemes relating to greenhouse gas emissions.

(2) A "trading scheme" is a scheme that operates by—

(a) limiting or encouraging the limitation of activities that consist of the emission of greenhouse gas or that cause or contribute, directly or indirectly, to such emissions, or

(b) encouraging activities that consist of, or that cause or contribute, directly or indirectly, to reductions in greenhouse gas emissions or the removal of greenhouse gas from the atmosphere.

Commencement

Pt 3 s. 44(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 44(1)-(2)(b): United Kingdom

Law In Force

45 Activities to which trading schemes may apply

(1) For the purposes of this Part activities are regarded as indirectly causing or contributing to greenhouse gas emissions if they involve, in particular—

(a) the consumption of energy,

(b) the use of materials in whose production energy was consumed,

(c) the disposal otherwise than for recycling of materials in whose production energy was consumed, or

(d) the production or supply of anything whose subsequent use directly causes or contributes to greenhouse gas emissions.

(2) Correspondingly, for the purposes of this Part activities are regarded as indirectly causing or contributing to the reduction of greenhouse gas emissions if they involve a reduction under any of those heads.

(3) This Part applies to activities carried on in the United Kingdom, regardless of where the related emissions, reductions or removals of greenhouse gas occur.

Commencement

Pt 3 s. 45(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 45(1)-(3): United Kingdom

Law In Force

46 Matters that may or must be provided for in regulations

(1) Schedule 2 specifies matters that may or must be provided for in regulations under section 44.

(2) In that Schedule—

Part 1 deals with schemes that operate by limiting or encouraging the limitation of activities that consist of the emission of greenhouse gas or that cause or contribute, directly or indirectly, to such emissions;

Part 2 deals with schemes that operate by encouraging activities that consist of, or that cause or contribute, directly or indirectly, to reductions in greenhouse gas emissions or the removal of greenhouse gas from the atmosphere;

Part 3 deals with administration and enforcement.

(3) Regulations under section 44 may also make provision about the application of the regulations to the Crown.

Commencement

Pt 3 s. 46(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 46(1)-(3): United Kingdom

Authorities and regulations

Law In Force

47 Relevant national authorities

(1) This section identifies "the relevant national authority" for the purposes of this Part.

(2) The Scottish Ministers are the relevant national authority in relation to matters within the legislative competence of the Scottish Parliament.

(3) The Welsh Ministers are the relevant national authority in relation to matters that—

(a) are within the legislative competence of the National Assembly for Wales, or

(b) relate to limiting or encouraging the limitation of activities in Wales that consist of the emission of greenhouse gas, other than activities in connection with offshore oil and gas exploration and exploitation.

(4) In subsection (3)(b)—

"Wales" has the same meaning as in the Government of Wales Act 2006 (c. 32); and

"offshore oil and gas exploration and exploitation" has the same meaning as in the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958).

(5) The Secretary of State or the relevant Northern Ireland department is the relevant authority in relation to reserved matters within the meaning of the Northern Ireland Act 1998 (c. 47).

(6) The relevant Northern Ireland department is the relevant authority in relation to all other matters within the legislative competence of the Northern Ireland Assembly.

(7) The Secretary of State is the relevant national authority in relation to all other matters.

Commencement

Pt 3 s. 47(1)-(7): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 47(1)-(7): United Kingdom

Law In Force

48 Procedure for making regulations

(1) Before making regulations under this Part, a national authority must—

(a) obtain, and take into account, the advice of the Committee on Climate Change, and

(b) consult such persons likely to be affected by the regulations as the authority considers appropriate.

(2) In particular, before making regulations under this Part that set a limit on the total amount of the activities to which a trading scheme applies for a trading period or periods, a national authority must obtain, and take into account, the advice of the Committee on Climate Change on the amount of that limit.

(3) Regulations under this Part are subject to affirmative resolution procedure if they contain provision—

(a) setting up a trading scheme,

(b) extending the class of participants or activities to which a trading scheme applies,

(c) extending the duration of a trading scheme,

(d) making the overall requirements of a trading scheme significantly more onerous,

(e) conferring new powers to enforce the requirements of a trading scheme,

(f) imposing or providing for the imposition of new financial or other penalties or increasing the amount of existing financial penalties,

(g) creating an offence or increasing the penalties for an existing offence, or

(h) amending or repealing a provision of an enactment contained in primary legislation.

(4) Regulations under this Part are subject to affirmative resolution procedure if they are the first such regulations to contain provision under paragraph 31 of Schedule 2 (appeals).

(5) Other regulations under this Part are subject to negative resolution procedure.

(6) The relevant Northern Ireland department may only make regulations under this Part dealing with a reserved matter within the meaning of the Northern Ireland Act 1998 (c. 47) with the consent of the Secretary of State.

Commencement

Pt 3 s. 48(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 48(1)-(6): United Kingdom

Law In Force

49 Further provisions about regulations

(1) Schedule 3 makes further provision about regulations under this Part.

(2) In that Schedule—

Part 1 relates to regulations made by a single national authority;
Part 2 relates to regulations made by two or more national authorities; and
Part 3 confers power to make provision by Order in Council.

Commencement

Pt 3 s. 49(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 49(1)-(2): United Kingdom

Other supplementary provisions

Law In Force

50 Information

(1) Schedule 4 confers powers to require information for the purposes of enabling a trading scheme to be established.

(2) Paragraphs 1 to 5 of that Schedule shall cease to have effect on 1st January 2011.

Commencement

Pt 3 s. 50(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 50(1)-(2): United Kingdom

Law In Force

51 Powers to give guidance

(1) The relevant national authority may give guidance to the administrator of a trading scheme.

(2) The power to give guidance under this section includes power to vary or revoke it.

(3) The administrator must have regard to any guidance given under this section.

Commencement

Pt 3 s. 51(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 51(1)-(3): United Kingdom

Law In Force

52 Powers to give directions

(1) The relevant national authority may give directions to the administrator of a trading scheme.

(2) The power to give directions under this section includes power to vary or revoke the directions.

(3) The administrator must comply with any directions given under this section.

Commencement

Pt 3 s. 52(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 52(1)-(3): United Kingdom

Law In Force

53 Grants to administrators and participants

(1) A national authority may make, or arrange for the making of, grants to—

(a) the administrator of a trading scheme, or

(b) the participants in a trading scheme.

(2) A grant under this section may be made subject to such conditions as may be determined by, or in accordance with arrangements made by, the national authority that makes the grant.

Commencement

Pt 3 s. 53(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 53(1)-(2): United Kingdom

Law In Force

54 Power to make consequential provision

A national authority may by regulations—

(a) make such provision amending, repealing or revoking any enactment as the authority considers appropriate in consequence of provision made by that authority by regulations under section 44 (trading schemes);

(b) make such transitional provision and savings as the authority considers appropriate in connection with the coming into effect of such provision.

Commencement

Pt 3 s. 54(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 54(a)-(b): United Kingdom

Interpretation

Law In Force

55 Interpretation of Part 3

In this Part—

"administrator", in relation to a trading scheme, means a person appointed as the administrator of the scheme by regulations under paragraph 21 of Schedule 2;

"participant", in relation to a trading scheme, means a person to whom the scheme applies by virtue of regulations under paragraph 4 or 15 of Schedule 2;

"trading period", in relation to a trading scheme, means a period by reference to which the scheme is to operate by virtue of regulations under paragraph 2 or 13 of Schedule 2.

Commencement

Pt 3 s. 55 definition of "administrator"- definition of "trading period": January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 3 s. 55 definition of "administrator"- definition of "trading period": United Kingdom

PART 4

IMPACT OF AND ADAPTATION TO CLIMATE CHANGE

National reports and programmes

Law In Force

56 Report on impact of climate change

(1) It is the duty of the Secretary of State to lay reports before Parliament containing an assessment of the risks for the United Kingdom of the current and predicted impact of climate change.

(2) The first report under this section must be laid before Parliament no later than three years after this section comes into force.

(3) Subsequent reports must be laid before Parliament no later than five years after the previous report was so laid.

(4) The Secretary of State may extend the period for laying any such report, but must publish a statement setting out the reasons for the delay and specifying when the report will be laid before Parliament.

(5) Before laying a report under this section before Parliament, the Secretary of State must take into account the advice of the Committee on Climate Change under section 57.

(6) The Secretary of State must send a copy of each report under this section to the other national authorities.

Commencement

Pt 4 s. 56(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 56(1)-(6): United Kingdom

Law In Force

57 Advice of Committee on Climate Change on impact report

(1) It is the duty of the Committee on Climate Change to advise the Secretary of State on the preparation of each of the Secretary of State's reports under section 56.

(2) The Committee must give its advice under this section in relation to a report not later than six months before the last date for laying the report before Parliament (see subsections (2) to (4) of section 56).

(3) The Committee must, at the time it gives its advice under this section to the Secretary of State, send a copy to the other national authorities.

(4) As soon as is reasonably practicable after giving its advice under this section the Committee must publish that advice in such manner as it considers appropriate.

Commencement

Pt 4 s. 57(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 57(1)-(4): United Kingdom

Law In Force

58 Programme for adaptation to climate change

(1) It is the duty of the Secretary of State to lay programmes before Parliament setting out —

(a) the objectives of Her Majesty's Government in the United Kingdom in relation to adaptation to climate change,

(b) the Government's proposals and policies for meeting those objectives, and

(c) the time-scales for introducing those proposals and policies,

addressing the risks identified in the most recent report under section 56.

(2) The objectives, proposals and policies must be such as to contribute to sustainable development.

(3) Each programme under this section must be laid before Parliament as soon as is reasonably practicable after the laying of the report under section 56 to which it relates.

(4) The Secretary of State must send a copy of each programme under this section to the other national authorities.

Commencement

Pt 4 s. 58(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 58(1)-(4): United Kingdom

Law In Force

59 Reporting on progress in connection with adaptation

(1) Each report of the Committee on Climate Change under section 36 to which this section applies must contain an assessment of the progress made towards implementing the objectives, proposals and policies set out in the programmes laid before Parliament under section 58 (adaptation to climate change).

(2) This section applies to the report in the second year after that in which the Secretary of State lays the first programme under section 58 before Parliament.

(3) After that, this section applies to the report under section 36 in every second year after that in which the Committee last made a report to which this section applies, subject to any order under subsection (4).

(4) The Secretary of State may by order provide that this section shall apply to the report under section 36 in the year specified in the order and in every subsequent year.

(5) An order under subsection (4) is subject to negative resolution procedure.

Commencement

Pt 4 s. 59(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 59(1)-(5): United Kingdom

Law In Force

60 Programme for adaptation to climate change: Northern Ireland

(1) It is the duty of the relevant Northern Ireland department to lay programmes before the Northern Ireland Assembly setting out—

(a) the objectives of the department in relation to adaptation to climate change,

(b) the department's proposals and policies for meeting those objectives, and

(c) the time-scales for introducing those proposals and policies,

addressing the risks identified in the most recent report under section 56.

(2) The objectives, proposals and policies must be such as to contribute to sustainable development.

(3) The second and each subsequent programme under this section must contain an assessment of the progress made towards implementing the objectives, proposals and policies set out in earlier programmes.

(4) Each programme under this section must be laid before the Northern Ireland Assembly as soon as is reasonably practicable after the laying before Parliament of the report under section 56 to which it relates.

(5) The relevant Northern Ireland department must send a copy of each programme under this section to the other national authorities.

Commencement

Pt 4 s. 60(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 60(1)-(5): United Kingdom

Reporting authorities: non-devolved functions

Law In Force

61 Guidance by Secretary of State to reporting authorities

(1) The Secretary of State may issue guidance to reporting authorities about—

(a) assessing the current and predicted impact of climate change in relation to the authorities' functions,

(b) preparing proposals and policies for adapting to climate change in the exercise of their functions, and

(c) co-operating with other reporting authorities for that purpose.

(2) This section does not apply to devolved functions.

Commencement

Pt 4 s. 61(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 61(1)-(2): United Kingdom

Law In Force

62 Directions by Secretary of State to prepare reports

(1) The Secretary of State may direct a reporting authority to prepare a report containing any of the following—

(a) an assessment of the current and predicted impact of climate change in relation to the authority's functions;

(b) a statement of the authority's proposals and policies for adapting to climate change in the exercise of its functions and the time-scales for introducing those proposals and policies;

(c) an assessment of the progress made by the authority towards implementing the proposals and policies set out in its previous reports.

(2) The Secretary of State may direct two or more reporting authorities to prepare a joint report.

(3) The Secretary of State may give directions about—

(a) the time within which a report must be prepared, and

(b) its content,

and may, in particular, require it to cover a particular geographical area.

(4) This section does not apply to devolved functions.

Commencement

Pt 4 s. 62(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 62(1)-(4): United Kingdom

Law In Force

63 Compliance with Secretary of State's directions

(1) A reporting authority must comply with any directions under section 62.

(2) Where two or more reporting authorities are directed to prepare a joint report, they must take reasonable steps to co-operate with each other for that purpose.

(3) In preparing a report, a reporting authority must have regard to the following, so far as relevant—

(a) the most recent report under section 56 (report on impact of climate change);

(b) the most recent programme under section 58 (programme for adaptation to climate change);

(c) any guidance issued by the Secretary of State under section 61.

(4) If the authority—

(a) has functions that are exercisable in or as regards Wales, or

(b) has devolved Welsh functions,

it must also have regard, so far as relevant, to any guidance issued by the Welsh Ministers under section 66 and the most recent report under section 80 (report on climate change: Wales).

(5) The authority must send a copy of the report to the Secretary of State.

(6) The Secretary of State must publish the report in such manner as the Secretary of State considers appropriate.

(7) This does not require the Secretary of State to publish—

(a) information the Secretary of State could refuse to disclose in response to a request under—

(i) the Freedom of Information Act 2000 (c. 36), or

(ii) the Environmental Information Regulations 2004 (S.I. 2004/3391) or any regulations replacing those regulations;

(b) information whose disclosure is prohibited by any enactment.

(8) The authority must have regard to the report in exercising its functions other than its devolved functions.

Commencement

Pt 4 s. 63(1)-(8): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 63(1)-(8): United Kingdom

Law In Force

64 Consent of, or consultation with, devolved authorities

(1) The Secretary of State must obtain the consent of a devolved authority before issuing guidance under section 61 or giving a direction under section 62 relating to functions in relation to which—

(a) functions are exercisable jointly by that devolved authority and a Minister of the Crown, or

(b) functions are exercisable by a Minister of the Crown only with the agreement of that devolved authority.

(2) The Secretary of State must consult a devolved authority before issuing guidance under section 61 or giving a direction under section 62 relating to functions in relation to which—

(a) functions are exercisable by that devolved authority other than jointly with a Minister of the Crown, or

(b) functions are exercisable by a Minister of the Crown only after consultation with that devolved authority.

Commencement

Pt 4 s. 64(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 64(1)-(2)(b): United Kingdom

Law In Force

65 Report on exercise of power to give directions

(1) It is the duty of the Secretary of State to lay reports before Parliament setting out how the Secretary of State intends to exercise the power under section 62 to give directions to reporting authorities.

(2) The reports must, in particular, identify—

(a) the circumstances in which directions are likely to be given, and

(b) the authorities or kinds of authority to whom the Secretary of State considers directions should be given as a matter of priority.

(3) Nothing in a report under this section affects the exercise of the Secretary of State's power under section 62.

(4) Before laying a report under this section before Parliament the Secretary of State must consult such persons likely to be affected by the report as the Secretary of State considers appropriate.

(5) The first report under this section must be laid before Parliament no later than 12 months after this Act is passed.

(6) Subsequent reports must be laid before Parliament no later than the time when the next programme under section 58 is so laid.

(7) The Secretary of State must send a copy of each report under this section to the other national authorities.

Commencement

Pt 4 s. 65(1)-(7): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 65(1)-(7): United Kingdom

Reporting authorities: devolved Welsh functions

Law In Force

66 Guidance by Welsh Ministers to reporting authorities

The Welsh Ministers may issue guidance to reporting authorities about—

(a) assessing the current and predicted impact of climate change in relation to the authorities' devolved Welsh functions,

(b) preparing proposals and policies for adapting to climate change in the exercise of those functions, and

(c) co-operating with other reporting authorities for that purpose.

Commencement

Pt 4 s. 66(a)-(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 66(a)-(c): United Kingdom

Law In Force

67 Directions by Welsh Ministers to prepare reports

(1) The Welsh Ministers may direct a reporting authority to prepare a report containing any of the following—

(a) an assessment of the current and predicted impact of climate change in relation to the authority's devolved Welsh functions;

(b) a statement of the authority's proposals and policies for adapting to climate change in the exercise of those functions and the time-scales for introducing those proposals and policies;

(c) an assessment of the progress made by the authority towards implementing the proposals and policies set out in its previous reports.

(2) The Welsh Ministers may direct two or more reporting authorities to prepare a joint report.

(3) The Welsh Ministers may give directions about—

(a) the time within which a report must be prepared, and

(b) its content,

and may, in particular, require it to cover a particular geographical area.

Commencement

Pt 4 s. 67(1)-(3)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 67(1)-(3)(b): United Kingdom

Law In Force

68 Compliance with Welsh Ministers' directions

(1) A reporting authority must comply with any directions under section 67.

(2) Where two or more reporting authorities are directed to prepare a joint report, they must take reasonable steps to co-operate with each other for that purpose.

(3) In preparing a report, a reporting authority must have regard to the following, so far as relevant—

(a) the most recent report under section 56 (report on impact of climate change);

(b) the most recent programme under section 58 (programme for adaptation to climate change);

(c) any guidance issued by the Secretary of State under section 61;

(d) any guidance issued by the Welsh Ministers under section 66;

(e) the most recent report under section 80 (report on climate change: Wales).

(4) The authority must send a copy of the report to the Welsh Ministers.

(5) The Welsh Ministers must publish the report in such manner as they consider appropriate.

(6) This does not require the Welsh Ministers to publish—

(a) information they could refuse to disclose in response to a request under—

(i) the Freedom of Information Act 2000 (c. 36), or

(ii) the Environmental Information Regulations 2004 (S.I. 2004/3391) or any regulations replacing those regulations;

(b) information whose disclosure is prohibited by any enactment.

(7) The authority must have regard to the report in exercising its devolved Welsh functions.

Commencement

Pt 4 s. 68(1)-(7): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 68(1)-(7): United Kingdom

Law In Force

69 Consent of, or consultation with, Secretary of State

(1) The Welsh Ministers must obtain the consent of the Secretary of State before issuing guidance under section 66 or giving a direction under section 67 relating to functions in relation to which—

(a) functions are exercisable by a Minister of the Crown jointly with the Welsh Ministers, the First Minister or the Counsel General, or

(b) functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General only with the agreement of a Minister of the Crown.

(2) The Welsh Ministers must consult the Secretary of State before issuing guidance under section 66 or giving a direction under section 67 relating to functions in relation to which—

(a) functions are exercisable by a Minister of the Crown other than jointly with the Welsh Ministers, the First Minister or the Counsel General, or

(b) functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General only after consultation with a Minister of the Crown.

Commencement

Pt 4 s. 69(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 69(1)-(2)(b): United Kingdom

Interpretation

Law In Force

70 Interpretation

(1) In sections 61 to 69 and this section "reporting authority" means—

(a) a person or body with functions of a public nature,

(b) a person who is or is deemed to be a statutory undertaker for the purposes of any provision of—

(i) Part 11 of the Town and Country Planning Act 1990 (c. 8) (see section 262 of that Act), or

(ii) Part 10 of the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 214 of that Act), or

(c) a person who is a statutory undertaker within the meaning of **[** the Planning Act (Northern Ireland) 2011 (see section 250 of that Act) **]** [1] .

(2) None of the following are reporting authorities for the purposes of those sections and this section—

(a) a Minister of the Crown;

(b) either House of Parliament;

(c) a devolved authority;

(d) a devolved legislature.

(3) In those sections and this section "devolved authority" means—

(a) the Welsh Ministers, the First Minister or the Counsel General,

(b) the Scottish Ministers, the First Minister, the Lord Advocate or the Solicitor General for Scotland, or

(c) a Minister within the meaning of the Northern Ireland Act 1998 (c. 47) or a Northern Ireland department.

(4) References in those sections to a reporting authority's "devolved functions" are to functions—

(a) conferred or imposed by or under a Measure or Act of the National Assembly for Wales,

(b) exercisable in or as regards Wales and **[** capable of being conferred by provision falling within **]** [2] the legislative competence of the National Assembly for Wales,

(c) exercisable in or as regards Scotland and relating to matters within the legislative competence of the Scottish Parliament,

(d) exercisable in or as regards Northern Ireland and relating to transferred matters within the meaning of the Northern Ireland Act 1998, or

(e) in relation to which functions are exercisable by a devolved authority,

and in relation to which no functions are exercisable by a Minister of the Crown.

(5) For this purpose functions are not to be regarded as exercisable by a Minister of the Crown in relation to a reporting authority's functions merely because—

(a) the Minister of the Crown may exercise functions—

(i) under section 2(2) of the European Communities Act 1972 (c. 68),

(ii) by virtue of section 57(1) or under section 58 of the Scotland Act 1998 (c. 46) (Community and international obligations),

(iii) under section 27 or 28 of the Northern Ireland Act 1998 (international etc obligations),

(iv) by virtue of paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32) or under section 82 of that Act (Community and international obligations), or

(v) under section 152 of that Act (intervention in case of functions relating to water etc),

in relation to the reporting authority's functions,

(b) the Minister of the Crown's agreement is required to the exercise of a function by a devolved authority in relation to the reporting authority's functions, or

(c) the Minister of the Crown must be consulted by a devolved authority about the exercise of a function in relation to the reporting authority's functions.

(6) References in those sections to a reporting authority's "devolved Welsh functions" are to functions—

(a) conferred or imposed by or under a Measure or Act of the National Assembly for Wales,

(b) exercisable in or as regards Wales and **[** capable of being conferred by provision falling within **]** [2] the legislative competence of the National Assembly for Wales, or

(c) in relation to which functions are exercisable by the Welsh Ministers, the First Minister or the Counsel General.

(7) For this purpose functions are not to be regarded as exercisable by the Welsh Ministers, the First Minister or the Counsel General in relation to a reporting authority's functions merely because—

(a) the agreement of the Welsh Ministers, the First Minister or the Counsel General is required to the exercise of a function by a Minister of the Crown in relation to the reporting authority's functions, or

(b) the Welsh Ministers, the First Minister or the Counsel General must be consulted by a Minister of the Crown about the exercise of a function in relation to the reporting authority's functions.

(8) In those sections and this section—

(a) "Counsel General" and "Wales" have the same meanings as in the Government of Wales Act 2006 (c. 32);

(b) "Minister of the Crown" includes a government department.

Notes

1 Words substituted by Planning Act (Northern Ireland) 2011 c. 25 Sch.6 para.102 (February 13, 2015 for the purposes of enabling orders, rules and regulations to be made subject to transitional provisions specified in SR 2015/49 art.4 and Sch.2; April 1, 2015 subject to transitional provisions specified in SR 2015/49 art.4 and Sch.2 otherwise)

2 Words substituted by Wales Act 2017 c. 4 Sch.6(3) para.73 (April 1, 2018: substitution has effect as SI 2017/1179 reg.3(r) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Pt 4 s. 70(1)-(8)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 4 s. 70(1)-(8)(b): United Kingdom

PART 5

OTHER PROVISIONS

Waste reduction schemes

Repealed

71 […][1]

Notes

1 Repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

72 […][1]

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

73 […][1]

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

74 […][1]

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

75 […][1]

Notes

[1] Repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Collection of household waste

Law In Force

76 Collection of household waste

In section 46 of the Environmental Protection Act 1990 (c. 43) (receptacles for household waste), after subsection (10) insert—

> "(11) A waste collection authority is not obliged to collect household waste that is placed for collection in contravention of a requirement under this section.".

Commencement

Pt 5 s. 76: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 76: England, Wales

Charges for single use carrier bags

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Northern Ireland | Wales

Law In Force With Amendments Pending

England

77 Charges for single use carrier bags

(1) Schedule 6 makes provision about charges for single use carrier bags.

(2) In that Schedule—

Part 1 confers power on the relevant national authority to make regulations about charges for single use carrier bags;

Part 2 makes provision about civil sanctions;

Part 3 makes provision about the procedures applying to regulations under the Schedule.

(3) In that Schedule "the relevant national authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales;

(c) the Department of the Environment in Northern Ireland in relation to Northern Ireland.

(4) Regulations under that Schedule are subject to affirmative resolution procedure if—

(a) they are the first regulations to be made by the relevant national authority in question under the Schedule,

(b) they contain provision imposing or providing for the imposition of new civil sanctions,

(c) they increase the amount or maximum amount of a monetary penalty or change the basis on which such an amount or maximum is to be determined, or

(d) they amend or repeal a provision of an enactment contained in primary legislation.

(5) Otherwise regulations under that Schedule are subject to negative resolution procedure.

Northern Ireland

[77 Charges for [carrier bags] [2]

(1) Schedule 6 makes provision about charges for [carrier bags] [2] .

(2) In that Schedule—

Part 1 confers power on the relevant national authority to make regulations about charges for **[** carrier bags **]** [2] ;
Part 2 makes provision about civil sanctions;
Part 3 makes provision about the procedures applying to regulations under the Schedule.

(3) In that Schedule "the relevant national authority" means—
(a) the Secretary of State in relation to England;
(b) the Welsh Ministers in relation to Wales;
(c) the Department of the Environment in Northern Ireland in relation to Northern Ireland.

(4) Regulations under that Schedule are subject to affirmative resolution procedure if—
(a) they are the first regulations to be made by the relevant national authority in question under the Schedule,
(aa) they are to be made by the Department of the Environment in Northern Ireland under paragraph 4A of the Schedule,
[(ab) they are to be made by the Department of the Environment in Northern Ireland and increase the minimum amount specified under paragraph 4 of the Schedule; **]** [3]
(b) they contain provision imposing or providing for the imposition of new civil sanctions,
(c) they increase the amount or maximum amount of a monetary penalty or change the basis on which such an amount or maximum is to be determined, or
(d) they amend or repeal a provision of an enactment contained in primary legislation.

(5) Otherwise regulations under that Schedule are subject to negative resolution procedure.

[(6) Section 17(5) of the Interpretation Act (Northern Ireland) 1954 applies to a power to make regulations under Schedule 6. **]** [4]
] [1]

Notes

1 Added by Single Use Carrier Bags Act (Northern Ireland) 2011 c. 26 s.1(2) (May 4, 2011)
2 Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)
3 Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.2(2) (April 28, 2014)
4 Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.2(3) (April 28, 2014)

Wales

[77 Charges for single use carrier bags

(1) Schedule 6 makes provision about charges for single use carrier bags.

(2) In that Schedule—
Part 1 confers power on the relevant national authority to make regulations about charges for single use carrier bags;
Part 2 makes provision about civil sanctions;
Part 3 makes provision about the procedures applying to regulations under the Schedule.

(3) In that Schedule "the relevant national authority" means—
(a) the Secretary of State in relation to England;
(b) the Welsh Ministers in relation to Wales;

(c) the Department of the Environment in Northern Ireland in relation to Northern Ireland.

(4) Regulations under that Schedule are subject to affirmative resolution procedure if—

(a) they are the first regulations to be made by the relevant national authority in question under the Schedule,

(aa) they are the first regulations to be made by the Welsh Ministers under paragraph 4A of the Schedule,

(b) they contain provision imposing or providing for the imposition of new civil sanctions,

(c) they increase the amount or maximum amount of a monetary penalty or change the basis on which such an amount or maximum is to be determined, or

(d) they amend or repeal a provision of an enactment contained in primary legislation.

(5) Otherwise regulations under that Schedule are subject to negative resolution procedure.
] [1]

Notes

[1] Added by Waste (Wales) Measure 2010 c. 08 s.2 (February 15, 2011)

Amendments Pending

Pt 5 s. 77(4)(aa): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(2)(b) (date to be appointed)

Pt 5 s. 77(3)(b): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(2)(a) (date to be appointed)

Commencement

Pt 5 s. 77(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 77(1)-(5): England, Wales, Northern Ireland

Renewable transport fuel obligations

Law In Force

78 Renewable transport fuel obligations

Schedule 7 contains amendments to the provisions of the Energy Act 2004 (c. 20) relating to renewable transport fuel obligations.

Commencement

Pt 5 s. 78: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 78: United Kingdom

Carbon emissions reduction targets

Law In Force

79 Carbon emissions reduction targets

Schedule 8 contains amendments to the provisions of the Gas Act 1986 (c. 44), the Electricity Act 1989 (c. 29) and the Utilities Act 2000 (c. 27) relating to carbon emissions reduction targets.

Commencement

Pt 5 s. 79: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 79: England, Wales, Scotland

Miscellaneous

Law In Force

80 Report on climate change: Wales

(1) It is the duty of the Welsh Ministers to lay before the National Assembly for Wales from time to time a report on—

(a) the objectives of the Welsh Ministers in relation to greenhouse gas emissions and the impact of climate change in Wales,

(b) the action that has been taken by the Welsh Ministers and others to deal with such emissions and that impact, and

(c) the future priorities for the Welsh Ministers and others for dealing with such emissions and that impact.

(2) The report must, in particular, set out how the Welsh Ministers intend to exercise the power to give directions under section 67 (directions to reporting authorities to prepare adaptation reports).

(3) Nothing in a report under this section affects the exercise of the Welsh Ministers' power under that section.

(4) The second and each subsequent report under this section must contain an assessment of the progress made towards implementing the objectives mentioned in the earlier reports.

(5) In this section “Wales” has the same meaning as in the Government of Wales Act 2006 (c. 32).

Commencement

Pt 5 s. 80(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 80(1)-(5): United Kingdom

Not Yet In Force With Amendments Pending

81 Climate change measures reports in Wales

(1) The Climate Change and Sustainable Energy Act 2006 (c. 19) is amended as follows.

(2) After section 3 insert—

"3A Local authorities in Wales to have regard to climate change measures reports

(1) The Welsh Ministers must from time to time publish a climate change measures report.

(2) A local authority in Wales must, in exercising its functions, have regard to any current climate change measures report.

(3) A "climate change measures report" means a report containing information about the local authority measures the Welsh Ministers consider would or might have any of the following effects—

(a) improving efficiency in the use of any description or source of energy;

(b) increasing the amount of energy generated, or heat produced, by microgeneration;

(c) increasing the amount of energy generated, or heat produced, by plant that relies wholly or mainly on a source of energy or a technology listed in section 26(2);

(d) reducing emissions of greenhouse gases;

(e) reducing the number of households in which one or more persons are living in fuel poverty;

(f) addressing the impact of climate change.

(4) Before publishing a climate change measures report, the Welsh Ministers must consult such representatives of local government, and such other persons, as the Welsh Ministers consider appropriate.

(5) The Secretary of State's consent is required to the publication in a climate change measures report of information about a local authority measure to which subsection (6) applies.

(6) This subsection applies to a local authority measure if the Secretary of State has a function in relation to the measure of—

(a) making subordinate legislation,

(b) issuing guidance or directions, or

(c) making determinations or hearing appeals,

and that function is exercisable in relation to Wales.

(7) In this section—

"local authority" means any of the following—

(a) a county council;

(b) a county borough council;

(c) a community council;

"local authority measure" means anything a local authority in Wales may do in the exercise of its functions (including deciding not to exercise a power).".

(3) In section 3 of that Act (local authorities to have regard to information on energy in exercising functions)—

(a) for the heading substitute "Local authorities in England to have regard to energy measures reports",

(b) in subsection (2), after "local authority" insert "in England",

(c) in subsection (4), in the definition of "local authority measure", for "a local authority" substitute "a local authority in England",

(d) in subsection (5) omit "the National Assembly for Wales and", and

(e) in subsection (6) omit paragraphs (b) and (h).

Amendments Pending

Pt 5 s. 81(3): repealed by Deregulation Act 2015 c. 20 s. 57(4)(b) (Not yet in force: repeal came into force on May 26, 2015 but cannot take effect until the commencement of 2008 c.27 s.81)

Commencement

Pt 5 s. 81(1)-(3)(e): Date to be appointed (not yet in force) (2008 c. 27 Pt 6 s. 100(3))

Extent

Pt 5 s. 81(1)-(3)(e): England, Wales

Law In Force

82 Repeal of previous reporting obligation

Section 2 of the Climate Change and Sustainable Energy Act 2006 (c. 19) (annual report on greenhouse gas emissions) is repealed.

Commencement

Pt 5 s. 82: January 1, 2009 (2008 c. 27 Pt 6 s. 100(4))

Extent

Pt 5 s. 82: United Kingdom

Law In Force

83 Guidance on reporting

(1) The Secretary of State must publish guidance on the measurement or calculation of greenhouse gas emissions to assist the reporting by persons on such emissions from activities for which they are responsible.

(2) The guidance must be published not later than 1st October 2009.

(3) The Secretary of State may from time to time publish revisions to guidance under this section or revised guidance.

(4) Before publishing guidance under this section or revisions to it, the Secretary of State must consult the other national authorities.

(5) Guidance under this section and revisions to it may be published in such manner as the Secretary of State thinks fit.

Commencement

Pt 5 s. 83(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 83(1)-(5): United Kingdom

Law In Force

84 Report on contribution of reporting to climate change objectives

(1) The Secretary of State must—

(a) review the contribution that reporting on greenhouse gas emissions may make to the achievement of the objectives of Her Majesty's Government in the United Kingdom in relation to climate change, and

(b) lay a report before Parliament setting out the conclusions of that review.

(2) The report must be laid before Parliament not later than 1st December 2010.

(3) In complying with this section the Secretary of State must consult the other national authorities.

Commencement

Pt 5 s. 84(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 84(1)-(3): United Kingdom

Law In Force

85 Regulations about reporting by companies

(1) The Secretary of State must, not later than 6th April 2012—

(a) make regulations under section 416(4) of the Companies Act 2006 (c. 46) requiring the directors' report of a company to contain such information as may be specified in the regulations about emissions of greenhouse gases from activities for which the company is responsible, or

(b) lay before Parliament a report explaining why no such regulations have been made.

(2) Subsection (1)(a) is complied with if regulations are made containing provision in relation to companies, and emissions, of a description specified in the regulations.

Commencement

Pt 5 s. 85(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 85(1)-(2): United Kingdom

Law In Force With Amendments Pending

86 Report on the civil estate

(1) It is the duty of the **[** Minister for the Cabinet Office **]** [1] to lay before Parliament in respect of each year, beginning with the year 2008, a report containing an assessment of the progress made in the year towards improving the efficiency and contribution to sustainability of buildings that are part of the civil estate.

(2) The report must, in particular, include an assessment of the progress made in the year to which it relates towards—

(a) reducing the size of the civil estate, and

(b) ensuring that buildings that become part of the civil estate fall within the top quartile of energy performance.

(3) If a building that does not fall within the top quartile of energy performance becomes part of the civil estate in the year to which the report relates, the report must state the reasons why the building has nevertheless become part of the civil estate.

(4) A report under this section must be laid before Parliament not later than 1st June in the year following the year to which it relates.

(5) In this section "building" means a building that uses energy for heating or cooling the whole or any part of its interior.

(6) For the purposes of this section, a building is part of the civil estate if it is—

(a) used for the purposes of central government administration, and

(b) of a description of buildings for which, at the passing of this Act, the Treasury has responsibilities in relation to efficiency and sustainability.

(7) The **[** Minister for the Cabinet Office **]** [1] may by order provide for buildings of a specified description to be treated as being, or as not being, part of the civil estate for the purposes of this section.

(8) Any such order is subject to affirmative resolution procedure.

Notes

[1] Word substituted by Transfer of Functions (Report on the Civil Estate) Order 2011/740 art.3 (April 13, 2011)

Amendments Pending

Pt 5 s. 86(8): words substituted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(6) (date to be appointed)

Pt 5 s. 86(7A)-(7B): added by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(5) (date to be appointed)

Pt 5 s. 86(3): words inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(4)(b) (date to be appointed)

Pt 5 s. 86(3): words inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(4)(a) (date to be appointed)

Pt 5 s. 86(2)(b): words inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(3)(b) (date to be appointed)

Pt 5 s. 86(2)(a): words inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(3)(a) (date to be appointed)

Pt 5 s. 86(1): existing text renumbered as s.86(1)(a) and word and s.86(1)(b) inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(2) (date to be appointed)

Pt 5 s. 86: words inserted by Housing and Planning Act 2016 c. 22, Pt 8 s. 211(7) (date to be appointed)

Commencement

Pt 5 s. 86(1)-(8): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 86(1)-(8): United Kingdom

Law In Force

87 Power of Ministers and departments to offset greenhouse gas emissions

(1) An authority to which this section applies may acquire and dispose of units or interests in units representing—

(a) a reduction in an amount of greenhouse gas emissions,

(b) the removal of an amount of greenhouse gas from the atmosphere, or

(c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.

(2) This section applies to—

(a) any Minister of the Crown or government department;

(b) the Scottish Ministers;

(c) the Welsh Ministers;

(d) any Northern Ireland department.

(3) If the Treasury acquire such units or interests in units, until they are disposed of they shall be treated as held by the persons for the time being constituting the Treasury.

Commencement

Pt 5 s. 87(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 87(1)-(3): United Kingdom

Law In Force

88 Fines for offences relating to pollution

(1) In section 105(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) (which postpones the increase by subsection (1)(b) in maximum fines under regulations under the Pollution

Prevention and Control Act 1999 (c. 24) pending the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44)), for "Subsection (1)" substitute "Subsection (1)(a)".

(2) **[…]**[1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.28 para.1 (April 6, 2010 immediately after the coming into force of SI 2009/3381)

Commencement

Pt 5 s. 88(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Pt 5 s. 88(1)-(2): England, Wales

PART 6

GENERAL SUPPLEMENTARY PROVISIONS

Territorial scope of provisions relating to greenhouse gas emissions

Law In Force

89 Territorial scope of provisions relating to greenhouse gas emissions

(1) The provisions of this Act relating to emissions of greenhouse gases apply to emissions from sources or other matters occurring in, above or below—

(a) UK coastal waters, or

(b) the UK sector of the continental shelf,

as they apply to emissions from sources or matters occurring in the United Kingdom.

(2) In subsection (1)—

"UK coastal waters" means areas landward of the seaward limit of the territorial sea adjacent to the United Kingdom;

"the UK sector of the continental shelf" means the areas designated under section 1(7) of the Continental Shelf Act 1964 (c. 29).

(3) This section is subject to section 30 (emissions from international aviation or international shipping not to count as emissions from UK sources for the purposes of Part 1, except as provided by regulations).

Commencement

Pt 6 s. 89(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 89(1)-(3): United Kingdom

Orders and regulations

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England, Scotland and Wales | Northern Ireland

Law In Force

England, Scotland and Wales

90 Orders and regulations

(1) Orders and regulations under this Act must be made by statutory instrument, subject as follows.

(2) The power of a Northern Ireland department to make regulations under Part 3 (trading schemes) or Schedule 6 (charges for single use carrier bags)—

(a) is exercisable by statutory instrument if the instrument also contains regulations under that Part or Schedule made or to be made by another national authority, and

(b) otherwise, is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(3) An order or regulations under this Act may—

(a) make different provision for different cases or circumstances,

(b) include supplementary, incidental and consequential provision, and

(c) make transitional provision and savings.

(4) Any provision that may be made by order under this Act may be made by regulations.

(5) Any provision that may be made by regulations under this Act may be made by order.

Northern Ireland

[90 Orders and regulations

(1) Orders and regulations under this Act must be made by statutory instrument, subject as follows.

(2) The power of a Northern Ireland department to make regulations under Part 3 (trading schemes) or Schedule 6 (charges for carrier bags)—

(a) is exercisable by statutory instrument if the instrument also contains regulations under that Part or Schedule made or to be made by another national authority, and

(b) otherwise, is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(3) An order or regulations under this Act may—

(a) make different provision for different cases or circumstances,

(b) include supplementary, incidental and consequential provision, and

(c) make transitional provision and savings.

(4) Any provision that may be made by order under this Act may be made by regulations.

(5) Any provision that may be made by regulations under this Act may be made by order.
] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

Commencement

Pt 6 s. 90(1)-(5): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 90(1)-(5): United Kingdom

Law In Force

91 Affirmative and negative resolution procedure

(1) Where orders or regulations under this Act are subject to "affirmative resolution procedure" the order or regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.

(2) Where orders or regulations under this Act are subject to "negative resolution procedure" the statutory instrument containing the order or regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any provision that may be made by an order or regulations under this Act subject to negative resolution procedure may be made by an order or regulations subject to affirmative resolution procedure.

(4) This section does not apply to—

(a) regulations under Part 3 (trading schemes) (but see Schedule 3), or

(b) regulations under Schedule 6 (but see Part 3 of that Schedule).

Commencement

Pt 6 s. 91(1)-(4)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 91(1)-(4)(b): United Kingdom

Interpretation

Law In Force

92 Meaning of "greenhouse gas"

(1) In this Act "greenhouse gas" means any of the following—

(a) carbon dioxide (CO_2),
(b) methane (CH_4),
(c) nitrous oxide (N_2O),
(d) hydrofluorocarbons (HFCs),
(e) perfluorocarbons (PFCs),
(f) sulphur hexafluoride (SF_6) **[** , **]** [1]
[(g) nitrogen trifluoride (NF3). **]** [1]

(2) The Secretary of State may by order amend the definition of "greenhouse gas" in subsection (1) to add to the gases listed in that definition.

(3) That power may only be exercised if it appears to the Secretary of State that an agreement or arrangement at European or international level recognises that the gas to be added contributes to climate change.

(4) An order under this section is subject to negative resolution procedure.

Notes

[1] Added by Climate Change (Targeted Greenhouse Gases) Order 2023/118 art.3(3) (February 3, 2023)

Commencement

Pt 6 s. 92(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 92(1)-(4): United Kingdom

Law In Force

93 Measurement of emissions etc by reference to carbon dioxide equivalent

(1) For the purposes of this Act greenhouse gas emissions, reductions of such emissions and removals of greenhouse gas from the atmosphere shall be measured or calculated in tonnes of carbon dioxide equivalent.

(2) A "tonne of carbon dioxide equivalent" means one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice).

Commencement

Pt 6 s. 93(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 93(1)-(2): United Kingdom

Law In Force

94 Meaning of "international carbon reporting practice"

(1) In this Act "international carbon reporting practice" means accepted practice in relation to reporting for the purposes of the protocols to the United Nations Framework Convention on Climate Change or such other agreements or arrangements at European or international level as the Secretary of State may specify by order.

(2) An order under this section is subject to negative resolution procedure.

Commencement

Pt 6 s. 94(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 94(1)-(2): United Kingdom

Law In Force

95 Meaning of "national authority"

(1) In this Act "national authority" means any of the following—

(a) the Secretary of State;
(b) the Scottish Ministers;
(c) the Welsh Ministers;
(d) the relevant Northern Ireland department.

(2) Functions conferred or imposed by this Act on "the national authorities" are to be exercised by all of them jointly.

Commencement

Pt 6 s. 95(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 95(1)-(2): United Kingdom

Law In Force

96 Meaning of "relevant Northern Ireland department"

(1) In this Act "the relevant Northern Ireland department", in relation to a matter or provision, means the Northern Ireland department responsible for the matter or, as the case may be, for the matters to which the provision relates.

(2) If more than one department is responsible, the reference is to all of them.

(3) Any question as to the Northern Ireland department responsible for a matter is to be determined by the Department of Finance and Personnel in Northern Ireland.

Commencement

Pt 6 s. 96(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 96(1)-(3): United Kingdom

Law In Force

97 Minor definitions

In this Act—

"devolved legislature" means—

(a) the Scottish Parliament,

(b) the National Assembly for Wales, or

(c) the Northern Ireland Assembly;

"emissions", in relation to a greenhouse gas, means emissions of that gas into the atmosphere that are attributable to human activity;

"enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30),

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,

(c) an enactment contained in, or in an instrument made under, Northern Ireland legislation, and

(d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

"European law" means—

(a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the **[** EU **]** [1] Treaties, and

(b) all the remedies and procedures from time to time provided for by or under the **[** EU **]** [1] Treaties,

and "European policy" has a corresponding meaning;

"modifications", in relation to an enactment, includes additions or amendments to, or omissions from, the enactment;

"primary legislation" means—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) a Measure or Act of the National Assembly for Wales, or

(d) Northern Ireland legislation.

Notes

[1] Word substituted by Treaty of Lisbon (Changes in Terminology) Order 2011/1043 Pt 2 art.6(1)(a) (April 22, 2011)

Commencement

Pt 6 s. 97 definition of "devolved legislature"- definition of "primary legislation" (d): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 97 definition of "devolved legislature"- definition of "primary legislation" (d): United Kingdom

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England, Scotland and Wales | Northern Ireland

Law In Force With Amendments Pending

England, Scotland and Wales

98 Index of defined expressions

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

"the 1990 baseline" (in Parts 1 and 2)	section 1(2)
"administrator" (in Part 3)	section 55
"administrator" (in Schedule 6)	paragraph 6(1) and (4) of Schedule 6
"affirmative resolution procedure" (except in Part 3 and Schedule 6)	section 91(1)
"annual equivalent", in relation to the carbon budget for a period (in Parts 1 and 2)	section 5(2)
"budgetary periods" (in Parts 1 and 2)	section 4(1)
"carbon budget" (in Parts 1 and 2)	section 4(1)

"carbon unit" (in Parts 1 and 2)	section 26(1)
"the chair" (in Schedule 1)	paragraph 1(1) of Schedule 1
["children" (in Schedule 6)	paragraph 4B(2) of Schedule 6**]**[1]
"civil sanction" (in Schedule 6)	paragraph 9(3) of Schedule 6
"the Committee" (in Part 2)	section 32
"Counsel General" (in sections 61 to 70)	section 70(8)
"the deputy chair" (in Schedule 1)	paragraph 2 of Schedule 1
"devolved authority" (in sections 61 to 70)	section 70(3)
"devolved functions", in relation to a reporting authority (in sections 61 to 69)	section 70(4) and (5)
"devolved legislature"	section 97
"devolved Welsh functions", in relation to a reporting authority (in sections 61 to 69)	section 70(6) and (7)
"discretionary requirement" (in Schedule 6)	paragraph 12(3) of Schedule 6
"electricity distributor" (in Schedule 4)	paragraph 2(3) of Schedule 4
"electricity supplier" (in Schedule 4)	paragraph 2(2) of Schedule 4
"emissions"	section 97
"enactment"	section 97
"environmental authority" (in Schedule 4)	paragraph 1(2) of Schedule 4
"European law"	section 97
"European policy"	section 97
"financial year" (in Schedule 1)	paragraph 23 of Schedule 1
"fixed monetary penalty" (in Schedule 6)	paragraph 10(3) of Schedule 6
"greenhouse gas"	section 92
"international carbon reporting practice"	section 94
"Minister of the Crown" (in sections 61 to 70)	section 70(8)
"modifications", in relation to an enactment	section 97
"national authority"	section 95
"negative resolution procedure" (except in Part 3 and Schedule 6)	section 91(2)
"net UK carbon account" (in Parts 1 and 2)	section 27(1)
"net UK emissions" for a period, in relation to a greenhouse gas (in Parts 1 and 2)	section 29(1)
"non-monetary discretionary requirement" (in Schedule 6)	paragraph 12(4) of Schedule 6
["nuisance" (in Schedule 6)	paragraph 4B(6) of Schedule 6**]**[1]
"participant" (in Part 3)	section 55
["pollution" (in Schedule 6)	paragraph 4B(3) of Schedule 6**]**[1]
"potential participant" (in Schedule 4)	paragraph 3(2) of Schedule 4
"primary legislation"	section 97
"the relevant national authority" (in Part 3)	section 47
"the relevant national authority" (in Schedule 6)	section 77(3)
"the relevant Northern Ireland department"	section 96
"reporting authority" (in sections 61 to 70)	section 70(1) and (2)
"seller" (in Schedule 6)	paragraph 3 of Schedule 6

“single use carrier bag” (in Schedule 6)	paragraph 5 of Schedule 6
“specified” (in Schedule 6)	paragraph 3(4) of Schedule 6
“targeted greenhouse gas” (in Parts 1 and 2)	section 24(1)
“trading period” (in Part 3)	section 55
“trading scheme”	section 44(2)
“UK emissions”, in relation to a greenhouse gas (in Part 1)	section 29(1)
“UK removals”, in relation to a greenhouse gas (in Part 1)	section 29(1)
“variable monetary penalty” (in Schedule 6)	paragraph 12(4) of Schedule 6
“Wales” (in sections 61 to 70)	section 70(8)
[…	…**]**[2]
[“young people” (in Schedule 6)	paragraph 4B(8) of Schedule 6**]**[1]

Notes

[1] Amended by Waste (Wales) Measure 2010 c. 08 Sch.1 para.2 (February 15, 2011)

[2] Entry repealed by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Northern Ireland

[98 Index of defined expressions

In this Act the following expressions are defined or otherwise explained by the provisions indicated—

“the 1990 baseline” (in Parts 1 and 2)	section 1(2)
“administrator” (in Part 3)	section 55
“administrator” (in Schedule 6)	paragraph 6(1) and (4) of Schedule 6
“affirmative resolution procedure” (except in Part 3 and Schedule 6)	section 91(1)
“annual equivalent”, in relation to the carbon budget for a period (in Parts 1 and 2)	section 5(2)
“budgetary periods” (in Parts 1 and 2)	section 4(1)
“carbon budget” (in Parts 1 and 2)	section 4(1)
“carbon unit” (in Parts 1 and 2)	section 26(1)
“the chair” (in Schedule 1)	paragraph 1(1) of Schedule 1
“children” (in Schedule 6)	paragraph 4B(2) of Schedule 6
“civil sanction” (in Schedule 6)	paragraph 9(3) of Schedule 6
“the Committee” (in Part 2)	section 32
“Counsel General” (in sections 61 to 70)	section 70(8)
“the deputy chair” (in Schedule 1)	paragraph 2 of Schedule 1
“devolved authority” (in sections 61 to 70)	section 70(3)
“devolved functions”, in relation to a reporting authority (in sections 61 to 69)	section 70(4) and (5)
“devolved legislature”	section 97
“devolved Welsh functions”, in relation to a reporting authority (in sections 61 to 69)	section 70(6) and (7)

“discretionary requirement” (in Schedule 6)	paragraph 12(3) of Schedule 6
“electricity distributor” (in Schedule 4)	paragraph 2(3) of Schedule 4
“electricity supplier” (in Schedule 4)	paragraph 2(2) of Schedule 4
“emissions”	section 97
“enactment”	section 97
“environmental authority” (in Schedule 4)	paragraph 1(2) of Schedule 4
“European law”	section 97
“European policy”	section 97
“financial year” (in Schedule 1)	paragraph 23 of Schedule 1
“fixed monetary penalty” (in Schedule 6)	paragraph 10(3) of Schedule 6
“greenhouse gas”	section 92
“international carbon reporting practice”	section 94
“Minister of the Crown” (in sections 61 to 70)	section 70(8)
“modifications”, in relation to an enactment	section 97
“national authority”	section 95
“negative resolution procedure” (except in Part 3 and Schedule 6)	section 91(2)
“net UK carbon account” (in Parts 1 and 2)	section 27(1)
“net UK emissions” for a period, in relation to a greenhouse gas (in Parts 1 and 2)	section 29(1)
“non-monetary discretionary requirement” (in Schedule 6)	paragraph 12(4) of Schedule 6
“nuisance” (in Schedule 6)	paragraph 4B(6) of Schedule 6
“participant” (in Part 3)	section 55
“pollution” (in Schedule 6)	paragraph 4B(3) of Schedule 6
“potential participant” (in Schedule 4)	paragraph 3(2) of Schedule 4
“primary legislation”	section 97
“the relevant national authority” (in Part 3)	section 47
“the relevant national authority” (in Schedule 6)	section 77(3)
“the relevant Northern Ireland department”	section 96
“reporting authority” (in sections 61 to 70)	section 70(1) and (2)
“seller” (in Schedule 6)	paragraph 3 of Schedule 6
“carrier bag” (in Schedule 6)	paragraph 5 of Schedule 6
“specified” (in Schedule 6)	paragraph 3(4) of Schedule 6
“targeted greenhouse gas” (in Parts 1 and 2)	section 24(1)
“trading period” (in Part 3)	section 55
“trading scheme”	section 44(2)
“UK emissions”, in relation to a greenhouse gas (in Part 1)	section 29(1)
“UK removals”, in relation to a greenhouse gas (in Part 1)	section 29(1)
“variable monetary penalty” (in Schedule 6)	paragraph 12(4) of Schedule 6
“Wales” (in sections 61 to 70)	section 70(8)
“young people” (in Schedule 6)	paragraph 4B(8) of Schedule 6

] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(a) (April 28, 2014)

Amendments Pending

Pt 6 s. 98: entries repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(3) (date to be appointed)

Commencement

Pt 6 s. 98: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 98: United Kingdom

Final provisions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England, Scotland and Wales | Northern Ireland

Law In Force

England, Scotland and Wales

99 Extent

(1) This Act, apart from the provisions listed below, extends to the whole of the United Kingdom.

(2) The following provisions of this Act extend to England and Wales only—

(a) sections 71 to 75 and Schedule 5 (waste reduction schemes);
(b) section 76 (collection of household waste);
(c) section 81 (climate change measures reports in Wales);
(d) section 88 (fines for offences relating to pollution).

(3) Section 77 and Schedule 6 (charges for single use carrier bags) extend to England and Wales and Northern Ireland only.

(4) Section 79 and Schedule 8 (carbon emissions reduction targets) extend to England and Wales and Scotland only.

Northern Ireland

[99 Extent

(1) This Act, apart from the provisions listed below, extends to the whole of the United Kingdom.

(2) The following provisions of this Act extend to England and Wales only—

(a) sections 71 to 75 and Schedule 5 (waste reduction schemes);

(b) section 76 (collection of household waste);

(c) section 81 (climate change measures reports in Wales);

(d) section 88 (fines for offences relating to pollution).

(3) Section 77 and Schedule 6 (charges for carrier bags) extend to England and Wales and Northern Ireland only.

(4) Section 79 and Schedule 8 (carbon emissions reduction targets) extend to England and Wales and Scotland only.
] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

Commencement

Pt 6 s. 99(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 99(1)-(4): United Kingdom

Law In Force

100 Commencement

(1) Part 1 (carbon target and budgeting), Part 2 (the Committee on Climate Change) and this Part come into force on the day this Act is passed.

(2) Section 71(1) and Schedule 5 (waste reduction schemes) come into force in accordance with sections 72 to 75.

(3) Section 81 (climate change measures reports in Wales) comes into force on such day as may be appointed by order made by the Welsh Ministers.

(4) Section 82 (repeal of previous reporting obligation) comes into force on 1st January 2009.

(5) The other provisions of this Act come into force at the end of two months beginning with the day it is passed.

Commencement

Pt 6 s. 100(1)-(5): November 26, 2008

Extent

Pt 6 s. 100(1)-(5): United Kingdom

Law In Force

101 Short title

The short title of this Act is the Climate Change Act 2008.

Commencement

Pt 6 s. 101: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Pt 6 s. 101: United Kingdom

SCHEDULE 1

THE COMMITTEE ON CLIMATE CHANGE

Section 32

Membership

Law In Force

1

(1) The Committee shall consist of—

(a) a person appointed by the national authorities to chair the Committee ("the chair"), and

(b) not less than five and not more than eight other members appointed by the national authorities.

(2) The national authorities must consult the chair before appointing the other members.

(3) In appointing a member, the national authorities must have regard to the desirability of securing that the Committee (taken as a whole) has experience in or knowledge of the following—

(a) business competitiveness;

(b) climate change policy at national and international level, and in particular the social impacts of such policy;

(c) climate science, and other branches of environmental science;

(d) differences in circumstances between England, Wales, Scotland and Northern Ireland and the capacity of national authorities to take action in relation to climate change;

(e) economic analysis and forecasting;

(f) emissions trading;

(g) energy production and supply;

(h) financial investment;

(i) technology development and diffusion.

(4) The Secretary of State may by order amend sub-paragraph (1)(b) so as to alter the minimum or maximum number of members of the Committee.

(5) Such an order may only be made with the consent of the other national authorities.

(6) Any such order is subject to negative resolution procedure.

Commencement

Sch. 1 para. 1(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 1(1)-(6): United Kingdom

Law In Force

2

The national authorities may, after consulting the chair, appoint one of the members as deputy to the chair ("the deputy chair").

Commencement

Sch. 1 para. 2: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 2: United Kingdom

Term of office

Law In Force

3

A member holds and vacates office in accordance with the terms of the member's appointment.

Commencement

Sch. 1 para. 3: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 3: United Kingdom

Law In Force

4

A member may resign by giving written notice to the Secretary of State.

Commencement

Sch. 1 para. 4: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 4: United Kingdom

Law In Force

5

The national authorities may remove a member—

(a) who has been absent from meetings of the Committee without its permission for a period of 6 months or more,

(b) who has become bankrupt or has made an arrangement with creditors,

(c) whose estate has been sequestrated in Scotland or who, under Scots law, has made a composition or arrangement with, or granted a trust deed for, creditors, or

(d) who in the opinion of the national authorities is otherwise unable or unfit to carry out the duties of that member.

Commencement

Sch. 1 para. 5(a)-(d): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 5(a)-(d): United Kingdom

Law In Force

6

A person ceases to be the chair or the deputy chair if the person—

(a) resigns that office by giving written notice to the Secretary of State, or

(b) ceases to be a member.

Commencement

Sch. 1 para. 6(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 6(a)-(b): United Kingdom

Law In Force

7

A person who—

(a) ceases to be a member, or
(b) ceases to be the chair or the deputy chair,
may be reappointed to that office.

Commencement

Sch. 1 para. 7(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 7(a)-(b): United Kingdom

Remuneration and pensions etc

Law In Force

8
The Committee may pay to the members such remuneration and allowances as the national authorities may determine.

Commencement

Sch. 1 para. 8: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 8: United Kingdom

Law In Force

9
The Committee must, if required to do so by the national authorities—
(a) pay such pensions, gratuities or allowances as the national authorities may determine to or in respect of any person who is or has been a member, or
(b) pay such sums as the national authorities may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of such a person.

Commencement

Sch. 1 para. 9(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 9(a)-(b): United Kingdom

Law In Force

10

If the national authorities consider there are special circumstances which make it right for a person who has ceased to be a member to receive compensation, the Committee must pay the person such compensation as the national authorities may determine.

Commencement

Sch. 1 para. 10: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 10: United Kingdom

Staff

Law In Force

11

(1) The Committee must appoint a person to be chief executive, but may only appoint a person who has been approved by the national authorities.

(2) The chief executive is an employee of the Committee.

Commencement

Sch. 1 para. 11(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 11(1)-(2): United Kingdom

Law In Force

12

The Committee may appoint other employees.

Commencement

Sch. 1 para. 12: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 12: United Kingdom

Law In Force

13

The Committee must, if required to do so by the national authorities—

(a) pay such pensions, gratuities or allowances as the national authorities may determine to or in respect of any employee or former employee, or

(b) pay such sums as the national authorities may determine towards provision for the payment of pensions, gratuities or allowances to or in respect of any employee or former employee.

Commencement

Sch. 1 para. 13(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 13(a)-(b): United Kingdom

Law In Force

14

(1) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which section 1 of that Act applies), in the list of other bodies, at the appropriate place insert—

"The Committee on Climate Change."

(2) The Committee must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Commencement

Sch. 1 para. 14(1)-(2): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 14(1)-(2): United Kingdom

Sub-committees

Law In Force

15

(1) The Committee may establish sub-committees.

(2) A sub-committee may include persons who are not members of the Committee.

(3) The Committee may pay such remuneration and allowances as the national authorities may determine to any person who—

(a) is a member of a sub-committee, but

(b) is not a member of the Committee.

(4) This paragraph does not apply in relation to the Adaptation Sub-Committee.

Commencement

Sch. 1 para. 15(1)-(4): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 15(1)-(4): United Kingdom

The Adaptation Sub-Committee

Law In Force

16

(1) There shall be a sub-committee of the Committee, to be known as the Adaptation Sub-Committee or, in Welsh, as yr Is-bwyllgor Addasu (referred to in this paragraph as "the ASC").

(2) The ASC shall consist of—

(a) a person appointed by the national authorities to chair the ASC ("the ASC chair"), and

(b) not less than five other members appointed by the national authorities.

(3) The national authorities must—

(a) consult the chair before appointing the ASC chair, and

(b) consult the ASC chair before appointing the other members of the ASC.

(4) A person ceases to be the ASC chair if the person—

(a) resigns that office by giving written notice to the Secretary of State, or

(b) ceases to be a member of the ASC.

(5) The ASC may include persons who are not members of the Committee.

(6) Paragraphs 3 to 5 (term of office) apply to a person who is—

(a) a member of the Committee, and

(b) a member of the ASC,

in that person's capacity as a member of the ASC.

(7) Those paragraphs and paragraphs 8 to 10 (remuneration and pensions etc) apply to a member of the ASC who is not a member of the Committee as they apply to a member of the Committee.

(8) In the application of paragraph 5(a) by virtue of this paragraph, the reference to the Committee is a reference to the ASC.

(9) A person who—

(a) ceases to be a member of the ASC, or

(b) ceases to be the ASC chair,

may be reappointed to that office.

(10) The ASC must provide the Committee with such advice, analysis, information or other assistance as the Committee may require in connection with the exercise of its functions under—

(a) section 38(1)(c) (advice etc to national authorities on adaptation to climate change),

(b) section 57 (advice on report on impact of climate change), or

(c) section 59 (reporting on progress in connection with adaptation).

Commencement

Sch. 1 para. 16(1)-(10)(c): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 16(1)-(10)(c): United Kingdom

Proceedings

Law In Force

17

The Committee may regulate—

(a) its own procedure (including quorum), and

(b) the procedure of any sub-committee (including quorum).

Commencement

Sch. 1 para. 17(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 17(a)-(b): United Kingdom

Law In Force

18

The validity of anything done by the Committee or any sub-committee is not affected by—

(a) any vacancy in the membership of the Committee or sub-committee, or

(b) any defect in the appointment of any member of the Committee or sub-committee.

Commencement

Sch. 1 para. 18(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 18(a)-(b): United Kingdom

Law In Force

19

The Committee must publish the minutes of its meetings in such manner as it considers appropriate.

Commencement

Sch. 1 para. 19: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 19: United Kingdom

Discharge of functions

Law In Force

20

The Committee may authorise a sub-committee, member or employee to exercise any of the Committee's functions.

Commencement

Sch. 1 para. 20: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 20: United Kingdom

Application of seal and proof of documents

Law In Force

21

(1) The application of the Committee's seal must be authenticated by the signature of—

(a) a member of the Committee who is authorised (generally or specially) for that purpose, or

(b) an employee who is so authorised.

(2) A document purporting to be duly executed under the seal of the Committee or to be signed on behalf of the Committee shall be received in evidence and treated as so executed or signed unless the contrary is shown.

(3) This paragraph does not apply in relation to Scotland.

Commencement

Sch. 1 para. 21(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 21(1)-(3): United Kingdom

Reports and accounts

Law In Force

22

(1) For each financial year the Committee must—

(a) prepare an annual report on the discharge of its functions during the year, and

(b) send a copy to the national authorities within such period as the national authorities may direct.

(2) A copy of each report received under this paragraph must be laid—

(a) by the Secretary of State before Parliament,

(b) by the Scottish Ministers before the Scottish Parliament,

(c) by the Welsh Ministers before the National Assembly for Wales, and

(d) by the relevant Northern Ireland department before the Northern Ireland Assembly.

Commencement

Sch. 1 para. 22(1)-(2)(d): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 22(1)-(2)(d): United Kingdom

Law In Force

23

In this Schedule "financial year" means—

(a) the period beginning with the day the Committee is established and ending with the next 31st March, and

(b) each subsequent period of 12 months ending with 31st March.

Commencement

Sch. 1 para. 23(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 23(a)-(b): United Kingdom

Law In Force

24

(1) The Committee must keep proper accounts and proper records in relation to the accounts.

(2) For each financial year the Committee must—

(a) prepare a statement of accounts in respect of that financial year, and

(b) send a copy of the statement to the national authorities and the Comptroller and Auditor General within such period as the national authorities direct.

(3) The statement must be in such form as the national authorities may direct.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on the statement, and

(b) send a copy of the certified statement and the report to the national authorities as soon as possible.

(5) A copy of each statement received under sub-paragraph (4) must be laid—

(a) by the Secretary of State before Parliament,

(b) by the Scottish Ministers before the Scottish Parliament,

(c) by the Welsh Ministers before the National Assembly for Wales, and

(d) by the relevant Northern Ireland department before the Northern Ireland Assembly.

Commencement

Sch. 1 para. 24(1)-(5)(d): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 24(1)-(5)(d): United Kingdom

Information

Law In Force

25

(1) The Committee must provide the national authorities with such information as they may request about its property.

(2) The Committee must provide the Secretary of State with such information as the Secretary of State may request about the exercise or proposed exercise of its functions under—

(a) Part 1 (carbon target and budgeting),
(b) section 33 (advice on level of 2050 target),
(c) section 34 (advice in connection with carbon budgets),
(d) section 35 (advice on emissions from international aviation and international shipping),
(e) section 36 (reports on progress),
(f) section 57 (advice on report on impact of climate change), or
(g) section 59 (reporting on progress in connection with adaptation).

(3) The Committee must provide a national authority with such information as the national authority may request about the exercise or proposed exercise of the Committee's functions under—

(a) section 38 (duty to provide advice or assistance on request), or
(b) section 48 (advice on trading scheme regulations),

in relation to that national authority.
If the information relates to the exercise or proposed exercise of those functions in relation to two or more national authorities, the request must be made by all of them jointly.

(4) The Committee must provide the national authorities with such information as they may request about the exercise or proposed exercise of any of its other functions.

(5) The Committee must also—

(a) permit any person authorised by a national authority to inspect and make copies of any accounts or other documents of the Committee, and
(b) provide such explanation of them as that person or the national authority may require.

(6) Before exercising a function under sub-paragraph (5), the national authority must consult the other national authorities.

Commencement

Sch. 1 para. 25(1)-(6): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 25(1)-(6): United Kingdom

Publication of advice etc

Law In Force

26

A requirement under this Act for the Committee to publish anything does not oblige it to publish—

(a) information it could refuse to disclose in response to a request under—
  (i) the Freedom of Information Act 2000 (c. 36), or
  (ii) the Environmental Information Regulations 2004 (S.I. 2004/3391) or any regulations replacing those regulations;
(b) information whose disclosure is prohibited by any enactment.

Commencement

Sch. 1 para. 26(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 26(a)-(b): United Kingdom

Status

Law In Force

27

(1) The Committee is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown.

(2) The Committee is to be treated as a cross-border public authority within the meaning of the Scotland Act 1998 (c. 46) for the purposes of the following provisions of that Act—

(a) section 23(2)(b) (power of Scottish Parliament to require persons outside Scotland to attend to give evidence or produce documents);

(b) section 70(6) (legislation of Scottish Parliament not to require certain cross-border public authorities to prepare accounts).

Commencement

Sch. 1 para. 27(1)-(2)(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 27(1)-(2)(b): United Kingdom

Public Records Act 1958 (c. 51)

Law In Force

28

In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place insert—

"The Committee on Climate Change."

Commencement

Sch. 1 para. 28: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 28: United Kingdom

Parliamentary Commissioner Act 1967 (c. 13)

Law In Force

29

In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation)—

(a) at the appropriate place insert—

"The Committee on Climate Change."

, and

(b) in the notes at the appropriate place insert—

"*Committee on Climate Change*

In the case of the Committee on Climate Change, no investigation is to be conducted in respect of any action taken by or on behalf of the Committee—

(a) in the exercise in or as regards Scotland of any function to the extent that the function is exercisable within devolved competence (within the meaning of section 54 of the Scotland Act 1998), or

(b) in connection with functions of the Committee in relation to Wales (within the meaning of the Government of Wales Act 2006)."

Commencement

Sch. 1 para. 29(a)-(b): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 29(a)-(b): United Kingdom

House of Commons Disqualification Act 1975 (c. 24)

Law In Force

30

In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

"The Committee on Climate Change."

Commencement

Sch. 1 para. 30: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 30: United Kingdom

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

Law In Force

31

In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

"The Committee on Climate Change."

Commencement

Sch. 1 para. 31: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 31: United Kingdom

Race Relations Act 1976 (c. 74)

Repealed

32 […][1]

Notes

[1] Repealed by Equality Act 2010 c. 15 Sch.27(1A) para.1 (April 5, 2011 as SI 2011/1066)

Freedom of Information Act 2000 (c. 36)

Law In Force

33

In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities), at the appropriate place insert—

"The Committee on Climate Change."

Commencement

Sch. 1 para. 33: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 33: United Kingdom

Scottish Public Services Ombudsman Act 2002 (asp 11)

Law In Force

34

(1) The Scottish Public Services Ombudsman Act 2002 is amended as follows.

(2) In section 7 (matters which may be investigated: restrictions), after subsection (6B) insert—

"(6C) The Ombudsman must not investigate action taken by or on behalf of the Committee on Climate Change in the exercise in or as regards Scotland of any function to the extent that the function is not exercisable within devolved competence (within the meaning of section 54 of the Scotland Act 1998)."

(3) In Schedule 2 (persons liable to investigation), after paragraph 91A insert—

"91B

The Committee on Climate Change."

Commencement

Sch. 1 para. 34(1)-(3): November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 34(1)-(3): United Kingdom

Public Services Ombudsman (Wales) Act 2005 (c. 10)

Law In Force

35
In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (listed authorities), after the heading "Environment" insert—

"The Committee on Climate Change."

Commencement

Sch. 1 para. 35: November 26, 2008 (2008 c. 27 Pt 6 s. 100(1))

Extent

Sch. 1 para. 35: United Kingdom

SCHEDULE 2

TRADING SCHEMES

Section 46

PART 1

SCHEMES LIMITING ACTIVITIES

Law In Force

1 Introductory
This Part of this Schedule deals with trading schemes that operate by limiting or encouraging the limitation of activities that consist of the emission of greenhouse gas or that cause or contribute, directly or indirectly, to such emissions.

Commencement

Sch. 2(1) para. 1: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 1: United Kingdom

Law In Force

2 Trading periods

The regulations must specify the period or periods by reference to which the scheme is to operate (a "trading period").

Commencement

Sch. 2(1) para. 2: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 2: United Kingdom

Law In Force

3 Activities

(1) The regulations must identify the activities to which the trading scheme applies.

(2) The regulations may identify the activities by reference to any, or any combination of, criteria and in particular—

(a) may identify the activities by reference to the locations or locations at which they are carried on, or

(b) may be expressed to apply to all activities of a particular kind carried on in the United Kingdom or a part of the United Kingdom.

(3) The regulations must specify the units of measurement of the activities for the purposes of the scheme.

(4) The regulations may specify units of measurement by reference to—

(a) the activities themselves,

(b) anything consumed or used for the purposes of the activities,

(c) anything produced by the activities, or

(d) any other consequence of the activities.

(5) The regulations may, in particular, make provision—

(a) for activities to be measured by reference to the amount (in tonnes of carbon dioxide equivalent) of the greenhouse gas emissions for which those activities are to be regarded as responsible; and

(b) as to the method by which that amount is to be measured or calculated.

(6) The regulations may make different provision in relation to different descriptions of activity to which the scheme applies.

Commencement

Sch. 2(1) para. 3(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 3(1)-(6): United Kingdom

Law In Force

4 Participants

(1) The regulations must identify the persons to whom the trading scheme applies (the "participants").

(2) The regulations—

(a) may identify the participants by reference to any, or any combination of, criteria, or

(b) provide for their identification by a specified person or body.

(3) The regulations may, in particular, identify or provide for the identification of the participants by reference to their responsibility for activities to which the trading scheme applies.

(4) The regulations may provide for more than one person to be treated as a single participant.

(5) The regulations may provide for persons to cease to be participants in circumstances specified in the regulations.

Commencement

Sch. 2(1) para. 4(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 4(1)-(5): United Kingdom

Law In Force

5 Allocation of allowances

(1) The regulations may provide for the allocation among the participants of allowances representing the right to carry on a specified amount of the activities in a trading period.

(2) The regulations may set a limit on—

(a) the total amount of the activities for a trading period, and

(b) the total amount of the allowances to be allocated for the period.

(3) The regulations may specify the method of allocation or provide for it to be determined in accordance with the regulations.

(4) The regulations may not provide for allowances to be allocated in return for consideration.

Commencement

Sch. 2(1) para. 5(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 5(1)-(4): United Kingdom

Law In Force

6 Use of allowances

(1) The regulations may require each participant to have or acquire enough allowances to match the participant's activities in a trading period, subject to any offsetting in accordance with provision made under paragraph 7.

(2) The regulations—

(a) may permit allowances held by a participant at the end of a trading period in excess of the participant's activities in the period to be used to cover the participant's activities in a later trading period,

(b) may permit allowances allocated to a participant for a trading period to be used to cover the participant's activities in an earlier trading period, and

(c) may in either case provide for such use of allowances to be subject to such conditions and limitations as may be specified in or determined in accordance with the regulations.

(3) The regulations must contain provision for ensuring that allowances used by a participant for the purposes of a trading scheme cannot be used by the participant for any other purpose.

(4) The regulations—

(a) may provide for the expiry of allowances after such period as may be specified in or determined in accordance with the regulations;

(b) may enable allowances to be cancelled by a person by whom they are held instead of being used for the purposes of a trading scheme.

Commencement

Sch. 2(1) para. 6(1)-(4)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 6(1)-(4)(b): United Kingdom

Law In Force

7 Credits

(1) The regulations may enable participants to offset the carrying on of the activities in a trading period by acquiring credits representing—

(a) a reduction in an amount of greenhouse gas emissions, or

(b) the removal of an amount of greenhouse gas from the atmosphere.

(2) Regulations that make provision under this paragraph for a trading period must set a limit on the total amount of the activities for the period.

(3) If the regulations also provide for the allocation of allowances for the period, they must—

(a) set a limit on the total amount of the allowances to be allocated for the period, and

(b) require each participant to acquire enough credits to offset any activities carried on by the participant in the period in excess of those for which the participant has or has acquired allowances.

(4) Otherwise, such regulations must—

(a) set a limit on the amount of the activities that each participant may carry on in the period, and

(b) require each participant to acquire enough credits to offset any activities carried on by the participant in the period in excess of that limit.

(5) The regulations must specify—

(a) the descriptions of credits that may be used for offsetting a participant's activities,

(b) the value of different descriptions of credit as regards the amount of the activities they are treated as offsetting, and

(c) the circumstances in which credits of any description may be used for the purposes of the trading scheme.

(6) The regulations—

(a) must contain provision for ensuring that credits used to offset activities under a trading scheme cannot be used by the participant for any other purpose;

(b) may enable credits to be cancelled by a person by whom they are held instead of being used for that purpose.

Commencement

Sch. 2(1) para. 7(1)-(6)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 7(1)-(6)(b): United Kingdom

Law In Force

8 Payments

(1) The regulations may provide that a participant who does not have or acquire enough allowances or credits to match or offset the participant's activities in a trading period must pay an amount specified in or determined in accordance with the regulations within the period so specified.

(2) The regulations may require the payment to be made to—

(a) the administrator, or

(b) such other person as the regulations may specify.

(3) The provision that may be made about the amount of the payment includes, in particular, provision—

(a) for the amount to be determined by the administrator or a national authority;

(b) in a case where the payment is not made within the period specified in the regulations, for the amount to increase at the rate so specified until payment;

(c) for the amount of the payment, or of any amount by reference to which it is to be calculated, to be adjusted from time to time by reference to inflation or some other factor.

(4) Provision within sub-paragraph (3)(c) may refer, in particular, to an index or data specified in the regulations (including as modified from time to time after the regulations come into force).

(5) If the regulations provide for payments to be made to a person other than a national authority, they must provide for that person to pay the sums received to the national authority or authorities specified in or determined in accordance with the regulations.

Commencement

Sch. 2(1) para. 8(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 8(1)-(5): United Kingdom

Law In Force

9 Trading

(1) The regulations must provide for the participants in a trading scheme to trade in any allowances or credits under the scheme.

(2) The regulations may also provide for trading in the allowances or credits by third parties authorised in accordance with the regulations.

(3) The regulations must specify the circumstances in which trading is permitted.

(4) The regulations may require trading to be notified to the administrator of the trading scheme.

Commencement

Sch. 2(1) para. 9(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 9(1)-(4): United Kingdom

Law In Force

10 Permits

(1) The regulations may provide that participants may only carry on activities to which the trading scheme applies, or specified activities to which the scheme applies, if they hold a permit.

(2) The regulations may make provision about the issue, variation, transfer, surrender and revocation of permits.

(3) The regulations may provide for conditions to be attached to permits.

(4) References in this Schedule to the requirements of the scheme include requirements imposed by conditions attached to a permit.

Commencement

Sch. 2(1) para. 10(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 10(1)-(4): United Kingdom

Law In Force

11 Units under other schemes

(1) The regulations may make provision for recognising any of the following as equivalent to allowances or credits under the trading scheme—

(a) allowances, credits or certificates under another trading scheme for which provision is made by regulations under this Part of this Act;

(b) units under any other trading scheme (at United Kingdom, European or international level) relating to greenhouse gas emissions.

(2) The regulations may provide—

(a) for determining the value for the purposes of the scheme of any such allowances, credits, certificates or units, and

(b) for the use for the purposes of the scheme of any such allowances, credits, certificates or units to be subject to such conditions and limitations as may be specified in or determined in accordance with the regulations.

Commencement

Sch. 2(1) para. 11(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(1) para. 11(1)-(2)(b): United Kingdom

PART 2

SCHEMES ENCOURAGING ACTIVITIES

Law In Force

12 Introductory

This Part of this Schedule deals with trading schemes that operate by encouraging activities that consist of, or that cause or contribute, directly or indirectly to—

(a) reductions in greenhouse gas emissions, or

(b) the removal of greenhouse gas from the atmosphere.

Commencement

Sch. 2(2) para. 12(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 12(a)-(b): United Kingdom

Law In Force

13 Trading periods

The regulations must specify the period or periods by reference to which the scheme is to operate (a "trading period").

Commencement

Sch. 2(2) para. 13: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 13: United Kingdom

Law In Force

14 Activities

(1) The regulations must identify the activities to which the trading scheme applies.

(2) The regulations may identify the activities by reference to any, or any combination of, criteria and in particular—

(a) may identify the activities by reference to the locations or locations at which they are carried on, or

(b) may be expressed to apply to all activities of a particular kind carried on in the United Kingdom or a part of the United Kingdom.

(3) The regulations must specify the units of measurement of the activities for the purposes of the scheme.

(4) The regulations may specify units of measurement by reference to—

(a) the activities themselves,

(b) anything consumed or used for the purposes of the activities,

(c) anything produced by the activities, or

(d) any other consequence of the activities.

(5) The regulations may, in particular, make provision—

(a) for activities to be measured by reference to the amount (in tonnes of carbon dioxide equivalent) of the reduction of greenhouse gas emissions, or removals of greenhouse gas from the atmosphere, for which those activities are to be regarded as responsible; and

(b) as to the method by which that amount is to be measured or calculated.

(6) The regulations may make different provision in relation to different descriptions of activity to which the scheme applies.

Commencement

Sch. 2(2) para. 14(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 14(1)-(6): United Kingdom

Law In Force

15 Participants

(1) The regulations must identify the persons to whom the trading scheme applies (the "participants").

(2) The regulations—

(a) may identify the participants by reference to any, or any combination of, criteria, or

(b) provide for their identification by a specified person or body.

(3) The regulations may provide for more than one person to be treated as a single participant.

(4) The regulations may provide for persons to cease to be participants in circumstances specified in the regulations.

Commencement

Sch. 2(2) para. 15(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 15(1)-(4): United Kingdom

Law In Force

16 Targets and obligations

The regulations must, for each trading period—

(a) set a target for the total amount of the activities, and

(b) impose, or provide for the imposition of, an obligation on each participant in relation to the carrying on of a specified amount of the activities in the period.

Commencement

Sch. 2(2) para. 16(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 16(a)-(b): United Kingdom

Law In Force

17 Certificates

(1) The regulations must provide for the issue of certificates evidencing the carrying on of the activities in a trading period.

(2) The regulations may provide for certificates to evidence the carrying on of the activities—

(a) by the participant in question,

(b) by another participant in the trading scheme, or

(c) by a third party authorised in accordance with the regulations to obtain certificates for the purposes of the scheme.

(3) The regulations must require each participant to have enough certificates at the end of each trading period to comply with the participant's obligations under the trading scheme.

(4) The regulations must contain provision for ensuring that certificates used by a participant for that purpose cannot be used by the participant for any other purpose.

(5) The regulations—

(a) may provide for the expiry of certificates after such period as may be specified in or determined in accordance with the regulations;

(b) may enable certificates to be cancelled by a person by whom they are held instead of being used for the purposes of a trading scheme.

Commencement

Sch. 2(2) para. 17(1)-(5)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 17(1)-(5)(b): United Kingdom

Law In Force

18 Payments

(1) The regulations may provide that a participant who does not have enough certificates at the end of a trading period to comply with the participant's obligations under the trading scheme must pay an amount specified in or determined in accordance with the regulations within the period so specified.

(2) The regulations may require the payment to be made to—

(a) the administrator, or

(b) such other person as the regulations may specify.

(3) The provision that may be made about the amount of the payment includes, in particular, provision—

(a) for the amount to be determined by the administrator or a national authority;

(b) in a case where the payment is not made within the period specified in the regulations, for the amount to increase at the rate so specified until payment;

(c) for the amount of the payment, or of any amount by reference to which it is to be calculated, to be adjusted from time to time by reference to inflation or some other factor.

(4) Provision within sub-paragraph (3)(c) may refer, in particular, to an index or data specified in the regulations (including as modified from time to time after the regulations come into force).

(5) If the regulations provide for payments to be made to a person other than a national authority, they must provide for that person to pay the sums received to the national authority or authorities specified in or determined in accordance with the regulations.

Commencement

Sch. 2(2) para. 18(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 18(1)-(5): United Kingdom

Law In Force

19 Trading

(1) The regulations must provide for the participants in a trading scheme to trade in certificates.

(2) The regulations may also provide for trading in certificates by third parties authorised in accordance with the regulations.

(3) The regulations must specify the circumstances in which trading is permitted.

(4) The regulations may require trading to be notified to the administrator of the trading scheme.

Commencement

Sch. 2(2) para. 19(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 19(1)-(4): United Kingdom

Law In Force

20 Units under other schemes

(1) The regulations may make provision for recognising any of the following as equivalent to certificates under the trading scheme—

(a) allowances, credits or certificates under another trading scheme for which provision is made by regulations under this Part of this Act;

(b) units under any other trading scheme (at United Kingdom, European or international level) relating to greenhouse gas emissions.

(2) The regulations may provide—

(a) for determining the value for the purposes of the scheme of any such allowances, credits, certificates or units, and

(b) for the use for the purposes of the scheme of any such allowances, credits, certificates or units to be subject to such conditions and limitations as may be specified in or determined in accordance with the regulations.

Commencement

Sch. 2(2) para. 20(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(2) para. 20(1)-(2)(b): United Kingdom

PART 3

ADMINISTRATION AND ENFORCEMENT

Law In Force

21 The administrator

(1) The regulations may appoint a person as the administrator of a trading scheme.

(2) The regulations may confer or impose functions on the administrator for the purposes of the scheme.

(3) Only the following may be appointed as the administrator of a trading scheme—

(a) the Secretary of State,
(b) the Scottish Ministers,
(c) the Welsh Ministers,
(d) the relevant Northern Ireland department,
(e) a body established by an enactment, or
(f) any combination of the above.

(4) The same person may be appointed as the administrator of more than one trading scheme.

(5) More than one person may be appointed as the administrator of the same trading scheme.

Commencement

Sch. 2(3) para. 21(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 21(1)-(5): United Kingdom

Law In Force

22 Information

(1) The regulations may require such information as may be specified in or determined in accordance with the regulations to be provided to—

(a) the administrator of a trading scheme,

(b) a national authority, or

(c) participants or potential participants in the scheme,

for purposes connected with the scheme.

(2) The regulations may confer power on the administrator of a trading scheme to require information to be provided to any of those persons for those purposes.

(3) The regulations must provide for a requirement by the administrator to provide information to be notified in writing to the person to whom it is made.

(4) If the regulations confer functions on the administrator for the purposes of this paragraph, they may provide for the administrator to delegate the performance of any of those functions.

(5) The regulations may provide for information held by or on behalf of the administrator of a trading scheme in connection with the administrator's functions to be disclosed to—

(a) any other administrator of the scheme,

(b) the administrator of another trading scheme, or

(c) a national authority.

Commencement

Sch. 2(3) para. 22(1)-(5)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 22(1)-(5)(c): United Kingdom

Law In Force

23 Registers

(1) The regulations may provide for the creation and maintenance of a register or registers of information relating to a trading scheme and, in particular, for the register or registers to keep track of any of the following—

(a) the participants in a trading scheme;

(b) any limits on or obligations applying to the participants' activities under the scheme;

(c) any allocation of allowances among the participants;

(d) the allowances, credits, certificates or other units held by the participants or others;

(e) trading in allowances, credits, certificates or other units;

(f) the use by the participants or others of allowances, credits, certificates or other units for the purposes of the scheme;

(g) the cancellation of allowances, credits, certificates or other units;

(h) permits held by the participants, and any conditions attached to those permits.

(2) The regulations may, in particular, provide for the establishment and maintenance of accounts in which allowances, credits, certificates or other units may be held by the participants, the administrator or others and between which they may be transferred.

(3) The regulations may provide for the same register to operate in relation to more than one trading scheme.

(4) The regulations may make provision for the disclosure of information held in or derived from a register relating to a trading scheme—

(a) for the purposes of the administration of another trading scheme for which provision is made by regulations under this Part of this Act, or

(b) for the purposes of the administration of any other trading scheme (at United Kingdom, European or international level) relating to greenhouse gas emissions.

Commencement

Sch. 2(3) para. 23(1)-(4)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 23(1)-(4)(b): United Kingdom

Law In Force

24 Publication of information

The regulations may confer or impose functions on the administrator of a trading scheme in relation to the publication of information relating to the scheme or its participants (including, in particular, information supplied to the administrator by the participants and others).

Commencement

Sch. 2(3) para. 24: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 24: United Kingdom

Law In Force

25 Acquisition of units by the administrator

The regulations may confer powers on the administrator of a trading scheme to acquire—

(a) allowances, credits or certificates under another trading scheme for which provision is made by regulations under this Part of this Act, or

(b) units under any other trading scheme (at United Kingdom, European or international level) relating to greenhouse gas emissions.

Commencement

Sch. 2(3) para. 25(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 25(a)-(b): United Kingdom

Law In Force

26 Charges

(1) The regulations may—

(a) require the payment by participants or other persons authorised to trade in allowances, credits or certificates of charges of an amount determined by or under the regulations by reference to the costs of operating the scheme, and

(b) provide for such charges to be imposed by—

(i) a national authority,

(ii) the administrator of the scheme, or

(iii) such other person as may be specified in or determined in accordance with the regulations.

(2) If the regulations provide for charges to be payable to a person other than a national authority, they must provide for that person to pay the sums received to the national authority or authorities specified in or determined in accordance with the regulations.

Commencement

Sch. 2(3) para. 26(1)-(2): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 26(1)-(2): United Kingdom

Law In Force

27 Monitoring compliance

(1) The regulations may make provision for monitoring compliance with the requirements of a trading scheme.

(2) The regulations may, in particular, make provision about—

(a) the keeping of records by the participants,

(b) the provision of information by the participants and others,

(c) the audit and verification of that information, and

(d) the inspection of premises.

(3) If the regulations confer functions on the administrator of the scheme for the purposes of this paragraph, they may provide for the administrator to delegate the performance of any of those functions.

Commencement

Sch. 2(3) para. 27(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 27(1)-(3): United Kingdom

Law In Force

28 Enforcement

(1) The regulations may confer powers on a person to whom this paragraph applies to—

(a) require the production of documents or the provision of information,

(b) question the officers of a company,

(c) enter premises with a warrant, or

(d) seize documents or records.

(2) The regulations must provide that the power in question may only be exercised where the person on whom it is conferred reasonably believes there has been a failure to comply with the requirements of a trading scheme.

(3) This paragraph applies to—

(a) a national authority,

(b) the administrator of the scheme, and

(c) such other person as may be specified in or determined in accordance with the regulations.

Commencement

Sch. 2(3) para. 28(1)-(3)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 28(1)-(3)(c): United Kingdom

Law In Force

29 Penalties

(1) The regulations may provide that a person is liable to a financial or other penalty if the person fails to comply with the requirements of a trading scheme.

(2) The regulations may—

(a) specify the amount of any financial penalty, or

(b) provide for the amount of any financial penalty to be determined in accordance with the regulations.

(3) If the regulations provide for financial penalties to be payable to a person other than a national authority, they must provide for that person to pay the sums received to the national authority or authorities specified in or determined in accordance with the regulations.

Commencement

Sch. 2(3) para. 29(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 29(1)-(3): United Kingdom

Law In Force

30 Offences

(1) The regulations may create offences relating to trading schemes.

(2) The regulations may provide for such an offence to be triable—

(a) only summarily, or

(b) either summarily or on indictment.

(3) The regulations may provide for such an offence to be punishable on summary conviction—

(a) with imprisonment for a term not exceeding such period as is specified in the regulations (which may not exceed the normal maximum term),

(b) with a fine not exceeding such amount as is so specified (which may not exceed £50,000), or

(c) with both.

(4) The "normal maximum term" means—

(a) in relation to England and Wales—

(i) in the case of an offence triable only summarily, 51 weeks, and

(ii) in the case of an offence triable either summarily or on indictment, twelve months;

(b) in relation to Scotland—

(i) in the case of an offence triable only summarily, 6 months, and

(ii) in the case of an offence triable either summarily or on indictment, twelve months;

(c) in relation to Northern Ireland, six months.

(5) Regulations that—

(a) are made before the date on which section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, and

(b) in relation to England and Wales, make provision for a summary offence to be punishable with a term of imprisonment exceeding six months,

must provide that, where the offence is committed before that date, it is punishable with imprisonment for a term not exceeding six months.

(6) Regulations that—

(a) are made before **[** 2 May 2022 **]** [1] comes into force, and

(b) in relation to England and Wales, make provision for an offence triable either summarily or on indictment to be punishable on summary conviction with a term of imprisonment exceeding six months,

must provide that, where the offence is committed before that date, it is punishable on summary conviction with imprisonment for a term not exceeding six months.

(7) The regulations may provide for an offence to be punishable on indictment—

(a) with imprisonment for a term not exceeding such period as is specified in the regulations (which may not exceed five years),

(b) with a fine, or

(c) with both.

(8) The regulations may—

(a) provide for defences against offences, and

(b) make provision about matters of procedure and evidence in proceedings relating to offences.

Notes

[1] Words substituted by Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022/500 Sch.1(1) para.1 (April 28, 2022)

Commencement

Sch. 2(3) para. 30(1)-(8)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 30(1)-(8)(b): United Kingdom

Law In Force

31 Appeals

(1) The regulations may confer rights of appeal against—

(a) decisions made in relation to a trading scheme, and

(b) civil penalties imposed or enforcement action taken for failure to comply with the requirements of a trading scheme.

(2) The regulations must specify the court, tribunal or person who is to hear and determine appeals in relation to a trading scheme.

(3) The regulations may, in particular, provide for appeals in relation to a trading scheme to be heard by—

(a) a national authority, if not the administrator of the trading scheme, or

(b) a person appointed by a national authority for that purpose.

(4) They may provide for an appeal to be determined by a person other than the person by whom the appeal was heard.

Commencement

Sch. 2(3) para. 31(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 2(3) para. 31(1)-(4): United Kingdom

SCHEDULE 3

TRADING SCHEMES REGULATIONS: FURTHER PROVISIONS

Section 49

PART 1

REGULATIONS MADE BY A SINGLE NATIONAL AUTHORITY

Law In Force

1

This Part of this Schedule applies in relation to an instrument containing regulations under this Part of this Act made by a single national authority.

Commencement

Sch. 3(1) para. 1: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(1) para. 1: United Kingdom

Law In Force

2

(1) Where the instrument contains regulations that—

(a) are to be made by the Secretary of State, and

(b) are subject to affirmative resolution procedure,

the regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.

(2) Where the instrument contains regulations that—

(a) are to be made by a national authority other than the Secretary of State, and

(b) are subject to affirmative resolution procedure,

the regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of the relevant devolved legislature.

Commencement

Sch. 3(1) para. 2(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(1) para. 2(1)-(2)(b): United Kingdom

Law In Force

3

(1) An instrument containing regulations made by the Secretary of State that are subject to negative resolution procedure is subject to annulment in pursuance of a resolution of either House of Parliament.

(2) An instrument containing regulations made by the Scottish Ministers that are subject to negative resolution procedure is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3) An instrument containing regulations made by the Welsh Ministers that are subject to negative resolution procedure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(4) An instrument containing regulations made by a Northern Ireland department that are subject to negative resolution procedure is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) as if it were a statutory instrument within the meaning of that Act.

Commencement

Sch. 3(1) para. 3(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(1) para. 3(1)-(4): United Kingdom

Law In Force

4

Any provision that may be made by regulations subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

Commencement

Sch. 3(1) para. 4: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(1) para. 4: United Kingdom

PART 2

REGULATIONS MADE BY TWO OR MORE NATIONAL AUTHORITIES

Law In Force

5

This Part of this Schedule applies in relation to an instrument containing regulations under this Part of this Act made or to be made by any two or more of—

(a) the Secretary of State,

(b) the Welsh Ministers, and

(c) a Northern Ireland department.

Commencement

Sch. 3(2) para. 5(a)-(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(2) para. 5(a)-(c): United Kingdom

Law In Force

6

If any of the regulations are subject to affirmative resolution procedure, all of them are subject to that procedure.

Commencement

Sch. 3(2) para. 6: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(2) para. 6: United Kingdom

Law In Force

7

Paragraphs 2 and 3 (affirmative and negative resolution procedure) apply to the instrument as they apply to an instrument containing regulations made by a single national authority.

Commencement

Sch. 3(2) para. 7: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(2) para. 7: United Kingdom

Law In Force

8

(1) If in accordance with paragraph 3 (negative resolution procedure)—

(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or

(b) a devolved legislature resolves that an instrument containing regulations made by a national authority be annulled,

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

(2) This is without prejudice to the validity of anything previously done under the instrument or to the making of a new instrument.

(3) This paragraph applies in place of provision made by any other enactment about the effect of such a resolution.

Commencement

Sch. 3(2) para. 8(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(2) para. 8(1)-(3): United Kingdom

PART 3

POWER TO MAKE PROVISION BY ORDER IN COUNCIL

Law In Force

9

(1) Her Majesty may by Order in Council make provision for trading schemes.

(2) That power may only be exercised to make an Order in Council—

(a) that extends or applies both to Scotland and to one or more of England, Wales and Northern Ireland, or

(b) that extends to Scotland only and contains both provision within the legislative competence of the Scottish Parliament and provision outside that competence.

(3) The provision that may be made by an Order in Council under this paragraph includes any provision that may be made by a national authority by regulations under this Part of this Act.

Commencement

Sch. 3(3) para. 9(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(3) para. 9(1)-(3): United Kingdom

Law In Force

10

No recommendation is to be made to Her Majesty in Council to make an Order in Council under paragraph 9 unless the requirements of section 48(1) and (2) as to advice and consultation have been complied with.

Commencement

Sch. 3(3) para. 10: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(3) para. 10: United Kingdom

Law In Force

11

(1) This paragraph applies to an Order in Council under paragraph 9 containing any provision that, were it to be made by regulations under this Part of this Act, would be subject to affirmative resolution procedure.

(2) No recommendation is to be made to Her Majesty in Council to make an Order in Council to which this paragraph applies unless—

(a) in the case of an Order in Council containing provision that may be made by the Secretary of State by regulations under this Part of this Act, a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, each House of Parliament, and

(b) in the case of an Order in Council containing provision that may be made by a national authority other than the Secretary of State by regulations under this Part of this Act, a draft

of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the relevant devolved legislature.

Commencement

Sch. 3(3) para. 11(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(3) para. 11(1)-(2)(b): United Kingdom

Law In Force

12

(1) This paragraph applies to an Order in Council under paragraph 9 other than one to which paragraph 11 applies.

(2) An Order in Council to which this paragraph applies containing provision that may be made by the Secretary of State by regulations under this Part of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) An Order in Council to which this paragraph applies containing provision that may be made by the Scottish Ministers by regulations under this Part of this Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4) An Order in Council to which this paragraph applies containing provision that may be made by the Welsh Ministers by regulations under this Part of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(5) An Order in Council to which this paragraph applies containing provision that may be made by a Northern Ireland department by regulations under this Part of this Act is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) as if it were a statutory instrument within the meaning of that Act.

Commencement

Sch. 3(3) para. 12(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(3) para. 12(1)-(5): United Kingdom

Law In Force

13

(1) If in accordance with paragraph 12—

(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an Order in Council be annulled, or

(b) a devolved legislature resolves that an Order in Council be annulled,

nothing further is to be done under the Order in Council after the date of the resolution and Her Majesty may by Order in Council revoke it.

(2) This is without prejudice to the validity of anything previously done under the Order in Council or to the making of a new Order in Council.

(3) This paragraph applies in place of provision made by any other enactment about the effect of such a resolution.

Commencement

Sch. 3(3) para. 13(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 3(3) para. 13(1)-(3): United Kingdom

SCHEDULE 4

TRADING SCHEMES: POWERS TO REQUIRE INFORMATION

Section 50

Repealed

1 […][1]

Notes

[1] Repealed by Climate Change Act 2008 c. 27 Pt 3 s.50(2) (January 1, 2011)

Repealed

2 […][1]

Notes

[1] Repealed by Climate Change Act 2008 c. 27 Pt 3 s.50(2) (January 1, 2011)

Repealed

3 […][1]

Notes

[1] Repealed by Climate Change Act 2008 c. 27 Pt 3 s.50(2) (January 1, 2011)

Repealed

4 […][1]

Notes

[1] Repealed by Climate Change Act 2008 c. 27 Pt 3 s.50(2) (January 1, 2011)

Repealed

5 […][1]

Notes

[1] Repealed by Climate Change Act 2008 c. 27 Pt 3 s.50(2) (January 1, 2011)

Law In Force

6 Disclosure of information

(1) This paragraph applies to information obtained by an environmental authority (whether or not pursuant to a notice under this Schedule) from—

(a) an electricity supplier or electricity distributor, or

(b) a potential participant,

for the purposes of enabling a trading scheme to be established.

(2) The information may be disclosed for the purposes of or in connection with the establishment, operation or enforcement of a trading scheme—

(a) by an environmental authority to another environmental authority or the administrator of the scheme, or

(b) by the administrator of the scheme to any other administrator of the scheme or an environmental authority.

(3) This does not affect any other right to disclose information within sub-paragraph (1) apart from this paragraph.

Commencement

Sch. 4 para. 6(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 4 para. 6(1)-(3): United Kingdom

SCHEDULE 5

WASTE REDUCTION SCHEMES

Section 71

PART 1

MAIN PROVISIONS

Repealed

1 […][1]

Notes

[1] Repealed, never in force by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

2 […][1]

Notes

[1] Repealed, never in force by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

PART 2

CONSEQUENTIAL AMENDMENTS

Repealed

3 […][1]

Notes

[1] Repealed, never in force by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

Repealed

4 […][1]

Notes

[1] Repealed, never in force by Localism Act 2011 c. 20 Sch.25(8) para.1 (January 15, 2012)

SCHEDULE 6

CHARGES FOR SINGLE USE CARRIER BAGS

Section 77

PART 1

POWERS TO MAKE REGULATIONS ABOUT CHARGES

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force

England and Wales

1 General power

The relevant national authority may make provision by regulations about charging by sellers of goods for the supply of single use carrier bags.

Northern Ireland

[1 General power

The relevant national authority may make provision by regulations about charging by sellers of goods for the supply of carrier bags.
] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

Commencement

Sch. 6(1) para. 1: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 1: England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force

England and Wales

2 Requirement to charge

The regulations may make provision requiring sellers of goods to charge for single use carrier bags supplied—

(a) at the place where the goods are sold, for the purpose of enabling the goods to be taken away, or

(b) for the purpose of enabling the goods to be delivered.

Northern Ireland

[2 Requirement to charge

The regulations may make provision requiring sellers of goods to charge for carrier bags supplied—

[(a) at a place where goods are sold, for the purpose of enabling goods to be taken away, or

(b) for the purpose of enabling goods to be delivered. **]** [2]

] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

[2] Substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.3(1) (April 28, 2014)

Commencement

Sch. 6(1) para. 2(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 2(a)-(b): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Northern Ireland

[2A.
The regulations may make provision for treating carrier bags as having been supplied for the purpose of enabling goods to be taken away if the carrier bags have been designed for that purpose.
] [1]

Notes

[1] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.3(2) (April 28, 2014)

Extent

Sch. 6(1) para. 2A: England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force

England and Wales

3 Sellers of goods

(1) “Seller”, in relation to goods, has the meaning given by the regulations which may define that term by reference (in particular) to—

(a) a person's involvement in selling the goods,
(b) a person's interest in the goods, or
(c) a person's interest in the place at or from which the goods are sold,

or any combination of those factors.

(2) The regulations may make provision for regulations under this Schedule to apply—

(a) to all sellers of goods,
(b) to sellers of goods named in the regulations,
(c) to sellers of goods identified by reference to specified factors, or
(d) to sellers of goods within paragraph (b) and sellers of goods within paragraph (c).

(3) The specified factors may include—

(a) the place or places at or from which a seller supplies goods;
(b) the type of goods that a seller supplies;
(c) the value of goods that a seller supplies;
(d) a seller's turnover or any part of that turnover.

(4) In this Schedule "specified" means specified in regulations under this Schedule.

Northern Ireland

[3 Sellers of goods

(1) "Seller", in relation to goods, has the meaning given by the regulations which may define that term by reference (in particular) to—

(a) a person's involvement in selling the goods,
(b) a person's interest in the goods, or
(c) a person's interest in the place at or from which the goods are sold,

or any combination of those factors.

(2) The regulations may make provision for regulations under this Schedule to apply—

(a) to all sellers of goods,
(b) to sellers of goods named in the regulations,
(c) to sellers of goods identified by reference to specified factors, or
(d) to sellers of goods within paragraph (b) and sellers of goods within paragraph (c).

(3) The specified factors may include—

(a) the place or places at or from which a seller supplies goods;
(b) the type of goods that a seller supplies;
(c) the value of goods that a seller supplies;
(d) a seller's turnover or any part of that turnover;
(e) the number of a seller's full-time equivalent employees.

(4) In this Schedule "specified" means specified in regulations under this Schedule.

[(5) For the purposes of sub-paragraph (3)(e), the number of a seller's full-time equivalent employees is calculated as follows—

Step 1

Find the number for full-time employees of the seller.

Step 2

Add, for each employee of the seller who is not a full-time employee, such fraction as is just and reasonable.

The result is the number of full-time equivalent employees.

] [2]

] [1]

Notes

[1] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.4(2) (April 28, 2014)

[2] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.4(3) (April 28, 2014)

Commencement

Sch. 6(1) para. 3(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 3(1)-(4): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force

England and Wales

4 Amount of charge

The regulations may specify the minimum amount that a seller must charge for each single use carrier bag, or provide for that amount to be determined in accordance with the regulations.

Northern Ireland

[4 Amount of charge

The regulations may specify the minimum amount that a seller must charge for each carrier bag, or provide for that amount to be determined in accordance with the regulations.

] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(a) (April 28, 2014)

Commencement

Sch. 6(1) para. 4: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 4: England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Northern Ireland | Wales

Partially In Force With Amendments Pending

England

[NOTE: not yet in force otherwise.]

Northern Ireland

[4A.—

(1) This paragraph applies to regulations made by the Department in relation to Northern Ireland.

(2) The regulations may require the seller to pay to the Department—

(a) the gross proceeds of the charge, or

(b) the net proceeds of the charge.

[(2A) The regulations may—

(a) provide for the time when and manner in which the gross or net proceeds of the charge are to be paid to the Department;

(b) provide for the payment of interest for late payment of the gross or net proceeds of the charge to the Department.

] [2]

(3) Paragraph 7(3)(c) does not apply to any amount required by regulations made under this paragraph to be paid to the Department.

(4) In this paragraph—

"the Department" means the Department of the Environment in Northern Ireland;

"gross proceeds of the charge" means the amount received by the seller by way of charges for **[** carrier bags **]** [3];

"net proceeds of the charge" means the seller's gross proceeds of the charge reduced by such amounts as may be specified.

] [1]

Notes

[1] Added by Single Use Carrier Bags Act (Northern Ireland) 2011 c. 26 s.1(1) (May 4, 2011)

[2] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.5 (April 28, 2014)

[3] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

Wales

[4A Destination of proceeds – Wales

(1) This paragraph applies to regulations made by the Welsh Ministers in relation to Wales.

(2) The regulations may provide for the application of the net proceeds of the charge to specified purposes.

(3) Regulations under sub-paragraph (2) may (among other things)–

(a) require sellers to apply the net proceeds of the charge to any one or more specified purposes;

(b) provide for any duty imposed under paragraph (a) to be discharged (subject to any provision made under paragraph (c)) by the net proceeds of the charge being accepted by any one or more of the following persons–

(i) specified persons;

(ii) persons who fall within a specified category of person;

(c) make provision about the arrangements under which the net proceeds of the charge are to be given by sellers to the persons mentioned in paragraph (b) or any other person;

(d) require persons who accept any net proceeds of the charge under paragraph (b) to apply the proceeds to any one or more specified purposes;

(e) provide for recovery by the Welsh Ministers of sums equal to the proceeds of the charge that have been accepted or applied otherwise than in accordance with provision made under sub-paragraph (2);

(f) provide for the application of sums recovered under paragraph (e) to specified purposes (this includes making provision to the effect that such sums are not to be paid into the Welsh Consolidated Fund);

(g) require the Welsh Ministers to give guidance about compliance with the regulations.

(4) The purposes that may be specified under sub-paragraph (2) are limited to purposes relating to any of the following–

(a) preventing or reducing waste;

(b) the collection, management, treatment or disposal of waste;

(c) protecting or improving the environment in relation to pollution or nuisances;

(d) educational or recreational activities for children or young people which relate to any of the matters specified in paragraphs (a) to (c).

(5) But purposes concerning the production of renewable energy for consumption in transport or the use of that energy in transport may not be specified under sub-paragraph (2).

(6) The regulations may make provision for regulations under this Schedule to apply to persons other than sellers, if the Welsh Ministers consider that such provision is appropriate for the enforcement of provision made under sub-paragraph (2) or for otherwise making such provision effective.

(7) The specified factors under paragraph 3(2)(c) may also include–

(a) a seller's arrangements for applying the net proceeds of the charge, or

(b) any other factor that the Welsh Ministers consider appropriate, whether or not that factor is of the same kind as the factors listed in that paragraph.

(8) The regulations may provide for exceptions and exemptions.
] [1]

Notes

[1] Added by Waste (Wales) Measure 2010 c. 08 s.1(2) (February 15, 2011)

Amendments Pending

Sch. 6(1) para. 4A: repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(a) (date to be appointed)

Extent

Sch. 6(1) para. 4A(1)-(8): England, Wales, Northern Ireland

Law In Force With Amendments Pending

[4B Interpretation of paragraph 4A

(1) This paragraph applies for the purposes of paragraph 4A.

(2) "Children" means persons who have not attained the age of 18.

(3) "Pollution" means pollution of the air, water or land which may give rise to any environmental harm, including (but not limited to) pollution caused by light, noise, heat or vibrations or any other kind of release of energy.

(4) For the purposes of the definition in sub-paragraph (3), "environmental harm" means any of the following–

(a) harm to the health of humans and other living organisms;

(b) harm to the quality of the environment, including–

(i) harm to the quality of the environment taken as a whole,

(ii) harm to the quality of the air, water or land, and

(iii) other impairment of, or interference with, the ecological systems of which any living organisms form part;

(c) offence to the senses of human beings;

(d) damage to property;

(e) impairment of, or interference with, the amenity of the environment or any legitimate use of the environment.

(5) For the purposes of sub-paragraphs (3) and (4), "air" includes (but is not limited to) air within buildings and air within other natural or man-made structures above or below ground.

(6) "Nuisance" means an act or omission affecting any place, or a state of affairs in any place, which may impair, or interfere with, the amenity of the environment or any legitimate use of the environment.

(7) "Net proceeds of the charge" has the same meaning as in paragraph 7(4).

(8) "Young people" means persons who have attained the age of 18, but not the age of 25.
] [1]

Notes

[1] Added by Waste (Wales) Measure 2010 c. 08 s.1(2) (February 15, 2011)

Amendments Pending

Sch. 6(1) para. 4B: repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(a) (date to be appointed)

Extent

Sch. 6(1) para. 4B(1)-(8): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force

England and Wales

5 Single use carrier bags

"Single use carrier bag" has the meaning given by the regulations, which may define that term by reference (in particular) to—

(a) a bag's size, thickness, construction, composition or other characteristics, or

(b) its intended use,

or any combination of those factors.

Northern Ireland

[5 [Carrier bags] [2]

[(1) "Carrier bag" has the meaning given by the regulations, which may define that term by reference (in particular) to—

(a) a bag's size, thickness, construction, composition or other characteristics,

(b) its intended use, or

(c) its price,

or any combination of those factors.

(2) In this paragraph "price" means the price paid by a specified person, excluding any minimum charge that may be applicable by virtue of paragraph 4. **]** [3]

] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(a) (April 28, 2014)

[2] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

[3] Existing Sch.6 para.5 renumbered as Sch.6 para.5(1), words are amended and Sch.6 para.5(1)(c) and (2) inserted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.6 (April 28, 2014)

Commencement

Sch. 6(1) para. 5(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 5(a)-(b): England, Wales, Northern Ireland

Law In Force

6 Administration

(1) The regulations may appoint a person (an "administrator") to administer provision made by regulations under this Schedule.

(2) More than one person may be appointed as administrator.

(3) The regulations may confer or impose powers or duties on an administrator and may (in particular) do so—

(a) by making modifications to any enactment applying to the administrator, or

(b) by providing for any such enactment to apply, with or without modifications, for the purposes of regulations under this Schedule.

(4) References in this Schedule to an administrator include a person appointed by an administrator.

Commencement

Sch. 6(1) para. 6(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 6(1)-(4): England, Wales, Northern Ireland

Law In Force

[6A Registration

(1) **[…]**[2] This paragraph applies to regulations made by—

(a) the Secretary of State, or

(b) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

(2) The regulations may require sellers to register with an administrator.

(3) The regulations may make provision—

(a) about applications for registration,

(b) about the period for which registration has effect,

(c) about the cancellation of registration.

(4) The regulations may require sellers to pay to the administrator, in connection with their registration, fees of an amount determined by, or by the administrator in accordance with, the regulations.

(5) The regulations may provide for the amount of the fees to be such as to recover the costs incurred by the administrator in performing its functions under the regulations.
] [1]

Notes

[1] Added by Environment Act 2021 c. 30 Pt 3 s.56 (January 9, 2022: as 2021 c.30 s.147(2)(f))

[2] Added by Environment Act 2021 c. 30 Pt 3 s.56 (February 28, 2022: as SR 2022/54 art.2(1)(h))

Extent

Sch. 6(1) para. 6A(1)-(5): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force With Amendments Pending

England and Wales

7 Record-keeping and publication of records

(1) The regulations may require records to be kept relating to charges made for single use carrier bags.

(2) The regulations may require—

(a) the records, or such other information as may be specified, to be published at such times and in such manner as may be specified;

(b) the records, or such other information as may be specified, to be supplied on request and in such manner as may be specified to—

(i) the relevant national authority,

(ii) an administrator, or

(iii) members of the public.

(3) The regulations may (in particular) require the publication or supply of records or information relating to any of the following—

(a) the amount received by a seller by way of charges for single use carrier bags;

(b) the seller's gross or net proceeds of the charge;

(c) the uses to which the net proceeds of the charge have been put.

[(3A) Regulations made by the Welsh Ministers may also require the publication or supply of records or information relating to the amount received by a person from a seller by way of net proceeds of the charge to be applied to purposes specified under paragraph 4A(2). **]** [1]

(4) In this paragraph—

"gross proceeds of the charge" means the amount received by the seller by way of charges for single use carrier bags;

"net proceeds of the charge" means the seller's gross proceeds of the charge reduced by such amounts as may be specified.

Notes

[1] Added by Waste (Wales) Measure 2010 c. 08 s.1(3) (February 15, 2011)

Northern Ireland

[7 Record-keeping and publication of records

(1) The regulations may require records to be kept relating to charges made for carrier bags.

(2) The regulations may require—

(a) the records, or such other information as may be specified, to be published at such times and in such manner as may be specified;

(b) the records, or such other information as may be specified, to be supplied on request and in such manner as may be specified to—

(i) the relevant national authority,

(ii) an administrator, or

(iii) members of the public.

(3) The regulations may (in particular) require the publication or supply of records or information relating to any of the following—

(a) the amount received by a seller by way of charges for carrier bags;

(b) the seller's gross or net proceeds of the charge;

(c) the uses to which the net proceeds of the charge have been put **[** ; **]** [2]

[(d) payments of the gross or net proceeds of the charge made to the Department of the Environment in Northern Ireland. **]** [2]

(3A) Regulations made by the Welsh Ministers may also require the publication or supply of records or information relating to the amount received by a person from a seller by way of net proceeds of the charge to be applied to purposes specified under paragraph 4A(2).

(4) In this paragraph—

"gross proceeds of the charge" means the amount received by the seller by way of charges for carrier bags;

"net proceeds of the charge" means the seller's gross proceeds of the charge reduced by such amounts as may be specified.

] [1]

Notes

[1] Words substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.1(b) (April 28, 2014)

[2] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.7(2) (April 28, 2014)

Amendments Pending

Sch. 6(1) para. 7(3A): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(b) (date to be appointed)

Commencement

Sch. 6(1) para. 7(1)-(4) definition of "net proceeds of the charge": January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 7(1)-(4) definition of "net proceeds of the charge": England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force With Amendments Pending

England and Wales

8 Enforcement

(1) The regulations may confer or impose powers or duties on an administrator to enforce provision made by regulations under this Schedule.

(2) The regulations may (in particular) confer powers on an administrator to—

(a) require the production of documents or the provision of information, or

(b) question a seller or officers or employees of a seller.

[(2A) Regulations made by the Welsh Ministers may also confer powers on an administrator to question a person the administrator reasonably believes has received any net proceeds of the charge or officers or employees of such a person. **]** [1]

(3) Regulations under sub-paragraph (2) must contain provision for ensuring that the power in question is exercised by a person only where the person reasonably believes there has been a failure to comply with a requirement of regulations under this Schedule.

Notes

[1] Added by Waste (Wales) Measure 2010 c. 08 s.1(4) (February 15, 2011)

Northern Ireland

[8 Enforcement

(1) The regulations may confer or impose powers or duties on an administrator to enforce provision made by regulations under this Schedule.

(2) The regulations may (in particular) confer powers on an administrator to—

(a) require the production of documents or the provision of information,

[(aa) inspect, retain or copy such documents, or **]** [2]

(b) question a seller or officers or employees of a seller.

(2A) Regulations made by the Welsh Ministers may also confer powers on an administrator to question a person the administrator reasonably believes has received any net proceeds of the charge or officers or employees of such a person.

(3) **[…]**[3]

] [1]

Notes

[1] Word repealed by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.7(3)(a) (April 28, 2014)

[2] Added by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.7(3)(b) (April 28, 2014)

[3] Repealed by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.7(3)(c) (April 28, 2014)

Amendments Pending

Sch. 6(1) para. 8(2A): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(c) (date to be appointed)

Commencement

Sch. 6(1) para. 8(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(1) para. 8(1)-(3): England, Wales, Northern Ireland

PART 2

CIVIL SANCTIONS

Law In Force

9 Civil sanctions

(1) The relevant national authority may make provision by regulations about civil sanctions for breaches of regulations under this Schedule.

(2) For the purposes of this Schedule a person breaches regulations under this Schedule if, in such circumstances as may be specified, the person—

(a) fails to comply with a requirement made by or under the regulations, or

(b) obstructs or fails to assist an administrator.

(3) In this Schedule "civil sanction" means—

(a) a fixed monetary penalty (see paragraph 10), or

(b) a discretionary requirement (see paragraph 12).

Commencement

Sch. 6(2) para. 9(1)-(3)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 9(1)-(3)(b): England, Wales, Northern Ireland

Law In Force

10 Fixed monetary penalties

(1) The regulations may make provision conferring on an administrator the power by notice to impose a fixed monetary penalty on a person who breaches regulations under this Schedule.

(2) The regulations may only confer such a power in relation to a case where the administrator is satisfied on the balance of probabilities that the breach has occurred.

(3) For the purposes of this Schedule a "fixed monetary penalty" is a requirement to pay to an administrator a penalty of an amount specified in or determined in accordance with the regulations.

(4) The regulations may not provide for the imposition of a fixed monetary penalty in excess of £5,000.

Commencement

Sch. 6(2) para. 10(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 10(1)-(4): England, Wales, Northern Ireland

Law In Force

11 Fixed monetary penalties: procedure

(1) Provision under paragraph 10 must secure that—

(a) where an administrator proposes to impose a fixed monetary penalty on a person, the administrator must serve on that person a notice of what is proposed (a "notice of intent") that complies with sub-paragraph (2),

(b) the notice of intent also offers the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a specified sum (which must be less than or equal to the amount of the penalty),

(c) if the person does not so discharge liability—

(i) the person may make written representations and objections to the administrator in relation to the proposed imposition of the fixed monetary penalty, and

(ii) the administrator must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty,

(d) where the administrator decides to impose the fixed monetary penalty, the notice imposing it ("the final notice") complies with sub-paragraph (4), and

(e) the person on whom a fixed monetary penalty is imposed may appeal against the decision to impose it.

(2) To comply with this sub-paragraph the notice of intent must include information as to—

(a) the grounds for the proposal to impose the fixed monetary penalty,

(b) the effect of payment of the sum referred to in sub-paragraph (1)(b),

(c) the right to make representations and objections,

(d) the circumstances in which the administrator may not impose the fixed monetary penalty,

(e) the period within which liability to the fixed monetary penalty may be discharged, which may not exceed the period of 28 days beginning with the day on which the notice of intent was received, and

(f) the period within which representations and objections may be made, which may not exceed the period of 28 days beginning with the day on which the notice of intent was received.

(3) Provision pursuant to sub-paragraph (1)(c)(ii) must include provision for circumstances in which the administrator may not decide to impose a fixed monetary penalty.

(4) To comply with this sub-paragraph the final notice referred to in sub-paragraph (1)(d) must include information as to—

(a) the grounds for imposing the penalty,

(b) how payment may be made,

(c) the period within which payment must be made,

(d) any early payment discounts or late payment penalties,

(e) rights of appeal, and

(f) the consequences of non-payment.

(5) Provision pursuant to sub-paragraph (1)(e) must secure that the grounds on which a person may appeal against a decision of the administrator include the following—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable.

Commencement

Sch. 6(2) para. 11(1)-(5)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 11(1)-(5)(c): England, Wales, Northern Ireland

Law In Force

12 Discretionary requirements

(1) The regulations may make provision conferring on an administrator the power by notice to impose one or more discretionary requirements on a person who breaches regulations under this Schedule.

(2) The regulations may only confer such a power in relation to a case where the administrator is satisfied on the balance of probabilities that the breach has occurred.

(3) For the purposes of this Schedule a "discretionary requirement" means—

(a) a requirement to pay a monetary penalty to an administrator of such amount as the administrator may determine, or

(b) a requirement to take such steps as an administrator may specify, within such period as the administrator may specify, to secure that the breach does not continue or recur.

(4) In this Schedule—

"variable monetary penalty" means a requirement referred to in sub-paragraph (3)(a);

"non-monetary discretionary requirement" means a requirement referred to in sub-paragraph (3)(b).

(5) The regulations must, in relation to each kind of breach of regulations under this Schedule for which a variable monetary penalty may be imposed—

(a) specify the maximum penalty that may be imposed for a breach of that kind, or

(b) provide for that maximum to be determined in accordance with the regulations.

(6) The regulations may not permit discretionary requirements to be imposed on a person on more than one occasion in relation to the same act or omission.

Commencement

Sch. 6(2) para. 12(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 12(1)-(6): England, Wales, Northern Ireland

Law In Force

13 Discretionary requirements: procedure

(1) Provision under paragraph 12 must secure that—

(a) where an administrator proposes to impose a discretionary requirement on a person, the administrator must serve on that person a notice of what is proposed (a "notice of intent") that complies with sub-paragraph (2),

(b) that person may make written representations and objections to the administrator in relation to the proposed imposition of the discretionary requirement,

(c) after the end of the period for making such representations and objections, the administrator must decide whether to—

(i) impose the discretionary requirement, with or without modifications, or

(ii) impose any other discretionary requirement that the administrator has power to impose under paragraph 12,

(d) where the administrator decides to impose a discretionary requirement, the notice imposing it (the "final notice") complies with sub-paragraph (4), and

(e) the person on whom a discretionary requirement is imposed may appeal against the decision to impose it.

(2) To comply with this sub-paragraph the notice of intent must include information as to—

(a) the grounds for the proposal to impose the discretionary requirement,

(b) the right to make representations and objections,

(c) the circumstances in which the administrator may not impose the discretionary requirement,

(d) the period within which representations and objections may be made, which may not be less than the period of 28 days beginning with the day on which the notice of intent is received.

(3) Provision pursuant to sub-paragraph (1)(c) must include provision for circumstances in which the administrator may not decide to impose a fixed monetary penalty.

(4) To comply with this sub-paragraph the final notice referred to in sub-paragraph (1)(d) must include information as to—

(a) the grounds for imposing the discretionary requirement,

(b) where the discretionary requirement is a variable monetary penalty—

(i) how payment may be made,

(ii) the period within which payment must be made, and

(iii) any early payment discounts or late payment penalties,

(c) rights of appeal, and

(d) the consequences of non-compliance.

(5) Provision pursuant to sub-paragraph (1)(e) must secure that the grounds on which a person may appeal against a decision of the administrator include the following—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable;

(d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable;

(e) that the decision was unreasonable for any other reason.

Commencement

Sch. 6(2) para. 13(1)-(5)(e): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 13(1)-(5)(e): England, Wales, Northern Ireland

Law In Force

14 Discretionary requirements: enforcement

(1) Provision under paragraph 12 may include provision for a person to pay a monetary penalty (a "non-compliance penalty") to an administrator if the person fails to comply with a non-monetary discretionary requirement imposed on the person.

(2) Provision under sub-paragraph (1) may—

(a) specify the amount of the non-compliance penalty or provide for that amount to be determined in accordance with the regulations, or

(b) provide for the amount to be determined by the administrator or in some other way.

(3) If the regulations make provision within sub-paragraph (2)(b), they must, in relation to each kind of failure for which a non-compliance penalty may be imposed—

(a) specify the maximum penalty that may be imposed for a failure of that kind, or
(b) provide for that maximum to be determined in accordance with the regulations.

(4) Provision under sub-paragraph (1) must secure that—
(a) the non-compliance penalty is imposed by notice served by the administrator, and
(b) the person on whom it is imposed may appeal against that notice.

(5) Provision pursuant to paragraph (b) of sub-paragraph (4) must secure that the grounds on which a person may appeal against a notice referred to in that sub-paragraph include the following—
(a) that the decision to serve the notice was based on an error of fact;
(b) that the decision was wrong in law;
(c) that the decision was unfair or unreasonable for any reason (including, in a case where the amount of the non-compliance penalty was determined by the administrator, that the amount is unreasonable).

Commencement

Sch. 6(2) para. 14(1)-(5)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 14(1)-(5)(c): England, Wales, Northern Ireland

Law In Force

15 Combination of sanctions

(1) Provision may not be made under paragraphs 10 and 12 conferring powers on an administrator in relation to the same kind of breach of regulations under this Schedule unless it complies with the following requirements.

(2) The provision must secure that the administrator may not serve a notice of intent referred to in paragraph 11(1)(a) on a person in relation to a breach where a discretionary requirement has been imposed on that person in relation to the same breach.

(3) Such provision must secure that the administrator may not serve a notice of intent referred to in paragraph 13(1)(a) on a person in relation to a breach where—
(a) a fixed monetary penalty has been imposed on that person in relation to the same breach, or
(b) the person has discharged liability to a fixed monetary penalty in relation to that breach pursuant to paragraph 11(1)(b).

Commencement

Sch. 6(2) para. 15(1)-(3)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 15(1)-(3)(b): England, Wales, Northern Ireland

Law In Force

16 Monetary penalties

(1) If the regulations confer power on an administrator to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty under paragraph 14(1), they may include provision—

(a) for early payment discounts;

(b) for the payment of interest or other financial penalties for late payment of the penalty, such interest or other financial penalties not in total to exceed the amount of that penalty;

(c) for enforcement of the penalty.

(2) Provision under sub-paragraph (1)(c) may include—

(a) provision for the administrator to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;

(b) provision for the penalty, and any interest or other financial penalty for late payment to be recoverable, on the order of a court, as if payable under a court order.

Commencement

Sch. 6(2) para. 16(1)-(2)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 16(1)-(2)(b): England, Wales, Northern Ireland

Law In Force

17 Costs recovery

(1) Provision under paragraph 12 may include provision for an administrator, by notice, to require a person on whom a discretionary requirement is imposed to pay the costs incurred by the administrator in relation to the imposition of the discretionary requirement up to the time of its imposition.

(2) In sub-paragraph (1), the reference to costs includes in particular—

(a) investigation costs;

(b) administration costs;

(c) costs of obtaining expert advice (including legal advice).

(3) Provision under this paragraph must secure that, in any case where a notice requiring payment of costs is served—

(a) the notice specifies the amount required to be paid;

(b) the administrator may be required to provide a detailed breakdown of that amount;

(c) the person required to pay costs is not liable to pay any costs shown by the person to have been unnecessarily incurred;

(d) the person required to pay costs may appeal against—

(i) the decision of the administrator to impose the requirement to pay costs;

(ii) the decision of the administrator as to the amount of those costs.

(4) Provision under this paragraph may include the provision referred to in paragraph 16(1)(b) and (c) and (2).

(5) Provision under this paragraph must secure that the administrator is required to publish guidance about how the administrator will exercise the power conferred by the provision.

Commencement

Sch. 6(2) para. 17(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 17(1)-(5): England, Wales, Northern Ireland

Law In Force

18 Appeals

(1) The regulations may not provide for the making of an appeal other than to—

(a) the First-tier Tribunal, or

(b) another tribunal created under an enactment.

(2) In sub-paragraph (1)(b) "tribunal" does not include an ordinary court of law.

(3) If the regulations make provision for an appeal in relation to the imposition of any requirement or service of any notice, they may include—

(a) provision suspending the requirement or notice pending determination of the appeal;

(b) provision as to the powers of the tribunal to which the appeal is made;

(c) provision as to how any sum payable in pursuance of a decision of that tribunal is to be recoverable.

(4) The provision referred to in sub-paragraph (3)(b) includes provision conferring on the tribunal to which the appeal is made power—

(a) to withdraw the requirement or notice;

(b) to confirm the requirement or notice;

(c) to take such steps as the administrator could take in relation to the act or omission giving rise to the requirement or notice;

(d) to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the administrator;

(e) to award costs.

Commencement

Sch. 6(2) para. 18(1)-(4)(e): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 18(1)-(4)(e): England, Wales, Northern Ireland

Law In Force

19 Publicity for imposition of civil sanctions

(1) The regulations may make provision enabling an administrator to give a publicity notice to a person on whom a civil sanction has been imposed in accordance with regulations under this Schedule.

(2) A "publicity notice" is a notice requiring the person to publicise—

(a) the fact that the civil sanction has been imposed, and

(b) such other information as may be specified in the regulations,

in such manner as may be specified in the notice.

(3) The regulations may provide for a publicity notice to—

(a) specify the time for compliance with the notice, and

(b) require the person to whom it is given to supply an administrator with evidence of compliance within such time as may be specified in the notice.

(4) The regulations may provide that, if a person fails to comply with a publicity notice, an administrator may—

(a) publicise the information required to be publicised by the notice, and

(b) recover the costs of doing so from that person.

Commencement

Sch. 6(2) para. 19(1)-(4)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 19(1)-(4)(b): England, Wales, Northern Ireland

Law In Force

20 Persons liable to civil sanctions

The regulations may make provision about the persons liable to civil sanctions under regulations under this Schedule and may (in particular) provide for—

(a) the officers of a body corporate to be so liable as well the body corporate itself, and

(b) for the partners of a partnership to be liable as well as the partnership itself,

in such circumstances as may be specified.

Commencement

Sch. 6(2) para. 20(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 20(a)-(b): England, Wales, Northern Ireland

Law In Force

21 Guidance as to use of civil sanctions

(1) Where power is conferred on an administrator by the regulations to impose a civil sanction in relation to a breach of regulations under this Schedule, the provision conferring the power must secure that—

(a) the administrator must publish guidance about the administrator's use of the civil sanction,

(b) the guidance must contain the relevant information,

(c) the administrator must revise the guidance where appropriate,

(d) the administrator must consult such persons as the provision may specify before publishing any guidance or revised guidance, and

(e) the administrator must have regard to the guidance or revised guidance in exercising the administrator's functions.

(2) In the case of guidance relating to a fixed monetary penalty, the relevant information referred to in sub-paragraph (1)(b) is information as to—

(a) the circumstances in which the penalty is likely to be imposed,

(b) the circumstances in which it may not be imposed,

(c) the amount of the penalty,

(d) how liability for the penalty may be discharged and the effect of discharge, and

(e) rights to make representations and objections and rights of appeal.

(3) In the case of guidance relating to a discretionary requirement, the relevant information referred to in sub-paragraph (1)(b) is information as to—

(a) the circumstances in which the requirement is likely to be imposed,

(b) the circumstances in which it may not be imposed,

(c) in the case of a variable monetary penalty, the matters likely to be taken into account by the administrator in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance), and

(d) rights to make representations and objections and rights of appeal.

Commencement

Sch. 6(2) para. 21(1)-(3)(d): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 21(1)-(3)(d): England, Wales, Northern Ireland

Law In Force

22 Publication of enforcement action

(1) Where power is conferred on an administrator by the regulations to impose a civil sanction in relation to a breach of regulations under this Schedule, the provision conferring the power must, subject to this paragraph, secure that the administrator must from time to time publish reports specifying—

(a) the cases in which the civil sanction has been imposed, and

(b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged pursuant to paragraph 11(1)(b).

(2) In sub-paragraph (1)(a), the reference to cases in which the civil sanction has been imposed do not include cases where the sanction has been imposed but overturned on appeal.

(3) The provision conferring the power need not secure the result in sub-paragraph (1) in cases where the relevant authority considers that it would be inappropriate to do so.

Commencement

Sch. 6(2) para. 22(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 22(1)-(3): England, Wales, Northern Ireland

Law In Force

23 Compliance with regulatory principles

A relevant national authority may not make any provision conferring power on an administrator to impose a civil sanction in relation to a breach of regulations under this Schedule unless the authority is satisfied that the administrator will act in accordance with the principles that—

(a) regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent;

(b) regulatory activities should be targeted only at cases in which action is needed.

Commencement

Sch. 6(2) para. 23(a)-(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 23(a)-(b): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force With Amendments Pending

England and Wales

24 Review

(1) A relevant national authority must in accordance with this paragraph review the operation of any provision made by the authority conferring power on an administrator to impose a civil sanction in relation to a breach of regulations under this Schedule.

(2) The review must take place as soon as practicable after the end of the period of three years beginning with the day on which the provision comes into force.

(3) The review must in particular consider whether the provision has implemented its objectives efficiently and effectively.

(4) In conducting a review under this paragraph the relevant national authority must consult such persons as the authority considers appropriate.

(5) The relevant national authority must publish the results of a review under this section.

(6) The relevant national authority must lay a copy of a review under this paragraph before—

(a) Parliament (where the relevant national authority is the Secretary of State);

(b) the National Assembly for Wales (where the relevant national authority is the Welsh Ministers);

(c) the Northern Ireland Assembly (where the relevant national authority is the Department of the Environment in Northern Ireland).

Northern Ireland

[24 Review

(1) A relevant national authority must in accordance with this paragraph review the operation of any provision made by the authority conferring power on an administrator to impose a civil sanction in relation to a breach of regulations under this Schedule.

(2) The review must take place as soon as practicable after the end of the period of three years beginning with the day on which the provision comes into force.

(3) The review must in particular consider whether the provision has implemented its objectives efficiently and effectively.

(4) In conducting a review under this paragraph the relevant national authority must consult such persons as the authority considers appropriate.

(5) The relevant national authority must publish the results of a review under this paragraph.

(6) **[…]**[2]
][1]

Notes

[1] Word substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.8(2)(a) (April 28, 2014)

[2] Repealed by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.8(2)(b) (April 28, 2014)

Amendments Pending

Sch. 6(2) para. 24(6)(b): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(d) (date to be appointed)

Commencement

Sch. 6(2) para. 24(1)-(6)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 24(1)-(6)(c): England, Wales, Northern Ireland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Northern Ireland

Law In Force With Amendments Pending

England and Wales

25 Suspension

(1) Where provision has been made by a relevant national authority conferring power on an administrator to impose a civil sanction in relation to a breach of regulations under this Schedule, the authority may direct the administrator—

(a) where the power is power to impose a fixed monetary penalty, not to serve any further notice of intent referred to in paragraph 11(1)(a) in relation to a breach of that kind, and

(b) where the power is power to impose a discretionary requirement, not to serve any further notice of intent referred to in paragraph 13(1)(a) in relation to a breach of that kind.

(2) The relevant national authority may only give a direction under sub-paragraph (1) in relation to a breach of regulations under this Schedule if it is satisfied that the administrator has failed on more than one occasion—

(a) to comply with any duty imposed on it under or by virtue of this Schedule in relation to a breach of that kind,

(b) to act in accordance with the guidance it has published in relation to a breach of that kind (in particular, the guidance published under paragraph 21), or

(c) to act in accordance with the principles referred to in paragraph 23 or with other principles of best practice in relation to the enforcement of a breach of that kind.

(3) The relevant national authority may by direction revoke a direction given by it under sub-paragraph (1) if satisfied that the administrator has taken the appropriate steps to remedy the failure to which that direction related.

(4) Before giving a direction under sub-paragraph (1) or (3) the relevant national authority must consult—

(a) the administrator, and

(b) such other persons as the authority considers appropriate.

(5) Where the relevant national authority gives a direction under this section, the authority must lay a copy before—

(a) Parliament (where the relevant national authority is the Secretary of State);

(b) the National Assembly for Wales (where the relevant national authority is the Welsh Ministers);

(c) the Northern Ireland Assembly (where the relevant national authority is the Department of the Environment in Northern Ireland).

(6) Where the relevant national authority gives a direction under this section, the administrator must—

(a) publish the direction in such manner as the authority thinks fit, and

(b) take such other steps as the administrator thinks fit or the authority may require to bring the direction to the attention of other persons likely to be affected by it.

Northern Ireland

[25 Suspension

(1) Where provision has been made by a relevant national authority conferring power on an administrator to impose a civil sanction in relation to a breach of regulations under this Schedule, the authority may direct the administrator—

(a) where the power is power to impose a fixed monetary penalty, not to serve any further notice of intent referred to in paragraph 11(1)(a) in relation to a breach of that kind, and

(b) where the power is power to impose a discretionary requirement, not to serve any further notice of intent referred to in paragraph 13(1)(a) in relation to a breach of that kind.

(2) The relevant national authority may only give a direction under sub-paragraph (1) in relation to a breach of regulations under this Schedule if it is satisfied that the administrator has failed on more than one occasion—

(a) to comply with any duty imposed on it under or by virtue of this Schedule in relation to a breach of that kind,

(b) to act in accordance with the guidance it has published in relation to a breach of that kind (in particular, the guidance published under paragraph 21), or

(c) to act in accordance with the principles referred to in paragraph 23 or with other principles of best practice in relation to the enforcement of a breach of that kind.

(3) The relevant national authority may by direction revoke a direction given by it under sub-paragraph (1) if satisfied that the administrator has taken the appropriate steps to remedy the failure to which that direction related.

(4) Before giving a direction under sub-paragraph (1) or (3) the relevant national authority must consult—

(a) the administrator, and

(b) such other persons as the authority considers appropriate.

(5) Where the relevant national authority gives a direction under this section, the authority must lay a copy before—

(a) Parliament (where the relevant national authority is the Secretary of State);

(b) the National Assembly for Wales (where the relevant national authority is the Welsh Ministers);

(c) the Northern Ireland Assembly (where the relevant national authority is the Department of the Environment in Northern Ireland).

(6) Where the relevant national authority gives a direction under this paragraph, the administrator must—

(a) publish the direction in such manner as the authority thinks fit, and

(b) take such other steps as the administrator thinks fit or the authority may require to bring the direction to the attention of other persons likely to be affected by it.

] [1]

Notes

[1] Word substituted by Carrier Bags Act (Northern Ireland) 2014 c. 7 s.8(3) (April 28, 2014)

Amendments Pending

Sch. 6(2) para. 25(5)(b): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(e) (date to be appointed)

Commencement

Sch. 6(2) para. 25(1)-(6)(b): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 25(1)-(6)(b): England, Wales, Northern Ireland

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Law In Force With Amendments Pending

26 Payment of penalties into Consolidated Fund

(1) Where pursuant to any provision made under this Schedule an administrator receives—

(a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty under paragraph 14,

(b) any interest or other financial penalty for late payment of such a penalty, or

(c) a sum paid in discharge of liability to a fixed monetary penalty pursuant to paragraph 11(1)(b),

the administrator must pay it into the relevant Fund.

(2) In sub-paragraph (1) "relevant Fund" means—

(a) in a case where the administrator has functions only in relation to Wales, the Welsh Consolidated Fund,

(b) in a case where the administrator has functions only in relation to Northern Ireland, the Northern Ireland Consolidated Fund, and

(c) in any other case, the Consolidated Fund.

Amendments Pending

Sch. 6(2) para. 26(2)(a): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(f) (date to be appointed)

Commencement

Sch. 6(2) para. 26(1)-(2)(c): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(2) para. 26(1)-(2)(c): England, Wales, Northern Ireland

PART 3

PROCEDURES APPLYING TO REGULATIONS

Law In Force With Amendments Pending

27 Regulations made by a single authority

(1) This paragraph applies in relation to an instrument containing regulations under this Schedule made by a single national authority.

(2) Where the instrument contains regulations that—

(a) are to be made by the Secretary of State, and

(b) are subject to affirmative resolution procedure,

the regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.

(3) Where the instrument contains regulations that—

(a) are to be made by a national authority other than the Secretary of State, and

(b) are subject to affirmative resolution procedure,

the regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of the relevant devolved legislature.

(4) An instrument containing regulations made by the Secretary of State that are subject to negative resolution procedure is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) An instrument containing regulations made by the Welsh Ministers that are subject to negative resolution procedure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(6) An instrument containing regulations made by the Department of the Environment in Northern Ireland that are subject to negative resolution procedure is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) as if it were a statutory instrument within the meaning of that Act.

(7) Any provision that may be made by regulations subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

Amendments Pending

Sch. 6(3) para. 27(5): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(g) (date to be appointed)

Commencement

Sch. 6(3) para. 27(1)-(7): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(3) para. 27(1)-(7): England, Wales, Northern Ireland

Law In Force With Amendments Pending

28 Regulations made by two or more national authorities

(1) This paragraph applies in relation to an instrument containing regulations under this Schedule made or to be made by any two or more of—

(a) the Secretary of State,

(b) the Welsh Ministers, and

(c) the Department of the Environment in Northern Ireland.

(2) If any of the regulations are subject to affirmative resolution procedure, all of them are subject to that procedure.

(3) Sub-paragraphs (2) to (6) of paragraph 27 apply to the instrument as they apply to an instrument containing regulations made by a single national authority.

(4) If in accordance with that paragraph—

(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or

(b) a devolved legislature resolves that an instrument containing regulations made by a national authority be annulled,

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

(5) This is without prejudice to the validity of anything previously done under the instrument or to the making of a new instrument.

(6) This paragraph applies in place of provision made by any other enactment about the effect of such a resolution.

Amendments Pending

Sch. 6(3) para. 28(1)(b): repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(i)(ii) (date to be appointed)

Sch. 6(3) para. 28(1): words repealed by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(i)(i) (date to be appointed)

Sch. 6(3) para. 28: words substituted by Environment (Wales) Act 2016 anaw. 3, Sch. 2(2) para. 12(4)(h) (date to be appointed)

Commencement

Sch. 6(3) para. 28(1)-(6): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(3) para. 28(1)-(6): England, Wales, Northern Ireland

Law In Force

29 Hybrid instruments

If a draft of an instrument containing regulations under this Schedule would, apart from this paragraph, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

Commencement

Sch. 6(3) para. 29: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 6(3) para. 29: England, Wales, Northern Ireland

SCHEDULE 7

RENEWABLE TRANSPORT FUEL OBLIGATIONS

Section 78

Law In Force

1 Introductory

Chapter 5 of Part 2 of the Energy Act 2004 (c. 20) (renewable transport fuel obligations) is amended as follows.

Commencement

Sch. 7 para. 1: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 1: United Kingdom

Law In Force

2 The Administrator

For section 125 (the Administrator) substitute—

"125 Appointment of the Administrator

(1) For the purposes of provision made by or under this Chapter, an RTF order may—

(a) establish a body corporate, and

(b) appoint that body as the Administrator.

(2) An RTF order may—

(a) make provision for the appointment of members of the body;

(b) make provision in relation to the staffing of the body;
(c) make provision in relation to the expenditure of the body;
(d) make provision regulating the procedure of the body;
(e) make any other provision that the Secretary of State considers appropriate for purposes connected with the establishment and maintenance of the body.

(3) The provision that may be made by an RTF order by virtue of this section includes, in particular, provision conferring discretions on—
(a) the Secretary of State;
(b) the body itself; or
(c) members or staff of the body.

125A General functions of the Administrator

(1) An RTF order may—
(a) confer or impose powers and duties on the Administrator for purposes connected with the implementation of provision made by or under this Chapter;
(b) confer discretions on the Administrator in relation to the making of determinations under such an order and otherwise in relation to the Administrator's powers and duties; and
(c) impose duties on transport fuel suppliers for purposes connected with the Administrator's powers and duties (including, in particular, duties framed by reference to determinations made by the Administrator).

(2) It is the duty of the Administrator to promote the supply of renewable transport fuel whose production, supply or use—
(a) causes or contributes to the reduction of carbon emissions, and
(b) contributes to sustainable development or the protection or enhancement of the environment generally.

125B Functions of the Administrator: supplementary

(1) The powers that may be conferred on the Administrator by virtue of section 125A(1) include, in particular—
(a) power to require a transport fuel supplier to provide the Administrator with such information as the Administrator may require for purposes connected with the carrying out of the Administrator's functions;
(b) power to impose requirements as to the form in which such information must be provided and as to the period within which it must be provided;
(c) power to imposes charges of specified amounts on transport fuel suppliers.

(2) The Secretary of State may give written directions to the Administrator about the exercise of any power conferred on the Administrator by virtue of subsection (1)(a) or (b).

(3) The power to give directions under subsection (2) includes power to vary or revoke the directions.

(4) The Administrator must comply with any directions given under that subsection.

(5) Sums received by the Administrator by virtue of provision within subsection (1)(c)—

(a) where the Administrator is the Secretary of State, must be paid into the Consolidated Fund, and

(b) otherwise, must be used for the purpose of meeting costs incurred in carrying out the Administrator's functions.

(6) The Secretary of State may make grants to the Administrator on such terms as the Secretary of State may determine.

125C Transfer of functions to new Administrator

(1) The Secretary of State may by order—

(a) appoint a person as the Administrator ("the new Administrator") in place of a person previously so appointed by order under this Chapter ("the old Administrator"), and

(b) provide for the transfer of the functions of the old Administrator to the new Administrator.

(2) Only the following persons may be appointed as the Administrator by order under this section—

(a) the Secretary of State;

(b) a body or other person established or appointed by or under any enactment to carry out other functions;

(c) a body corporate established by the order for appointment as the Administrator.

(3) An order under this section that establishes a body for appointment as the Administrator may make any provision that may be made by an RTF order by virtue of section 125.

(4) An order under this section may provide for the transfer of staff of the old Administrator, and of any property, rights or liabilities to which the old Administrator is entitled or subject, to the new Administrator and may, in particular—

(a) provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order;

(b) provide for the creation of interests in, or rights over, property transferred or retained or for the creation of new rights and liabilities;

(c) provide for the order to have effect in spite of anything that would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order.

(5) The order may, in particular—

(a) provide for anything done by or in relation to the old Administrator to have effect as if done by or in relation to the new Administrator;

(b) permit anything (which may include legal proceedings) which is in the process of being done by or in relation to the old Administrator when the transfer takes effect to be continued by or in relation to the new Administrator;

(c) provide for a reference to the old Administrator in an instrument or other document to be treated as a reference to the new Administrator;

(d) where the old Administrator was established by order under this Chapter, make provision for the dissolution of the old Administrator;

(e) make such modifications of any enactment relating to the old Administrator or the new Administrator as the Secretary of State considers appropriate for the purpose of facilitating the transfer.

(6) An order under this section that provides for the transfer of staff of the old Administrator to the new Administrator must make provision for the Transfer of Undertakings (Protection of Employment) Regulations 2006 to apply to the transfer.

(7) Subject to subsection (8), an order under this section is subject to the negative resolution procedure.

(8) The power to make an order under this section is subject to the affirmative resolution procedure if the order—

(a) contains provision by virtue of subsection (2)(c), or

(b) makes any modification of an enactment contained in—

(i) an Act of Parliament,

(ii) an Act of the Scottish Parliament,

(iii) a Measure or Act of the National Assembly for Wales, or

(iv) Northern Ireland legislation.".

Commencement

Sch. 7 para. 2: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 2: United Kingdom

Law In Force

3 Determination of amounts of transport fuel

In section 126 (determination of amounts of transport fuel), after subsection (4) insert—

"(5) If an RTF order makes provision for the counting or determination of amounts of transport fuel for the purposes of provision made by or under this Chapter by reference to any document, it may provide for references to the document to have effect as references to it as revised or re-issued from time to time.

(6) The Secretary of State may give written directions to the Administrator about the exercise of any of the Administrator's functions in connection with the counting or determination of amounts of transport fuel for the purposes of provision made by or under this Chapter.

(7) The power to give directions under subsection (6) includes power to vary or revoke the directions.

(8) The Administrator must comply with any directions given under that subsection.".

Commencement

Sch. 7 para. 3: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 3: United Kingdom

Law In Force

4 Discharge of obligation by payment

In section 128 (discharge of obligation by payment), for subsections (6) and (7) substitute—

"(6) Where the Administrator is the Secretary of State—

(a) sums received by the Administrator by virtue of this section must be paid into the Consolidated Fund, and

(b) an RTF order may make provision for sums to be paid by the Administrator to transport fuel suppliers, or to transport fuel suppliers of a specified description, in accordance with the specified system of allocation.

(7) Such an order must contain provision ensuring that the total of the sums so paid by the Administrator does not at any time exceed the total of the sums so received by the Administrator up to that time.

(8) Where the Administrator is a person other than the Secretary of State, an RTF order may—

(a) require the Administrator to use, to the specified extent, sums received by the Administrator by virtue of this section for the purpose of meeting costs incurred in carrying out the Administrator's functions, or

(b) require the Administrator to pay, to the specified extent, sums so received to the Secretary of State.

(9) Sums so received which are not dealt with in accordance with provision made under subsection (8) must be paid by the Administrator to transport fuel suppliers, or to transport fuel suppliers of a specified description, in accordance with the specified system of allocation.

(10) The Secretary of State must pay sums received by the Secretary of State by virtue of provision made under subsection (8)(b) into the Consolidated Fund.".

Commencement

Sch. 7 para. 4: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 4: United Kingdom

Law In Force

5 Civil penalties

In section 129 (imposition of civil penalties), for subsection (7) substitute—

"(7) Sums received by the Administrator by virtue of this section—

(a) where the Administrator is the Secretary of State, must be paid into the Consolidated Fund, and

(b) otherwise, must be paid to the Secretary of State, who must pay them into the Consolidated Fund.".

Commencement

Sch. 7 para. 5: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 5: United Kingdom

Law In Force

6 Disclosure of information

After section 131 insert—

"131A Disclosure of information held by Revenue and Customs

(1) This section applies to information held by or on behalf of the Commissioners for Her Majesty's Revenue and Customs in connection with their functions under or by virtue of the Hydrocarbon Oil Duties Act 1979.

(2) Such information may be disclosed to—

(a) the Administrator, or

(b) an authorised person,

for the purposes of or in connection with the Administrator's functions.

(3) In this Chapter "authorised person" means a person who—

(a) provides services to, or exercises functions on behalf of, the Administrator, and

(b) is authorised by the Administrator to receive information to which this section applies.

(4) The Administrator may authorise such a person to receive information to which this section applies either generally or for a specific purpose.

131B Further disclosure of information

(1) This section applies to information disclosed under section 131A, other than information which is also provided to the Administrator or an authorised person otherwise than under that section.

(2) Information to which this section applies may not be disclosed—

(a) by the Administrator,

(b) by an authorised person, or

(c) by any other person who obtains it in the course of providing services to, or exercising functions on behalf of, the Administrator,

except as permitted by the following provisions of this section.

(3) Subsection (2) does not apply to a disclosure made—

(a) by the Administrator to an authorised person,

(b) by an authorised person to the Administrator, or

(c) by an authorised person to another authorised person,

for the purposes of, or in connection with, the discharge of the Administrator's functions.

(4) Subsection (2) does not apply to a disclosure if it is—

(a) authorised by an enactment,

(b) made in pursuance of an order of a court,

(c) made for the purposes of a criminal investigation or criminal proceedings (whether or not within the United Kingdom) relating to a matter in respect of which the Administrator has functions,

(d) made for the purposes of civil proceedings (whether or not within the United Kingdom) relating to a matter in respect of which the Administrator has functions,

(e) made with the consent of the Commissioners for Her Majesty's Revenue and Customs, or

(f) made with the consent of each person to whom the information relates.

131C Wrongful disclosure

(1) A person commits an offence if—

(a) he discloses information about a person in contravention of section 131B(2), and

(b) the person's identity is specified in the disclosure or can be deduced from it.

(2) In subsection (1) “information about a person” means revenue and customs information relating to a person within the meaning of section 19(2) of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure).

(3) It is a defence for a person charged with an offence under this section to prove that he reasonably believed—

(a) that the disclosure was lawful, or

(b) that the information had already and lawfully been made available to the public.

(4) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or

(b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.

(5) A prosecution for an offence under this section—

(a) may be brought in England and Wales only with the consent of the Director of Public Prosecutions;

(b) may be brought in Northern Ireland only with the consent of the Director of Public Prosecutions for Northern Ireland.

(6) In the application of this section—

(a) in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, or

(b) in Northern Ireland,

the reference in subsection (4)(b) to twelve months is to be read as a reference to six months.”.

Commencement

Sch. 7 para. 6: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 6: United Kingdom

Law In Force

7 Interpretation

(1) Section 132(1) (interpretation of Chapter 5 of Part 2) is amended as follows.

(2) For the definition of "Administrator" substitute—

> ""Administrator" means the person for the time being appointed as the Administrator by order under this Chapter;".

(3) In the appropriate place insert—

> ""authorised person" has the meaning given by section 131A(3);";
> ""enactment" includes—
> (a) an enactment contained in subordinate legislation,
> (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
> (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation, and
> (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;".

(4) In section 196(1) of the Energy Act 2004 (c. 20) (general interpretation), in the definition of "enactment", after ""enactment"" insert "(except in Chapter 5 of Part 2)".

Commencement

Sch. 7 para. 7(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 7 para. 7(1)-(4): United Kingdom

SCHEDULE 8

CARBON EMISSIONS REDUCTION TARGETS

Section 79

Gas Act 1986 (c. 44)

Law In Force

1

(1) Section 33BC of the Gas Act 1986 (promotion of reductions in carbon emissions: gas transporters and gas suppliers) is amended as follows.

(2) After subsection (1) insert—

> "(1A) The power to make orders under this section may be exercised so as to impose more than one carbon emissions reduction obligation on a person in relation to the same period or to periods that overlap to any extent.".

(3) In subsection (5) (provision that may be made by an order under section 33BC in relation to the obligations it imposes), after paragraph (b) insert—

> "(ba) requiring the whole or any part of a carbon emissions reductions target to be met by action relating to—
>
> (i) persons of a specified description,
>
> (ii) specified areas or areas of a specified description, or
>
> (iii) persons of a specified description in specified areas or areas of a specified description;".

(4) In subsection (13) (interpretation), at the appropriate place insert—

> ""specified" means specified in the order.".

Commencement

Sch. 8 para. 1(1)-(4): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 1(1)-(4): England, Wales, Scotland

Electricity Act 1989 (c. 29)

Law In Force

2

In section 6(9) of the Electricity Act 1989 (definition of "electricity distributor" and "electricity supplier"), at the appropriate place insert—

> ""electricity generator" means any person who is authorised by a generation licence to generate electricity except where that person is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;".

Commencement

Sch. 8 para. 2: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 2: England, Wales, Scotland

Law In Force

3

(1) Section 41A of that Act (promotion of reductions in carbon emissions: electricity distributors and electricity suppliers) is amended as follows.

(2) In subsection (1) (power by order to impose obligations on distributors and suppliers to achieve carbon emissions reductions targets)—

(a) before paragraph (a) insert—

> "(za) on each electricity generator (or each electricity generator of a specified description);"

, and

(b) in the closing words, before "distributor" insert "generator,".

(3) After that subsection insert—

> "(1A) The power to make orders under this section may be exercised so as to impose more than one carbon emissions reduction obligation on a person in relation to the same period or to periods that overlap to any extent.".

(4) In subsection (3) (power for order to specify criteria by reference to which the Gas and Electricity Markets Authority is to determine targets), before "electricity distributors" insert "electricity generators,".

(5) In subsection (4) (duty of the Secretary of State and the Authority to carry out functions under the section in a way that does not inhibit competition), for the words from "no electricity distributor" to the end of the subsection substitute

> "—
>
> (a) no electricity generator is unduly disadvantaged in competing with other electricity generators,
>
> (b) no electricity distributor is unduly disadvantaged in competing with other electricity distributors, and
>
> (c) no electricity supplier is unduly disadvantaged in competing with other electricity suppliers.".

(6) In subsection (5) (provision that may be made by an order in relation to the obligations it imposes)—

(a) in paragraph (a), before "electricity distributors" insert "electricity generators,",

(b) after paragraph (b) insert—

"(ba) requiring the whole or any part of a carbon emissions reductions target to be met by action relating to—

(i) persons of a specified description,

(ii) specified areas or areas of a specified description, or

(iii) persons of a specified description in specified areas or areas of a specified description;",

(c) in paragraph (d), before "distributors" insert "generators,", and

(d) in paragraph (f), before "distributors" insert "generators,".

(7) In subsection (6) (power for order to authorise the Authority to require the provision of information), before "distributor" insert "generator,".

(8) In subsection (7)(d) (power for order to make provision for transfer of person's target to another distributor or supplier or to a gas transporter or supplier), before "electricity distributor" insert "electricity generator,".

(9) In subsection (8)(d) (power for order to make different provision in relation to different distributors or suppliers), before "distributors" insert "generators,".

(10) In subsection (11) (duty to consult before making order), before "electricity distributors" insert "electricity generators,".

(11) In subsection (13) (interpretation), at the appropriate place insert—

""specified" means specified in the order.".

(12) In the heading, before "electricity distributors" insert "electricity generators,".

Commencement

Sch. 8 para. 3(1)-(12): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 3(1)-(12): England, Wales, Scotland

Law In Force

4

(1) Section 42AA of that Act (publication of statistical information about performance of suppliers and distributors) is amended as follows.

(2) In subsection (1) (duty of Gas and Electricity Consumer Council to publish information about performance and consumer complaints)—

(a) in paragraph (a), before "electricity suppliers" insert "electricity generators,", and

(b) in paragraph (b), before "suppliers" insert "generators,".

(3) In subsection (2) (definition of "complaints"), before "electricity suppliers" insert "electricity generators,".

Commencement

Sch. 8 para. 4(1)-(3): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 4(1)-(3): England, Wales, Scotland

Law In Force

5

In section 64(1) of that Act (interpretation etc of Part 1), in the definition of "electricity distributor" and "electricity supplier", after ""electricity distributor"" insert ", "electricity generator"".

Commencement

Sch. 8 para. 5: January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 5: England, Wales, Scotland

Utilities Act 2000 (c. 27)

Law In Force

6

(1) Section 103 of the Utilities Act 2000 (overall carbon emissions reduction targets) is amended as follows.

(2) In subsection (1)(b) (power by order to specify overall target for the promotion of measures mentioned in section 41A(2) of the 1989 Act), before "distributors" insert "generators,".

(3) After subsection (1) insert—

> "(1A) The power conferred by this section may be exercised so as to specify more than one overall target in relation to the same period or to periods that overlap to any extent.".

(4) In subsection (2)(b) (power for order to specify criteria for apportionment of overall target between electricity and gas sectors), before "electricity distributors" insert "electricity generators,".

(5) In subsection (4) (duty to consult before making order), before "electricity distributors" insert "electricity generators,".

Commencement

Sch. 8 para. 6(1)-(5): January 26, 2009 (2008 c. 27 Pt 6 s. 100(5))

Extent

Sch. 8 para. 6(1)-(5): England, Wales, Scotland

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Climate Change Act 2008 which received Royal Assent on 26th November 2008. They have been prepared by the Department of Energy and Climate Change, the Department for Environment, Food and Rural Affairs and the Department for Transport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act sets up a framework for the UK to achieve its long-term goals of reducing greenhouse gas emissions and to ensure steps are taken towards adapting to the impact of climate change. Its main elements are as follows:

- Setting emissions reduction targets in statute and carbon budgeting. The Act establishes an economically credible emissions reduction pathway to 2050 and beyond by putting into statute medium and long-term targets. In addition, the Act introduces a system of carbon budgeting which constrains the total amount of emissions in a given time period. Carbon budget periods will last five years, beginning with the period 2008–2012, and must be set three periods ahead. The Secretary of State is required to give indicative ranges for the net UK carbon account in each year of a budgetary period, to set a limit on use that can be made of international carbon credits in each budgetary period and to develop and report on his proposals and policies for meeting carbon budgets.
- A new reporting framework. The Act provides for a system of annual reporting by the Government on the UK's greenhouse gas emissions. The new Committee on Climate Change will have a specific role in reporting annually on progress, with the Government required to lay before Parliament a response to this progress report.
- The creation of an independent advisory body. The Act creates a new independent body, “the Committee on Climate Change”, to advise the Government and devolved administrations on how to reduce emissions over time and across the economy and, on request, on any other

matter relating to climate change, including adaptation to climate change. This expert body will advise on the optimum trajectory to 2050, the level of carbon budgets, and on how much effort should be made by the part of the economy covered by trading schemes and by the rest of the economy, as well as reporting on progress.

• Trading scheme powers. The Act includes powers to enable the Government and the devolved administrations to introduce new domestic trading schemes to reduce emissions through secondary legislation. This increases the policy options which the Government could use to meet the medium and long-term targets in the Act.

• Adaptation. The Act sets out a procedure for assessing the risks of the impact of climate change for the UK, and a requirement on the Government to develop an adaptation programme on matters for which it is responsible. The programme must contribute to sustainable development. The Act also gives powers to direct other bodies to prepare risk analyses and programmes of action, and advisory and progress-reporting functions to the Committee on Climate Change.

• Policy measures which reduce emissions. The Act will be used to support emissions reductions through several specific policy measures: amendments to improve the operation of the Renewable Transport Fuel Obligations; a power to introduce charges for single use carrier bags; a power to pilot local authority incentive schemes to encourage household waste minimisation and recycling; amendments relating to the Certified Emissions Reductions Scheme; powers and duties relating to the reporting of emissions by companies and other persons; a duty to make annual reports on the efficiency and contribution to sustainability of buildings on the civil estate.

BACKGROUND

4. It is widely accepted that urgent action is required to address the causes and consequences of climate change. The 2006 Stern Review set out the economic case for action on climate change, and concluded that the cost of inaction will be far higher than tackling climate change now. It also made it clear that the costs are lowest in the context of multilateral action.

5. In October 2006 the Government announced its intention to publish legislation on Climate Change, and a draft Climate Change Bill was published for public consultation and pre-legislative scrutiny in March 2007. The revised Bill was introduced into the House of Lords on 14th November 2007 after taking into account findings from the parliamentary scrutiny and public consultation processes.

THE ACT

Part 1**: Carbon Target and Budgeting**

6. This Part of the Act gives the Secretary of State a duty to reduce the net UK carbon account for the year 2050 to at least 80% below the level of net UK emissions of targeted greenhouse gases in 1990. The term “targeted greenhouse gas” is defined in section 24, the term “net UK carbon account” is defined in section 27 and the term “net UK emissions” is defined in section 29.

7. It also requires the Secretary of State to set “carbon budgets” representing UK emissions for five year periods beginning with the period 2008–2012, taking account of any “carbon units” which are credited or debited to the net UK carbon account under a system of “carbon accounting”. Part 1 of the Act includes a duty on the Secretary of State to report UK emissions levels to Parliament, and to report on the measures the Government will take to meet the carbon budgets in Part 1.

8. Part 1 makes further provision relating to the target and to budgets, including provision on how to calculate whether the target for 2050 has been met and how carbon budgets are to be set. It requires that the carbon budget for 2018–2022 is set in a way that is consistent with the Government's target to reduce emissions of carbon dioxide by at least 26% by 2020, against 1990 levels. It requires the Secretary of State to have regard to the need for UK domestic action on climate change when considering how to meet the 2050 target and each carbon budget. It also makes provision for the amendment of certain aspects of Part 1 of the Act in certain circumstances, and imposes a duty to make regulations about how carbon units are to be used to ensure that the net UK carbon account is within budget.

Part 2**: The Committee on Climate Change**

9. Part 2 and Schedule 1 establish a new independent non-departmental public body, the Committee on Climate Change ("the Committee").

10. Part 2 gives the Committee duties to advise the Secretary of State on a review of the 2050 target, on the levels of carbon budgets and on the apportionment of effort between reductions in domestic emissions levels and the use of carbon units. The Committee must also advise on emissions from international aviation and international shipping and on the amount of effort to be made by sectors of the economy in trading schemes, and other sectors of the economy. The Committee is required to publish this advice as soon as reasonably practicable after giving it.

11. The Committee is also given a function of making an annual report to Parliament and the devolved legislatures on the progress that is being made towards meeting the objectives in Part 1 of the Act. After the end of each budget period, the Committee must include in its annual report its views on the way in which the budget for the period was or was not met and action taken during the period to reduce net UK emissions of targeted greenhouse gases.

12. Part 2 also gives the Committee the powers it needs to deliver its advisory and reporting functions, and the Secretary of State and the devolved administrations are given powers to make grants to the Committee and to issue guidance and directions to the Committee. Schedule 1 sets out the Committee's constitution.

Part 3**: Trading Schemes**

13. Part 3 and Schedules 2, 3 and 4 provide the Secretary of State and the devolved administrations with powers to set up trading schemes relating to greenhouse gas emissions though secondary legislation. Trading schemes may limit activities that lead, directly or indirectly, to emissions of greenhouse gases (for example, by capping emissions from a particular set of activities and allow trading of emissions within the cap), or they may encourage activities that directly or indirectly lead to a reduction in greenhouse gas emissions or the removal of greenhouse gases from the atmosphere.

14. Before making regulations to establish a trading scheme the Secretary of State and/or devolved administration concerned must seek and take into account the advice of the Committee on Climate Change, and must consult those likely to be affected by the regulations.

Part 4**: Impact of and adaptation to climate change**

15. Part 4 places a duty on the Secretary of State to carry out an assessment of the risks to the UK from the impact of climate change; the first report must be made within three years, with subsequent reports at least every five years. Each risk assessment must be followed by the publication of a

Government programme of adaptation measures. There is a parallel requirement on the relevant Northern Ireland department to publish an adaptation programme in Northern Ireland.

16. The Committee on Climate Change is given two functions under Part 4. First, it must advise the Secretary of State on his report on the risks to the UK from the impact of climate change. Secondly, it must report to Parliament on the progress being made in implementing the programme of adaptation measures.

17. Part 4 also gives the Secretary of State and the Welsh Ministers the power to issue guidance and directions to persons or bodies with functions of a public nature and statutory undertakers on: assessing the risks of climate change, the preparation of reports setting out policies and proposals for addressing those risks and assessing the progress made towards implementing those proposals and policies.

Part 5**: Other provisions**

18. Part 5 contains the following measures to reduce emissions:

- Waste reduction schemes: the provisions amend the Environmental Protection Act 1990, allowing waste collection authorities designated by the Secretary of State to introduce pilot waste reduction schemes. Following the operation of pilot schemes, the Secretary of State must carry out a review and report to Parliament. After the review of and report on the pilot schemes, the provisions allow the Secretary of State to extend provisions for use by other waste collection authorities (with any necessary amendments) or to repeal the provisions. Provision is also made about receptacles for the collection of household waste;
- Charges for single use carrier bags: the provisions introduce enabling powers to make regulations about charging by sellers of goods for the supply of single use carrier bags. The regulations may also require records relating to the charges to be kept and made publicly available. The provisions also include powers to create civil sanctions in the form of fixed monetary penalties and discretionary requirements for breaches of the regulations;
- Renewable Transport Fuel Obligations: the provisions amend Chapter 5 of Part 2 of the Energy Act 2004 which provides for the Secretary of State by order to set up a renewable transport fuel obligations scheme. The amendments will introduce a new power to replace the Administrator with a new Administrator, who may be the Secretary of State, and to transfer functions accordingly; amend the provisions which determine how sums received by the Administrator are to be dealt with; give the Secretary of State a power to issue written directions to the Administrator; impose a duty on the Administrator to promote the supply of sustainable fuel which has a beneficial environmental effect; and set up an information gateway to allow disclosure of information by Her Majesty's Revenue and Customs to the Administrator;
- Carbon emissions reduction targets: the provisions amend the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000 to allow for the introduction of a community energy saving programme;
- Reporting requirements in Wales: the Welsh Ministers are to publish from time to time a report on their objectives, actions and priorities in relation to greenhouse gas emissions and the impact of climate change in Wales. The provisions also make amendments to the Climate Change and Sustainable Energy Act 2006, transferring to Welsh Ministers the responsibility for publishing guidance for local authorities in Wales on climate change (currently a UK Government responsibility);

• Reporting of emissions: the provisions require the Secretary of State to issue guidance to companies and other persons wishing to report their emissions, in order to increase the consistency and comparability of reported figures. The Secretary of State is also required to conduct a review of the contribution that reporting can make to achieving the Government's objectives in relation to climate change. Finally, the Secretary of State is required to introduce mandatory reporting of emissions by companies by 6th December 2012 or to lay a report before Parliament explaining why he has chosen not to do so;
• Report on the civil estate: the Treasury is placed under an obligation to make annual reports to Parliament on the progress that has been made towards improving the efficiency and contribution to sustainability of buildings on the civil estate;
• Offsetting: the provisions give the Government and the devolved administrations the power to offset greenhouse gas emissions by acquiring units representing emissions reductions, units representing removals of greenhouse gases from the atmosphere, or units in schemes which cap emissions levels. Those bodies are also allowed to acquire interests in units;
• Making a minor amendment to section 105(2) of the Clean Neighbourhoods and Environment Act 2005 to enable an increase in fines for pollution offences.

Part 6**: General supplementary provisions**

19. This part defines the territorial scope of provisions in the Act, sets out requirements for making orders or regulations under the Act, and defines terms used in the Act.

TERRITORIAL EXTENT

20. Sections 71 to 75 (and Schedule 5), 76, 81 and 88 of the Act extend only to England and Wales. Section 77 and Schedule 6 extend to England and Wales and Northern Ireland only. Section 79 and Schedule 8 extend to England and Wales and Scotland only. All other sections and Schedules extend to the whole of the United Kingdom.

21. The Scottish Parliament's consent was sought and obtained for the provisions in the Act that trigger the Sewel convention. The provisions relate to the establishment of the Committee on Climate Change under Part 2 of the Act, the conferral of powers on the Scottish Ministers under Part 3 of the Act, the preparation by the Secretary of State of a UK-wide report on the impact of climate change under section 56 and the power to acquire units relating to greenhouse gas emissions under section 87. Part 1 of the Act, although it imposes duties only on the Secretary of State, may also be viewed as affecting devolved matters in relation to setting targets and carbon budgets for Scotland. The Sewel convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament; the Scottish Parliament granted its approval on 20th December 2007. If there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.

22. By similar convention, the consent of the Northern Ireland Assembly was sought in relation to the same aspects of the Act and also the duty on the relevant Northern Ireland department to prepare a programme on adaptation to climate change under section 60 in Part 4 of the Act; the Northern Ireland Assembly granted its approval on 10th December 2007.

TERRITORIAL APPLICATION: WALES

23. The Act confers the following functions on the Welsh Ministers:

• Part 2 and Schedule 1: powers to seek advice from the Committee on Climate Change and functions in relation to its joint sponsorship;
• Part 3 and Schedules 2, 3 and 4: the power to make trading schemes covering certain activities in Wales, and to require information from electricity suppliers and distributors and potential participants in a trading scheme;
• Part 4, sections 66 and 67: powers to issue guidance and directions to reporting authorities in relation to adaptation;
• Part 5, section 77 and Schedule 6: the power to make regulations introducing charges for single use carrier bags;
• Part 5, section 80: the duty to draw up a report on climate change in Wales and to lay it before the National Assembly for Wales;
• Part 5, section 81: the function of preparing a climate change measures report in Wales; this section inserts a new, Wales-specific section 3A into the Climate Change and Sustainable Energy Act 2006 (c.19);
• Part 5, section 87: the power to acquire units to offset emissions.

24. Sections 71 to 75 and Schedule 5 (waste reduction schemes) extend to England and Wales but apply to England only.

COMMENTARY ON SECTIONS

Part 1**: Carbon Target and Budgeting**

The target for 2050

Section 1**: The target for 2050**

25. Subsection (1) of this section imposes a duty on the Secretary of State to ensure that "the net UK carbon account" for 2050 is at least 80% lower than the "1990 baseline".

26. Subsection (2) defines "the 1990 baseline" to mean the aggregate amount of: net UK emissions of carbon dioxide in 1990; and net UK emissions of the other targeted greenhouse gases in the "base year" for each gas.

27. The term "targeted greenhouse gas" refers to the gases which are covered by the targets and budgets in the Act as set out in section 24(1); the "base year" for each targeted greenhouse gas other than carbon dioxide is set out in section 25(1). The targeted greenhouse gases, and their base years, are: carbon dioxide (1990), methane (1990), nitrous oxide (1990), hydrofluorocarbons (1995), perfluorocarbons (1995) and sulphur hexafluoride (1995). Under section 24, the Secretary of State is given the power to add more gases — the commentary on that section provides details of the process. The commentary on section 25 provides more details on base years.

28. The term "the net UK carbon account" is defined in section 27. For 2050, it means the level of net UK emissions of targeted greenhouse gases in 2050 after numbers of "carbon units" have been added and subtracted in accordance with carbon accounting regulations. The commentary on sections 26 and 27 provides a more detailed explanation of carbon accounting and the net UK carbon account.

29. The target for 2050 is set by reference to a 1990 baseline rather than a particular quantum of emissions because the baseline emissions are subject to revision as understanding of historic emissions improves. 1990 is the baseline year used for emissions of carbon dioxide under the Kyoto Protocol, an international agreement to limit emissions of greenhouse gases, to which the UK is party; where a gas has a different base year, emissions of the gas in the base year are treated as being emissions of the gas in 1990.

Section 2**: Amendment of 2050 target or baseline year**

30. Subsection (1) allows the Secretary of State, by order, to amend the 2050 target and to amend the baseline year.

31. Subsection (2) sets out the circumstances in which the Secretary of State can amend the 2050 target:

- paragraph (a) allows an amendment if there have been significant developments in scientific knowledge about climate change, in European Community law or policy or in international law or policy. For example, this power might be used in the event of a new international treaty on climate change;
- paragraph (b) allows an amendment if a change is made to the range of greenhouse gases covered by the target (see section 24) or if emissions from international aviation or international shipping are added to the target (see section 30).

32. Subsection (3) provides more detail on the meaning of "developments in scientific knowledge about climate change". The first time the Secretary of State amends the 2050 target, he will be able to rely only on scientific developments occurring after Royal Assent. But when making any subsequent amendment, the Secretary of State will be able to take into account scientific developments only since the target was last changed.

33. Subsection (4) provides that the baseline year can be amended only if there have been significant developments in European Community or international law or policy which make an amendment appropriate.

34. Subsections (5) and (6) provide that an order amending the target is to be made by statutory instrument subject to the affirmative resolution procedure (that is, a draft of the order must be approved by both Houses of Parliament). An order that changes the baseline year may also amend other references in the Act to "the 1990 baseline".

35. See also section 33, which provides that the Committee on Climate Change must, not later than 1st December 2008, provide advice on a review the level of the 2050 target.

Section 3**: Consultation on order amending 2050 target or baseline year**

36. This section sets out the procedures that the Secretary of State must follow before amending the 2050 target or the baseline year.

37. Subsection (1) places a duty on the Secretary of State to obtain and consider advice from the Committee on Climate Change (a new non-departmental public body which is created by Part 2 of the Act). The Secretary of State also has to consider the views of the devolved administrations (the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department).

38. Subsections (2) to (7) set out the stages of the process:

- Subsection (2) places a duty on the Committee on Climate Change to send a copy of its advice to each of the devolved administrations;
- Subsection (3) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate;
- Subsection (4) provides that the devolved administrations have three months to send the Secretary of State their views. If they send their views within the three month period, the Secretary of State can lay a draft order before Parliament immediately after he has considered them; otherwise, he can lay the draft order only after the three month period has expired;

• Subsection (5) places a duty on the Secretary of State, at the same time as he lays the draft order, to publish a statement that sets out whether and how he has taken account of the devolved administrations' views;
• Subsection (6) places a duty on the Secretary of State, if amending the 2050 target or baseline year in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision;
• Subsection (7) allows the Secretary of State to publish a statement under subsection (5) or (6) (that is, on taking account of the devolved administrations' views or on any deviation from the Committee's advice) in any way he thinks is appropriate.

Carbon budgeting

Section 4**: Carbon budgets**

39. Subsection (1) of this section places a duty on the Secretary of State to set five-year "carbon budgets", defined as an amount for the net UK carbon account for a given period (a "budgetary period"). The Secretary of State is also placed under a duty to ensure that the net UK carbon account stays within the budget for each period.

40. Subsection (2) requires the Secretary of State to set three consecutive carbon budgets for the periods 2008–2012, 2013–2017 and 2018–2022 by 1st June 2009. It also creates a duty to set subsequent carbon budgets at least 11½ years before the start of the budgetary period. The intent of the section is to provide certainty in respect of the UK's carbon budgets in the medium term.

Section 5**: Level of carbon budgets**

41. This section sets limits on the levels of certain carbon budgets.

42. Subsection (1) sets out the requirement for carbon budgets to be consistent with certain emissions levels in particular years:
• paragraph (a) requires that the "annual equivalent" of the carbon budget for the carbon budget covering the year 2020 must be at least 26% lower than the 1990 baseline;
• paragraph (b) requires that the "annual equivalent of the carbon budget" for the carbon budget covering the year 2050 is no more than the level specified in section 1 compared with the 1990 baseline (80% below 1990 levels, unless amended under section 2);
• paragraph (c) gives the Secretary of State a power to set, by order, further percentage targets or target percentage ranges for years after 2050.

43. Subsection (2) provides that the "annual equivalent" of a given carbon budget is the total carbon budget for a period divided by the number of years in that period. Subsection (3) provides that an order setting a target percentage or percentage range for a year after 2050 must be made using the affirmative resolution procedure.

44. Subsection (4) makes further provision in relation to the cap on the budget which includes the year 2020, as set out in subsection (1)(a). It provides that only carbon dioxide emissions are to be taken in considering the level of the cap. Paragraph (a) provides that only so much of the budget as the Secretary of State considers relates to carbon dioxide emissions should be considered, and paragraph (b) provides that only so much of the 1990 baseline (see section 1(2)) as relates to carbon dioxide should be used as the comparator.

Section 6**: Amendment of target percentages**

45. This section sets out when and how the target percentages in section 5 can be amended.

46. Subsection (1) gives the Secretary of State the power to amend the target percentage for 2020 (in section 5(1)(a), and any target percentage or percentage range set for a year after 2050 (in section 5(1)(c)).

47. Subsection (2) sets out the circumstances in which those percentages can be amended:

- paragraph (a) allows an amendment if there have been significant developments in scientific knowledge about climate change, in European Community law or policy or in international law or policy. For example, this power might be used in the event of a new international treaty on climate change;
- paragraph (b) allows an amendment if a change is made to the range of greenhouse gases covered by the target or emissions from international aviation or international shipping are added to the target.

48. Subsection (3) makes special provision on the meaning of "developments in scientific knowledge about climate change". The first time the Secretary of State amends the target percentage for 2020, he will be able to rely on scientific developments since June 2000 to justify the change; he will not be restricted to considering only scientific developments which have taken place after the Act receives Royal Assent. If the Secretary of State wants to amend a target percentage or percentage range for a year after 2050, he will be allowed to rely only on scientific developments that occur after the percentage or range is set. When making any subsequent amendment to a target percentage or percentage range, the Secretary of State will be able to take into account scientific developments only since the percentage or range was last changed.

49. Subsection (4) allows the Secretary of State to repeal section 5(4) when he makes an order amending the target percentage for 2020. It has the effect of allowing the Secretary of State to set a target percentage for 2020 that covers all targeted greenhouse gases; section 5(4) provides that all gases other than carbon dioxide are left out of account in relation to the target percentage for 2020 — its repeal would mean that all targeted greenhouse gases count towards the target.

50. Subsection (5) prescribes that orders made under subsection (1) are subject to affirmative resolution procedure.

Section 7**: Consultation on order setting or amending target percentages**

51. This section sets out the procedures that the Secretary of State must follow before amending the 2020 target percentage or a target percentage or percentage range for a year after 2050.

52. Subsection (1) places a duty on the Secretary of State to obtain and consider advice from the Committee on Climate Change. The Secretary of State also has to consider any views of the devolved administrations.

53. Subsections (2) to (7) set out the stages of the process:

- Subsection (2) places a duty on the Committee on Climate Change to send a copy of its advice to each of the devolved administrations;
- Subsection (3) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate;
- Subsection (4) provides that the devolved administrations have three months to send the Secretary of State their views. If they send their views before the three month period has expired, the Secretary of State can lay a draft order before Parliament immediately after he

has considered them; otherwise, he can only lay the draft order after the three month period has expired;

• Subsection (5) places a duty on the Secretary of State, at the same time as he lays the draft order, to publish a statement that sets out whether and how he has taken account of the devolved administrations' views;

• Subsection (6) places a duty on the Secretary of State, if amending the 2020 target or any post-2050 target or range in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision;

• Subsection (7) allows the Secretary of State to publish a statement under subsection (5) or (6) (on taking account of the devolved administrations' views or on any deviation from the Committee's advice) in any way he thinks is appropriate.

Section 8**: Setting of carbon budgets for budgetary periods**

54. Subsections (1) and (3) require the Secretary of State to set carbon budgets using affirmative resolution orders.

55. Subsection (2) provides that every carbon budget must be set with a view to meeting the 2050 target, the 2020 target and any percentage target or percentage range for a year after 2050. Budgets must also be set with a view to complying with the UK's European Community and international obligations (any international treaties to which the UK is a signatory).

Section 9**: Consultation on carbon budgets**

56. This section sets out the procedures that the Secretary of State must follow before setting a carbon budget.

57. Subsection (1) places a duty on the Secretary of State to take into account advice from the Committee on Climate Change (as provided for in section 34). The Secretary of State also has to consider any views of the devolved administrations.

58. Subsections (2) to (5) set out the stages of the process:

• Subsection (2) provides that the devolved administrations have three months to send the Secretary of State their views. If they send their views within the three month period, the Secretary of State can lay a draft order before Parliament immediately after he has considered them; otherwise, he may lay the draft order only after the three month period has expired;

• Subsections (3) to (5) place a duty on the Secretary of State to publish a statement that sets out whether and how he has taken account of the devolved administrations' views. If the budget is not set at the level recommended by the Committee, the Secretary of State must publish a statement explaining why not. The Secretary of State must publish the statements when he lays the order, in any way he thinks is appropriate.

Section 10**: Matters to be taken into account in connection with carbon budgets**

59. This section sets out matters that the Secretary of State must take into account when making decisions about carbon budgets and which the Committee on Climate Change must take into account in advising the Secretary of State on those decisions.

60. Subsection (2) sets out the list of matters to be taken into account. This is intended to give examples of the broad range of relevant factors that will inform any decision relating to carbon budgeting. The matters are not listed in any particular order; the order of the matters has no legal significance. Subsection (7) makes it explicit that this section does not prevent the Secretary of State or the Committee on Climate Change from taking other matters into account; nor does it limit

the general requirement for the Secretary of State and the Committee to take all relevant matters into account.

61. Subsections (3) to (6) make provision in relation to the matter in subsection (2)(i), which requires the Secretary of State to take into account "the estimated amount of reportable emissions from international aviation and international shipping" for the budgetary period or periods under consideration.

62. Subsection (3) defines the term "the estimated amount of reportable emissions from international aviation and international shipping" as meaning the aggregate amount of emissions of all greenhouse gases from those sectors which the Secretary of State or the Committee estimates that the UK will be required to report in accordance with international carbon reporting practice (see section 94). Subsection (4) allows the Secretary of State and the Committee to use any reasonable method or methods they choose to estimate those emissions.

63. Subsection (5) provides that the Secretary of State and the Committee do not have to consider the factor in subsection (2)(i) if, and to the extent that, any regulations have been made under section 30 which mean that emissions from international aviation or international shipping are already included in the budget that is being considered. See the notes on sections 30 and 31 for details on the process and procedure for making such regulations. Subsection (6) makes it clear that section 30(1), which provides that emissions from international aviation and international shipping do not count as emissions from sources in the UK, does not prevent the Secretary of State and the Committee from taking them into account in relation to carbon budgets.

Limit on the use of carbon units

Section 11**: Limit on the use of carbon units**

64. This section places a duty on the Secretary of State to set a limit on the "net amount of carbon units" that can be credited to the net UK carbon account in each budgetary period. Subsection (3) provides that the limit for each budgetary period must be set 18 months before the beginning of each period; exceptionally, the limit for the first budget must be set no later than 1st June 2009 (the date before which the first budget must be set — see section 4).

65. Subsection (2) defines the term "net amount of carbon units" to mean the amount of carbon units credited to the net UK carbon account in accordance with regulations made under section 27, minus the amount of units credited to the net UK carbon account under those regulations. See the notes on section 27 for more information on the net UK carbon account and regulations on the crediting and debiting of carbon units.

66. Subsection (4) provides that the limit must be set by order (a type of statutory instrument) and subsection (6) provides that the order is subject to the approval of both Houses of Parliament under the affirmative resolution procedure.

67. Subsection (5) allows the Secretary of State to exclude specified descriptions of units from the calculation of the limit. The Secretary of State must describe the units to be excluded in the order setting the limit.

68. Subsection (7) requires the Secretary of State to take into account the Committee on Climate Change's advice under section 34(1)(b) (advice on the extent to which a budget should be met by reducing domestic emissions and by the use of carbon units), and to consult the devolved administrations, before setting the limit.

Indicative annual ranges

Section 12**: Duty to provide indicative annual ranges for net UK carbon account**

69. This section places a duty on the Secretary of State to lay a report before Parliament setting out an "indicative annual range" for the net UK carbon account for each year of a budgetary period. This section aims to enhance the transparency regarding progress within each budgetary period, so that Parliament is clear about performance towards meeting the budget each year.

70. Subsection (2) defines an "indicative annual range" as the range within which the Secretary of State expects the amount of the net UK carbon account for the year in question to fall.

71. Subsection (3) places the Secretary of State under a duty to consult the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department in relation to the indicative annual ranges set out in the report. Subsection (4) requires the Secretary of State to send a copy of the report to each of the devolved administrations.

Proposals and policies for meeting carbon budgets

Section 13**: Duty to prepare proposals and policies for meeting carbon budgets**

72. This section places a duty on the Secretary of State to prepare such proposals and policies as the Secretary of State considers will enable carbon budgets that have been set to be met. The proposals and policies must also be prepared with a view to meeting the target for 2050 (under section 1) and any target set for later years (under section 5(1)(c)).

73. Subsection (3) imposes a requirement that the proposals and policies, taken as a whole, must contribute to sustainable development. Subsection (4) allows the Secretary of State to take into account proposals and policies which he considers may be prepared by the other national authorities.

Section 14**: Duty to report on proposals and policies for meeting carbon budgets**

74. This section places a duty on the Secretary of State to lay a report before Parliament setting out proposals and policies for meeting the current and future carbon budgets. This section will ensure that Parliament is clear about how the Government intends to meet its obligations under the Act.

75. Subsection (2) requires the report to set out the Secretary of State's current proposals and policies for meeting carbon budgets (which must be prepared under section 13). The report must also explain how the proposals and policies affect different sectors of the economy (subsection (3)).

76. Subsection (4) provides that the report must set out what implications the proposals and policies in the report have as regards the use that will be made of carbon units in meeting the carbon budgets covered by the report. See also section 34(1)(b), which requires the Committee on Climate Change to advise on the use of carbon units, and section 11, which requires the Secretary of State to set a limit on the use of carbon units for each budgetary period.

77. Subsection (5) places the Secretary of State under a duty to consult the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department in relation to any part of the report covering their proposals and policies. Subsection (6) requires the Secretary of State to send a copy of the report to each of the devolved administrations.

Section 15**: Duty to have regard to need for UK domestic action on climate change**

78. Subsection (1) of this section requires the Secretary of State to have regard to the need for "UK domestic action on climate change" when exercising any functions under Part 1 of the Act involving consideration of how to meet the 2050 target (under section 1) and any carbon budget. So, in particular, the Secretary of State must have regard to the need for UK domestic action on climate

change when preparing proposals and policies for meeting carbon budgets (with a view to meeting the 2050 target) as required by section 13.

79. Subsection (2) defines the term "UK domestic action on climate change" as covering both reductions in UK emissions of targeted greenhouse gases and increases in UK removals of those gases. The terms "UK emissions" and "UK removals" are defined in section 29 — see the commentary on that section for more detail.

Determination whether objectives met

Section 16**: Annual statement of UK emissions**

80. This section places a duty on the Secretary of State to lay a statement before Parliament on UK emissions in respect of every year from 2008 onwards. Finalised figures for UK emissions, including a full inventory report, are currently produced, and submitted to the EU by the Government on 15th March each year, 14½ months after the end of calendar year in question. Subsection (10) therefore provides that the report under this section must be laid no later than the 31st March in the second year after the year to which it relates (the report for 2008 must be laid by 31st March 2010).

81. Subsections (2) and (3) specify that the statement must set out UK emissions, UK removals and net UK emissions. These terms are defined in section 29; they include emissions of all greenhouse gases (whether or not they are "targeted greenhouse gases" included in the 2050 and other targets), and the statement must show the total figures for emissions of each gas and also aggregate figures. The statement must also explain how the figures were measured or calculated, and must say whether they represent an increase or decrease when compared with the figures for the previous year. See, also, section 82, which repeals a similar reporting requirement under section 2(b) of the Climate Change and Sustainable Energy Act 2006 (c.19).

82. Subsection (4) provides that where there has been a change in the international method of calculating emissions levels that requires the adjustment of emissions levels in earlier years in the budgetary period, then the report should set out the adjusted figures.

83. Subsection (5) requires the Secretary of State to report the levels of emissions from international aviation and international shipping in the statement, calculated in the same way as is required under international carbon reporting practice, unless those emissions are already included in the figures required by subsection (2). Emissions from international aviation and international shipping will be included in the figures reported under subsection (2) if regulations are made under section 30 which have that effect; the commentary on section 30 gives more detail on the circumstances in which that can happen.

84. Subsection (6) specifies that the report must set out the cumulative total of carbon units (as defined in section 26(1)) credited to or debited from the net UK carbon account for the year, and give details of the number and type of those carbon units. Subsection (7) provides that the report must also state the net UK carbon account for the year.

85. Subsection (8) specifies that the statement must set out the amount of net UK emissions of carbon dioxide for the year 1990, and the amount of net UK emissions for each of the other targeted greenhouse gases in their base years. The report must also state the baseline amount for greenhouse gases which are not "targeted"; the baseline amount may be equal to emissions of the gas in 1990 or another year, or average net UK emissions for a number of years (subsection (9)).

86. Subsection (10) gives the date by which the statement must be laid before Parliament and subsection (11) requires the Secretary of State to send a copy of the statement to each of the devolved administrations.

Section 17**: Powers to carry amounts from one budgetary period to another**

87. This section provides a power for the Secretary of State to "bank" and "borrow" emissions between budgetary periods.

88. Subsection (1) allows the Secretary of State to "borrow" part of the next budget. In the language of the Act, an amount from the next budget is "carried back" to the budget preceding it. Where this power is used, the next budget (which will already have been set by order) is reduced by the amount that has been borrowed.

89. Subsection (2) limits the amount that can be borrowed under subsection (1) to no more than 1% of the next budget.

90. Subsection (3) allows the Secretary of State to carry forward any part of the carbon budget that exceeds the net UK carbon account for that period (i.e. to "bank" a budget surplus, but not necessarily all of it). The banked amount is added to the next budget.

91. Subsection (4) requires the Secretary of State to obtain the advice of the Committee on Climate Change, and take this advice into account, before exercising powers under this section (that is, before banking or borrowing). The Secretary of State is also obliged to consult the devolved administrations before banking or borrowing.

92. Subsection (5) places a back-stop on when the banking and borrowing powers can be used. A decision to bank or borrow must be taken no later than 31st May in the second year after the earlier budget period ends (so, for the 2008–2012 budget, no later than 31st May 2014). This is also the date on which a assessment is made of whether the budget has been met (see section 18).

Section 18**: Final statement for budgetary period**

93. This section places a duty on the Secretary of State to report the final figures for the net UK carbon account during a budgetary period; these figures are used to determine whether a budget has been met.

94. Subsections (2) to (6) place a duty on the Secretary of State to report:

- under subsection (2), the final amounts of UK emissions, UK removals and net UK emissions for each targeted greenhouse gas (each of the gases included in the target — see section 24). The final amounts may differ slightly from the sum of the emissions figures in the annual reports for the budgetary period because this statement will take account of any changes in the international methodology used to work out the 1990 baseline and emissions for each year;
- under subsection (3), the final amount of carbon units that have been credited to or debited from the UK carbon account in that budgetary period, and details of the number and type of those units;
- under subsection (4), the final amount of the net UK carbon account for the budgetary period;
- under subsection (5), whether the Secretary of State has decided to borrow from the next budget (using the power in section 17(1)) and, if so, the amount borrowed;

• under subsection (6), the amount of the budget for the period, which will be the level of the budget as originally set, subject to any banking or borrowing under section 17 and any alteration of the budget under section 21.

95. Subsection (7) provides that the determination of whether the budget has been met should be made by reference to the figures in the statement.

96. Subsection (8) provides that if the budget has not been met, then the statement must include an explanation of the reasons why not.

97. Subsection (9) sets a back-stop, requiring the Secretary of State to lay the statement before Parliament no later than the 31st May in the second year after the end of a budgetary period (so, for the 2008–2012 budget, no later than 31st May 2014). Subsection (10) requires the Secretary of State to send a copy of the statement to the devolved administrations.

Section 19**: Duty to report on proposals and policies for compensating for budget excess**

98. This section places a duty on the Secretary of State to lay a report before Parliament setting out proposals and policies to compensate in future periods for excess emissions, if a report under section 18 shows that the net UK carbon account has exceeded the carbon budget for a period.

99. Subsection (2) places the Secretary of State under a duty to consult the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department in relation to any part of the report covering their proposals and policies. Subsection (3) requires the Secretary of State to send a copy of the report to each of the devolved administrations.

Section 20**: Final statement for 2050**

100. This section places a duty on the Secretary of State to report to Parliament the final figures for the net UK carbon account in 2050.

101. Subsections (2) to (4) place a duty on the Secretary of State to report:

• under subsection (2), the final amounts of UK emissions, UK removals and net UK emissions for 2050 for each targeted greenhouse gas;

• under subsection (3), the amount of carbon units that have been credited to and debited from the net UK carbon account, and details of the number and type of those units;

• under subsection (4), the amount of the net UK carbon account for 2050.

102. Subsection (5) provides that the question of whether the 2050 target has been met is to be answered by referring to the figures in the statement.

103. Subsection (6) provides that if the budget has not been met, the statement must explain the reasons why not.

104. Subsection (7) sets a back-stop, requiring the Secretary of State to lay the statement before Parliament no later than 31st May 2052. Subsection (8) requires the Secretary of State to send a copy of the statement to the devolved administrations.

Alteration of budgets or budgetary periods

Section 21**: Alteration of carbon budgets**

105. This section gives the Secretary of State a power, using an affirmative resolution statutory instrument, to amend the level of carbon budgets in certain circumstances. The section also limits the conditions in which orders setting carbon budgets can be revoked.

106. Subsection (1) prevents an order setting a carbon budget being revoked after the final date by which it had to be set in accordance with section 4(2).

107. Subsection (2) gives the Secretary of State the power to amend budgets, but limits the circumstances in which such an order may be made. A budget may be amended only if there have been significant changes in the factors on the basis of which the decision to set, or previously amend, the budget was made.

108. Subsection (3) limits the circumstances in which an order amending a budget after the start of the relevant budgetary period can be made. A budget may be amended only after the start of the budgetary period if there have been significant changes, since the budget period began, in the factors on the basis of which the decision to set or previously amend the budget was made. This is a more stringent test than in subsection (2) because there will typically have been less time for a significant change to happen.

109. Subsection (4) stipulates that the level of a carbon budget may not be amended after the budgetary period has ended.

110. Subsection (5) requires any order amending budgets to follow the affirmative resolution order procedure.

Section 22**: Consultation on alteration of carbon budgets**

111. This section sets out the procedures that the Secretary of State must follow before altering a carbon budget.

112. Subsection (1) places a duty on the Secretary of State to obtain and consider advice from the Committee on Climate Change. The Secretary of State also has to consider any views of the devolved administrations.

113. Subsections (2) to (8) set out the stages of the process:

- Subsection (2) places a duty on the Committee on Climate Change to send a copy of its advice to each of the devolved administrations;
- Subsection (3) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate;
- Subsection (4) and (5) provide that the devolved administrations have one month to send the Secretary of State their views if the budget period has already begun, and three months if the budget period has not started yet. If the devolved administrations send their views within the relevant period, the Secretary of State can lay a draft order before Parliament immediately after he has considered them; otherwise, he can lay the draft order only after the relevant period has expired;
- Subsection (6) places a duty on the Secretary of State to publish a statement that sets out whether and how he has taken account of the devolved administrations' views;
- Subsection (7) places a duty on the Secretary of State, if altering a carbon budget in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision;
- Subsection (8) allows the Secretary of State to publish a statement under subsection (6) or (7) (on taking account of the devolved administrations' views or on any deviation from the Committee's advice) in any way he thinks is appropriate.

Section 23**: Alteration of budgetary periods**

114. This section allows, in certain circumstances, the duration of budgetary periods and their start and end dates to be changed by affirmative resolution statutory instrument.

115. Subsection (2) prescribes the circumstances when this power can be exercised. These are when a change to the budgetary periods is needed to keep them in line with similar periods under European or international agreements to which the UK is a party. Subsection (3) prevents alterations that would leave a period of time outside the carbon budget system.

116. Subsection (4) allows an order under subsection (1) to make consequential amendments to other parts of the Act in order to ensure coherence of the provisions.

117. Subsection (5) requires the Secretary of State to consult the devolved administrations before making such an order.

Targeted greenhouse gases

Section 24**: Targeted greenhouse gases**

118. This section defines the term "targeted greenhouse gas", which is the term used to describe the gases covered by the targets and budgets in the Act.

119. Subsection (1) defines the term "targeted greenhouse gas" as meaning carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF6) and any other greenhouse gas added later by the Secretary of State by order. The term "greenhouse gas" is defined in section 92 by reference to a list of gases (which, for the time being, is identical).

120. Subsection (7) provides that an order adding a new gas or gases must be made using the affirmative resolution procedure. Subsection (2) allows the Secretary of State to make any necessary consequential amendments to the Act when he makes the order.

121. Subsection (3) requires the Secretary of State to consult the devolved administrations, and also to obtain and consider advice from the Committee on Climate Change, before adding a new gas or gases to the list.

122. Subsection (4) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate.

123. Subsection (5) places a duty on the Secretary of State, if amending the list of targeted greenhouse gases in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision. Subsection (6) allows the Secretary of State to publish this statement in any way he thinks is appropriate.

Section 25**: Base years for targeted greenhouse gases other than CO2**

124. This section sets out the base years for targeted greenhouse gases other than carbon dioxide and allows the Secretary of State to set base years for new targeted greenhouse gases added at a later date. A "base year" is the year used as the reference point against which reductions in emissions of the gas are to be measured for the purposes of the targets and budgets in the Act.

125. Subsection (1) contains a table showing the base years for targeted greenhouse gases other than carbon dioxide. Hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride have a base year of 1995, which is the base year used for UK emissions of those gases under the Kyoto Protocol.

126. Subsection (2) allows the Secretary of State to amend the table, by order, to specify the base year for any new gas designated as a targeted greenhouse gases in accordance with section 24. It also allows the Secretary of State to amend the base years of the gases which are already in the table in subsection (1).

127. Subsection (3) provides that the Secretary of State may either designate a single base year or may designate a number of base years and use the average of the emissions of the gas in those years.

128. Subsection (4) restricts the use of the power to amend the base years that are set out in the table in subsection (1). Those base years can only be amended if there have been significant developments in European or international law or policy that make it appropriate to do so, for example if an international agreement was reached that required every country to use a particular base year for a gas.

129. Subsection (5) requires the Secretary of State to consult the devolved administrations, and also to obtain and consider advice from the Committee on Climate Change, before making an order designating a base year or years.

130. Subsection (6) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate.

131. Subsection (7) places a duty on the Secretary of State, if setting a base year in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision. Subsection (8) allows the Secretary of State to publish this statement in any way he thinks is appropriate.

132. Subsection (9) provides that an order under subsection (2) must be made using the affirmative resolution procedure.

Carbon units, carbon accounting and the net UK carbon account

Section 26**: Carbon units and carbon accounting**

133. In addition to the level of “net UK emissions” (which is defined in section 29 (1)(c)), the “net UK carbon account” (as determined in accordance with section 27) is affected by the addition and subtraction of “carbon units” through a process of “carbon accounting”. This section, and section 27, allow the Secretary of State to determine what carbon units should be added to and subtracted from the net UK carbon account and how “carbon accounting” will work.

134. Subsection (1) allows the Secretary of State to make regulations setting out specifically what “carbon units” can be used for carbon accounting purposes. “Carbon units” in the regulations can only be:

- units representing a reduction in the amount of greenhouse gas emissions;
- units representing the removal of greenhouse gas from the atmosphere; or
- units representing greenhouse gas emissions which are allowed under a scheme or arrangement which limits total emissions of greenhouse gases (for example, under certain kinds of emissions trading scheme).

135. Subsection (2) allows the Secretary of State to make regulations which contain details of how carbon units should be registered and kept track of, and allows him to establish and maintain accounts containing carbon units. Carbon units can be moved between accounts. The intention is to establish an accounting system broadly similar to, and compatible and co-ordinated with, that

used to keep track of the UK's assigned amount units (AAUs) and other units issued under the Kyoto Protocol; subsection (2) specifically provides that the Secretary of State can use an existing system as the basis of the carbon accounting system.

136. Subsection (3) gives more detail of what the regulations can say. The Secretary of State is allowed to appoint a body to operate the accounting scheme, to set up a new body for that purpose, to make provision allowing him to give guidance and directions to the body and to require users of the scheme to pay charges towards the cost of operating the scheme.

137. Subsection (4) provides that if an existing body is appointed to operate the accounting scheme, then the Secretary of State can make any necessary amendments to relevant enactments.

138. The procedures relating to the regulations are set out in section 28.

Section 27**: Net UK carbon account**

139. Subsection (1) defines the term "net UK carbon account" for a budgetary period as being net UK emissions (as defined in section 29(1)(c)) as decreased by a number of carbon units to be credited to the account and increased by a number of carbon units to be debited from the account in accordance with regulations made by the Secretary of State.

140. Subsection (2) provides that the net amount of carbon units credited to the net UK carbon account must not exceed the limit for the period set by order under section 11. See the notes on section 11 for details of how the "net amount of carbon units" is calculated.

141. Subsection (3) requires the Secretary of State to make regulations setting out the circumstances in which carbon units are to be credited to and debited from the net UK carbon account, and the manner in which it is to be done. For example, the regulations could provide that units purchased through the EU Emissions Trading Scheme can be treated as units to be credited to the net UK carbon account.

142. Subsection (4) provides that where carbon units are to be credited to the net UK carbon account, then provision must be made so that they are no longer available to offset other greenhouse gases: they must be put beyond use so that they cannot be double-counted.

143. Subsection (5) provides that the regulations must make specific provision for dealing with the situation where the UK has a cap on emissions under a European or international scheme or arrangement that is less stringent than the carbon budget for a period, for example, if the UK's target under the first commitment period of the Kyoto Protocol (2008–2012) is less stringent than the domestic carbon budget for that period. In that situation, the regulations must provide that the excess allowances are not used to offset greenhouse gas emissions in the UK or elsewhere.

Section 28**: Procedure for regulations under** section 26 or 27

144. This section sets out the procedure that must be followed when carbon accounting regulations are made under section 26 or section 27.

145. Subsection (2) provides that the affirmative resolution procedure must be used in the following cases:

- for the first set of carbon accounting regulations;
- if the regulations specify a new kind of carbon unit;
- if the regulations alter the value of a carbon unit;
- if the regulations modify primary legislation.

146. Subsection (3) provides that the negative resolution procedure applies in all other situations.

147. Subsection (4) requires the Secretary of State to consult the devolved administrations before laying or making the regulations (depending on which Parliamentary process is being used).

148. Subsection (5) requires the Secretary of State to consult the Committee on Climate Change on the first set of regulations and whenever subsequent regulations specify a new kind of carbon unit or alter the value of a carbon unit.

Other supplementary provisions

Section 29**: UK emissions and removals of greenhouse gases**

149. This section defines the terms "UK emissions", "UK removals" and "net UK emissions" used in Part 1 of the Act. "UK emissions" are emissions of gases from sources in the United Kingdom; "UK removals" are removals of gases from the atmosphere as a result of land use, land-use change or forestry; "net UK emissions" of a gas are calculated by subtracting the amount of UK removals of the gas from the amount of UK emissions of the gas.

150. Subsection (2) provides that UK emissions and UK removals are to be determined by following international protocols, such as the United Nations Framework Convention on Climate Change (UNFCCC) Reporting Guidelines on Annual Inventories. Emissions only count for the purposes of this Act if they are emissions of greenhouse gases from anthropogenic sources; non-anthropogenic sources of greenhouse gases (for example, emissions from volcanic activity) are not included in the figures (see the definition of "emissions" in section 97).

Section 30**: Emissions from international aviation or international shipping**

151. This section makes provision about greenhouse gas emissions from international aviation or international shipping. Subsection (1) provides that those emissions do not count as emissions from sources in the United Kingdom (so they do not count as "UK emissions" under section 29(1)(a)) for the targets and budgeting in Part 1, unless regulations make provision for them to do so.

152. Until such time as regulations are made under subsection (1), section 16(5) requires the Secretary of State to report the levels of emissions from international aviation and international shipping, calculated in accordance with international carbon reporting practice (see section 90), in his annual statement to Parliament. See also section 10(2)(i), which requires the Secretary of State to take into account the estimated amount of reportable emissions from international aviation and international shipping in relation to carbon budgets — see the notes on section 10 for more details.

153. Subsection (2) allows the Secretary of State to define in more detail what is meant by "international aviation or shipping" by affirmative resolution order.

154. Subsection (3) requires the Secretary of State, by 31st December 2012, either:

- to make provision by regulations setting out the circumstances and extent to which emissions from international aviation or international are to be regarded as being emissions from sources in the United Kingdom. Under the mechanisms in the Act, any emissions regarded as being from sources in the United Kingdom are "UK emissions" (see section 29(1)(a)) and count towards calculating and meeting the 2050 target and the carbon budgets, or
- to lay before Parliament a report saying why he has not made any regulations.

155. Subsection (4) makes it clear that even after the five-year period has expired the Secretary of State is still allowed to make regulations setting out the circumstances and extent to which emissions from international aviation or international shipping are to be regarded as being from sources in the United Kingdom.

156. Subsection (5) provides that regulations under this section can only deal with emissions of "targeted greenhouse gases" (see section 24). It also provides that the regulations can, in particular, provide that emissions from international aviation or international shipping will only count as UK emissions if they relate to the transport of passengers or goods to or from the United Kingdom.

157. Subsection (6) specifically allows the Secretary of State to make provision in the regulations about which time periods should be used when calculating UK emissions from international aviation and international shipping, and how emissions in the base year for the gas should be calculated. Subsection (7) allows the Secretary of State to assign a different base year for this purpose, or to assign a number of base years and to treat the average amount of emissions in those years as emissions in the base year. Subsection (8) explains that the base year for carbon dioxide is 1990 (referred to as the "1990 baseline" in section 1).

Section 31**: Procedure for regulations under** section 30

158. This section sets out the procedures that the Secretary of State must follow before making regulations on emissions from international aviation or international shipping under section 30.

159. Subsection (1) places a duty on the Secretary of State to obtain and consider advice from the Committee on Climate Change. Subsection (2) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate.

160. Subsection (3) places a duty on the Secretary of State, if making regulations in a way that differs from the Committee's recommendations, to publish a statement setting out the reasons for that decision. The statement may be published in any way the Secretary of State thinks is appropriate (subsection (4)).

161. Subsection (5) provides that regulations made under section 30 are subject to the affirmative resolution procedure.

Part 2**: The Committee on Climate Change**

The Committee

Section 32 and Schedule 1**: The Committee on Climate Change**

162. This section establishes a new, independent, non-departmental public body, the Committee on Climate Change (in Welsh, y Pwyllgor ar Newid Hinsawdd) and introduces Schedule 1.

Schedule 1*: The Committee on Climate Change*

163. Schedule 1 makes further provision about the Committee, including provision on its membership, staff, procedures and other administrative requirements.

164. Paragraphs 1 and 2 make provision in respect of the membership of the Committee on Climate Change. The Committee will have a chair and between five and eight members (one of whom may be appointed as the deputy chair) who will be appointed jointly by the Secretary of State the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department (together, the "national authorities") after consultation with the chairperson. The Secretary of State may, with the consent of the other national authorities, amend the number of members by negative resolution order. Paragraph 1(3) gives a list, in alphabetical order, of the areas of experience and knowledge that are desirable in the Committee's membership, taken as a whole.

165. Paragraph 3 provides that a person will be a member of the Committee on the terms which are set upon appointment (which will include terms about the length of time the person is to serve on the Committee). Paragraphs 4 to 7 make provision about how members can resign, the situations in which they can be removed from their posts, and allows the reappointment of members.

166. Paragraphs 8 to 10 allow the national authorities to pay remuneration and allowances to members, and allow the national authorities to provide pensions for members or to make payments towards the provision of pensions. They also allow payments of compensation to outgoing members in special circumstances.

167. Paragraphs 11 to 14 relate to the Committee's employees. The Committee must appoint a chief executive who has been approved by the national authorities. It may also appoint other employees. These paragraphs make provision about employees' pay and pensions, and allow employees to be pensionable under the Principal Civil Service Pension Scheme.

168. Paragraphs 15 to 21 make provision about how the Committee may operate. The Committee can set up sub-committees, which can include people who are not members of the Committee (and they may be paid remuneration and allowances).

169. Paragraph 16 establishes a sub-committee of the Committee to be known as the Adaptation Sub-Committee or, in Welsh, as yr Is-bwyllgor Addasu; it is referred to in the rest of paragraph 16 as “the ASC”. The ASC will have a chair and not less than 5 other members appointed by the national authorities. Before appointing the ASC chair, the national authorities must consult the chair of the Committee; the ASC chair must be consulted before ASC members are appointed. Paragraph 16(4) provides that the ASC's role is to provide the Committee with such advice, analysis, information or other assistance as it may require in exercising its functions under sections 38(1)(c) (advice on adaptation requested by national authorities), 57 (advice on report on impact of climate change) and 59 (reporting on progress in connection with adaptation).

170. The Committee is allowed to regulate its own procedure (including quorum) and sub-committee procedures. The Committee is required to publish the minutes of its meetings in any manner it considers appropriate. The Committee may authorise a sub-committee, member or employee to exercise its functions.

171. Paragraphs 22 to 25 require the Committee to prepare annual reports and annual statements of accounts; reports and accounts must be laid before Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. The Committee's accounts will be audited by the National Audit Office. The Committee is placed under a duty to keep proper records, and must provide information to the national authorities on request.

172. Paragraph 26 provides that the Committee is not required to publish anything it is prohibited from publishing or that it would not be required to publish under the Freedom of Information Act 2000 (c.36) or the Environmental Information Regulations 2004 (S.I. 2004/3391).

173. Paragraph 27 provides that the Committee is not a Crown body. It will be a statutory non-departmental public body, and its employees will not be civil servants.

174. Paragraphs 28 to 35 make amendments to, and provision in relation to, several enactments relating to public bodies; these have several effects, including that the body is subject to freedom of information laws, that the chair and members cannot be members of Parliament, and that the Committee's activities can be subject to investigation by the Scottish Parliament and the appropriate Parliamentary ombudsman.

Functions of the Committee

Section 33**: Advice on level of 2050 target**

175. This section places a duty on the Committee on Climate Change to advise the Secretary of State on whether the 2050 target in section 1(1) should be amended and if so what the amended percentage should be. Subsection (2) requires the Committee to provide the reasons for its advice under this section, and subsection (3) requires the Committee to provide its advice no later than 1st December 2008.

176. Subsection (4) requires the Committee to send a copy of the report to each of the devolved administrations. Subsection (5) requires the Committee on Climate Change, as soon as is reasonably practicable after giving its advice to the Secretary of State, to publish that advice in any way it thinks is appropriate.

Section 34**: Advice in connection with carbon budgets**

177. This section sets out the Committee on Climate Change's advisory duties in relation to carbon budgets, and the timing of the advice that must be given.

178. Subsection (1) requires the Committee to give advice on carbon budgets. The Committee must advise on the levels at which carbon budgets should be set and on the extent to which budgets should be met by reducing the level of net UK emissions or by the use of carbon units credited to the net UK carbon account. The Committee must advise on the contributions towards meeting carbon budgets that should be made by sectors of the economy covered by trading schemes (taken as a whole) and by other sectors (taken as a whole). The Committee is also required to advise on sectors of the economy in which there are particular opportunities for contributions to be made towards meeting carbon budgets through reductions in emissions of targeted greenhouse gases.

179. Subsection (2) gives the Committee an advisory duty that only applies to the 2008–2012 budget period. The Committee is required to advise the Secretary of State on whether its advice on the level of the 2008–2012 budget is consistent with meeting a separate target of reducing emissions to an annual equivalent (as defined in section 5(2)) of 20% below the 1990 baseline, and to set out what the costs and benefits would be of setting a budget consistent with that target.

180. Subsection (3) requires the Committee to set out the reasons for its advice and subsection (4) makes provision on the timing of the advice.

181. Subsection (5) imposes upon the Committee a duty to send copies of the advice to the devolved administrations at the same time as it gives its advice to the Secretary of State. Subsection (6) gives the Committee a duty to publish its advice in any manner it considers appropriate.

Section 35**: Advice on emissions from international aviation and international shipping**

182. Subsection (1) of this section places a duty on the Committee on Climate Change to advise the Secretary of State on the consequences of treating emissions from international aviation and international shipping as UK emissions for the purposes of the targets and budgets in the Act.

183. Subsection (2) provides that the duty does not apply if, and to the extent that, the Secretary of State has already made regulations under section 30 which provide for emissions from international aviation and international shipping to be treated as UK emissions.

184. Subsection (3) requires the Committee on Climate Change to provide reasons with its advice. Subsection (4) makes provision on the timing of the advice, requiring the Committee on Climate Change to give its first advice under this section when it advises on the carbon budget for 2023–2027 (which must be given by 31st December 2010, as calculated in accordance with sections 34(4)(b) and 4(2)(b)). Subsequent advice must be given at the same time as its advice on carbon budgets.

185. Subsection (5) requires the Committee on Climate Change to send a copy of its advice to the devolved administrations, and subsection (6) requires it to publish its advice, in such manner as it considers appropriate, as soon as is reasonably practicable after it has given it to the Secretary of State.

Section 36**: Reports on progress**

186. Subsection (1) requires the Committee on Climate Change to make an annual report to Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly containing its assessment of the progress that has been made towards meeting the carbon budgets already set and the 2050 target (that is, unless amended, to reduce the net UK carbon account to at least 80% below 1990 levels); the further progress that is needed to meet the budgets and that target; and whether the budgets and that target are likely to be met.

187. Subsection (2) applies to progress reports in the second year after the end of each budget period (for example, for the 2008–2012 budget period, in 2014; the final figures for a budget period are not available until the second year after it ends). In those reports, the Committee is required to give its views on the manner in which the budget was or was not met, and its views on the action taken to reduce net UK emissions during the budgetary period.

188. Subsection (3) provides that the first report under this section must be laid by 30th September 2009, to take into account the fact that the Secretary of State is required to set the first three budgets by 1st June 2009 (see section 4(2)). Subsection (4) provides that each subsequent report under this section, other than the one in the second year after the end of a budgetary period, must be laid by 30th June in the year in which it is made.

189. Subsection (5) requires that each report in the second year after the end of a budgetary period must be laid by 15th July in the year in which it is made.

190. Subsections (6) to (8) allow the Secretary of State to amend the timing of the report by negative resolution order after consulting the devolved administrations.

191. See also section 59, which requires the Committee to provide progress reports on the implementation of the UK Government's adaptation programmes under section 58. See the notes on section 59 for more detail on the timing of those progress reports.

Section 37**: Response to Committee's reports on progress**

192. This section places a duty on the Secretary of State to lay before Parliament a response to the points raised by each of the Committee on Climate Change's annual progress reports.

193. Subsection (2) requires the Secretary of State to consult the devolved administrations on a draft of the response. Subsection (3) provides that the response to the Committee's first report must be laid no later than 15th January 2010. Subsection (4) provides that each subsequent report must be laid by 15th October in the year the Committee's report was made.

194. Subsections (5) and (6) allow the Secretary of State to change the deadline by negative resolution order. This provision is to allow flexibility (it might, for example, be used to allow for

the consequences of future international treaties on climate change necessitating a change to the date when the Committee makes its report).

195. This section will also require the Secretary of State to respond to any points raised by the Committee in its progress reports under section 59 in relation to progress made in implementing the adaptation programmes under section 58. See the notes on section 59 on the timing of those reports. Also of relevance is section 82, which repeals a reporting requirement under section 2(a) of the Climate Change and Sustainable Energy Act 2006 (c.19).

Section 38**: Duty to provide advice or other assistance on request**

196. Subsection (1) requires the Committee on Climate Change to provide advice, analysis, information or other assistance, when requested to do so, to the Secretary of State, the Scottish Ministers, the Welsh Ministers or the relevant Northern Ireland department (together, the "national authorities"). Any request can be made if it relates to an authority's functions under the Act, the progress that is being made towards meeting objectives set under the Act, to adaptation to climate change or to climate change generally.

197. Subsection (2) gives specific examples of what may be required of the Committee, including advice on caps on activities under trading schemes or assistance in the preparation of statistics.

198. Subsection (3) gives the Committee a duty to provide a devolved administration (not the Secretary of State), when requested to do so, with advice, analysis, information or other assistance on a target, budget or similar requirement it has adopted (whether or not the target, budget or similar requirement is contained in legislation) or which has been imposed on it. For example, the Committee would, if requested to do so, be required to advise the Scottish Ministers in relation to any target adopted under an Act of the Scottish Parliament.

Supplementary provisions

Section 39**: General ancillary powers**

199. Subsection (1) gives the Committee on Climate Change the power to do anything that appears to it necessary or appropriate for the purpose of, or in connection with, the carrying out of its functions. Subsections (2) and (3) set out examples to illustrate the scope of the power. Ancillary powers are not freestanding; they may be used only to facilitate the exercise of formal functions. Subsection (4) requires the Committee to have regard to the desirability of involving the public in the exercise of its functions.

Section 40**: Grants to the Committee**

200. This section enables each national authority (the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department) to fund the Committee on Climate Change. National authorities may impose conditions when giving a grant (for example, a condition requiring the Committee to supply a financial memorandum or enter into a management agreement).

Section 41**: Powers to give guidance**

201. This section makes provision on how the Committee on Climate Change can be given guidance on how to carry out its functions. The Committee is required to "have regard" to guidance (see subsection (5)) — this means that the Committee must take the guidance into account when exercising the function.

• Subsection (1) provides that any guidance on the Committee's functions generally or its functions under Schedule 1 is to be given by the national authorities (and this means that such guidance must be given jointly by all the national authorities: see section 95(2));
• Subsection (2) provides that any guidance given on the Committee's functions under Part 1 of the Act (for example, the function of advising on an amendment of the 2050 target), on its advice on the level of the 2050 target and on carbon budgets under sections 33 and 34, in connection with international aviation and international shipping under section 35, on the report on the impact of climate change under section 57 or on its duty to make progress reports under section 36 or 59 is to be given by the Secretary of State. Unless he is only issuing guidance in relation to the Committee's functions under section 59, the Secretary of State must consult the devolved administrations;
• Subsection (3) provides that any guidance given on the Committee's duty to provide advice or other assistance under section 38 or on trading schemes under section 48 is to be given by the national authority seeking the advice or other assistance. If two or more national authorities are seeking the advice or other assistance, then the guidance must be given jointly.

Section 42**: Powers to give directions**

202. This section makes provision on how the Committee on Climate Change can be given directions on how to carry out its functions. The Committee is required to comply with the directions (see subsection (6)), but the Committee cannot be given directions as to the content of any advice or report (see subsection (4)).

• Subsection (1) provides that any direction on the Committee's functions generally or its functions under Schedule 1 is to be given (jointly) by the national authorities;
• Subsection (2) provides that any direction given on the Committee's functions under Part 1 of the Act (for example, the function of advising on an amendment of the 2050 target), on its advice on the level of the 2050 target and on carbon budgets under sections 33 and 34, in connection with international aviation and international shipping under section 35, on the report on the impact of climate change under section 57 or on its duty to make progress reports under section 36 or 59 is to be given by the Secretary of State. Unless he is only issuing directions in relation to the Committee's functions under section 59, the Secretary of State must consult the devolved administrations;
• Subsection (3) provides that any direction given on the Committee's duty to provide advice and other assistance under section 38 or on trading schemes under section 48 is to be given by the national authority seeking the advice or other assistance. If two or more national authorities are seeking the advice or other assistance, then the directions must be given jointly.

Part 3**: Trading Schemes**

Trading schemes

Section 44**: Trading schemes**

203. This section provides the relevant national authority (defined in section 47 as the Secretary of State, the Scottish Ministers, the Welsh Ministers or the relevant Northern Ireland department) with the power to set up trading schemes relating to greenhouse gas emissions using secondary legislation.

204. Subsection (2)(a) provides for trading schemes which limit activities that consist of the emission of greenhouse gases, or that directly or indirectly lead to such emissions (for example, "cap and trade schemes" which cap emissions from a particular set of activities and allow trading of emissions within the cap). Subsection (2)(b) provides for trading schemes which encourage activities that directly or indirectly lead to a reduction in greenhouse gas emissions or the removal of greenhouse gases from the atmosphere.

Section 45**: Activities to which trading schemes may apply**

205. This section sets out what activities are regarded as indirectly causing or contributing to greenhouse gas emissions or reductions in greenhouse gas emissions. It also makes provision in relation to the location of activities and emissions covered by this Part.

206. Subsection (1) sets out the types of activity which are considered to be indirect causes of, or contributors to, greenhouse gas emissions, such as activities which involve the use of energy or those involving the supply of something the use of which would lead to greenhouse gas emissions. For example, the supply of a heating fuel would be regarded as indirectly causing emissions because it leads to emissions at the point of use by the consumer. Subsection (2) provides that reductions in the level of those activities are to be regarded as indirectly causing or contributing to reductions in greenhouse gas emissions.

207. Subsection (3) provides that Part 3 of the Act applies to activities carried out in the United Kingdom, regardless of where emissions, or reductions in emissions, actually occur.

Section 46 and Schedule 2**: Matters that may or must be provided for in trading schemes**

208. Subsections (1) and (2) introduce Schedule 2 to the Act, which gives further details about regulations establishing trading schemes. Subsection (3) provides that regulations may also contain provision about their application to the Crown.

Schedule 2*: Trading schemes*

209. Schedule 2 makes specific provision on what may or must be included in regulations establishing trading schemes. Parts 1 and 2 make provision, respectively, in relation to trading schemes operating to achieve different results; but it is possible to make trading schemes that operate to achieve both types of results by combining different elements of those Parts.

210. Part 1 of Schedule 2 contains details of what can or must be included in a trading scheme which operates by limiting, or encouraging the limitation of, activities that consist of or lead to emissions of greenhouse gases. For example, the Carbon Reduction Commitment, a proposed scheme to reduce energy use, would be a scheme under Part 1 of Schedule 2.

211. A trading scheme under Part 1 must operate by having trading periods (paragraph 2), by defining the activities covered by the scheme (paragraph 3(1)) and by specifying scheme "units" (which may be specified by reference to the activities themselves, things consumed or used for their purposes, things produced by the activities or other consequences of the activities) (paragraph 3(3) and (4)). The scheme must define the participants covered by it; participants may be defined by reference to criteria (paragraph 4).

212. A scheme under Part 1 may provide for allowances to be allocated to participants; allowances represent the right to carry out a specified amount of the activity covered by the scheme. But the regulations cannot provide for allowances to be allocated in return for payment (paragraph 5). Any provisions for auctioning allowances would be contained in different legislation (for example, a Finance Act).

213. The scheme rules may require a participant to have or acquire a certain number of allowances to cover his activities in a trading period (paragraph 6). A scheme may also allow or require the participant to purchase defined credits to offset his activities, but the regulations can also place limits on the use of credits (paragraph 7). A scheme might also operate by requiring payments to be made if the participant did not hold a sufficient number of allowances or credits (paragraph 8).

214. A scheme under Part 1 must allow trading in allowances or credits under the scheme, and the scheme must set out the circumstances in which trading will operate. Third parties (who would not otherwise be participants) may also be allowed to trade (paragraph 9). A trading scheme may also specify that activities can only be carried out if the participant holds a permit (paragraph 10) and may allow recognition of allowances, credits, certificates or other units issued under other trading schemes (whether at domestic, European or international level) (paragraph 11).

215. Part 2 of Schedule 2 contains details of what can or must be included in a trading scheme which operates by encouraging activities that consist of, or that cause or contribute (directly or indirectly) to reductions in greenhouse gas emissions or the removal of greenhouse gases from the atmosphere.

216. A trading scheme under Part 2 must operate by having trading periods (paragraph 13), by defining the activities covered by the scheme (paragraph 14(1)) and by specifying scheme “units” (which may be specified by reference to the activities themselves, things consumed or used for their purposes, things produced by the activities or other consequences of the activities) (paragraph 14(3) and (4)). The scheme must define the participants covered by it; participants can be defined by reference to criteria (paragraph 15).

217. A scheme under Part 2 must set targets for participants to achieve in the trading period (paragraph 16). They must provide for the issue of certificates to participants; certificates act as evidence of the amount of the activity that has carried on, but can also be used as evidence of the activity of another person. The scheme must require each participant to have, at the end of a trading period, enough certificates to meet his target (paragraph 17), and may provide that a participant who does not have enough certificates should have to make payments (paragraph 18).

218. A scheme under Part 2 must allow trading in certificates under the scheme, and the scheme must set out the circumstances in which trading will operate. Third parties (who would not otherwise be participants) may also be allowed to trade (paragraph 19). A trading scheme may allow recognition of allowances, credits, certificates or other units issued under other trading schemes (whether at domestic, European or international level) (paragraph 20).

219. Part 3 of Schedule 2 makes provision on the administration and enforcement of trading schemes.

220. The regulations may appoint an administrator of the scheme and impose functions on him; the administrator must be one of the national authorities or a public body, or a combination of any of these (paragraph 21). The administrator of a trading scheme is the body which operates the scheme on a day-to-day basis.

221. The regulations can require the disclosure of information to the administrator, national authorities or participants (paragraph 22). A scheme may provide for the creation and maintenance of registers to keep track of participants, their obligations, trading and other information in the scheme (paragraph 23). The regulations can allow certain information to be published (paragraph 24); for example, they might provide for the publication of a list showing participants' performance in the scheme.

222. The scheme can allow the administrator to buy trading units in other schemes, which may be schemes made under the Act or other similar schemes such as the EU Emissions trading scheme (paragraph 25). The scheme may also require the payment of charges covering all or part of the costs of the scheme; the charges may be imposed on participants and other people eligible to trade in allowances, credits or certificates (paragraph 26).

223. The scheme can include provision setting out how compliance with the scheme is to be monitored and on the keeping of records by participants, the provision of information, audit and the inspection of premises (paragraph 27). The scheme can also make further provision for enforcement of the scheme where it is reasonably believed that there has been a failure to comply with the scheme's requirements (paragraph 28).

224. The scheme can make provision for the imposition of civil financial penalties or other types of penalty for failure to comply with the scheme rules (paragraph 29) and creating criminal offences relating to the scheme (paragraph 30). A scheme may also make provision for appeals against decisions and enforcement action, and allow those appeals to be heard by independent appointed persons (paragraph 31).

Authorities and regulations

Section 47**: Relevant national authorities**

225. This section defines who is the "relevant national authority" in relation to trading schemes, and in doing so sets out the scope of the powers available to each national authority.

- Subsection (2) allows the Scottish Ministers to make trading schemes within the scope of the legislative competence of the Scottish Parliament (that is, to the extent that the Scottish Parliament would have been able to make a trading scheme of its own accord).
- Subsection (3) allows the Welsh Ministers to make trading schemes in relation to matters that relate to limiting, or encouraging the limiting of, activities in Wales that consist of the emission of greenhouse gases, with the exception of activities in connection with offshore oil and gas exploration and exploitation. If the National Assembly for Wales gains legislative competence that would enable it to make trading schemes of its own accord, the power of the Welsh Ministers to make trading schemes under this Part will extend to match the scope of that legislative competence. Subsection (4) defines "offshore oil and gas exploration and exploitation" to have the same meaning it has in the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958) and defines "Wales", for the purpose of subsection (3), by reference to section 158(1) of the Government of Wales Act 2006 (c.32). This definition includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.
- Subsection (5) allows the Secretary of State or the relevant Northern Ireland department to make trading schemes in relation to reserved matters under the Northern Ireland Act 1998 (c.47); the relevant Northern Ireland department may make trading schemes covering reserved matters, but only with the Secretary of State's consent (see section 48(6)).
- Subsection (6) allows the relevant Northern Ireland department to make trading schemes in relation to all other matters within the scope of the legislative competence of the Northern Ireland Assembly (that is, to the extent that the Northern Ireland Assembly would have been able to make a trading scheme of its own accord on "transferred matters" under the Northern Ireland Act 1998).
- Subsection (7) provides that the Secretary of State has the power to make trading schemes in relation to all other matters.

Section 48**: Procedure for making regulations**

226. This section sets out the procedure which must be followed when regulations under Part 3 containing a trading scheme are made or amended. It includes a requirement to consult persons likely to be affected by the scheme, a requirement to seek advice from the Committee on Climate Change and rules on parliamentary procedure.

227. Subsection (1) provides that before making regulations about trading schemes, the relevant national authority must consult such persons as it considers are likely to be affected by the regulations, and also that it must seek, and take account of, advice from the Committee on Climate Change. In the case of schemes limiting activities, the authority must in particular obtain the Committee's advice on the appropriate level of the limit (subsection (2)).

228. Subsection (3) sets out the circumstances in which the affirmative resolution procedure applies to the making of regulations (such as where a new scheme is established, the application of an existing scheme is extended, the burden on participants is increased, where enforcement powers are strengthened or where the regulations amend primary legislation). Subsection (4) requires that the affirmative resolution procedure also applies to the first set of regulations which contain provisions relating to appeals.

229. Subsection (5) provides that the negative resolution procedure applies at all other times.

230. Subsection (6) makes special provision in relation to “reserved matters” in Northern Ireland. The relevant Northern Ireland department is allowed to make provision in a trading scheme dealing with a reserved matter under the Northern Ireland Act 1998 (c.47) only if it has obtained the Secretary of State's consent.

Section 49 and Schedule 3**: Further provisions about regulations**

231. This section introduces Schedule 3, which makes further provision on the procedures to be followed when making regulations containing trading schemes.

Schedule 3*: Trading schemes regulations: further provisions*

232. Part 1 of Schedule 3 sets out the procedure to be followed where regulations are made by a single national authority. Paragraph 2 sets out the affirmative resolution procedure applying in Parliament and the devolved legislatures. Paragraph 3 sets out the negative resolution procedure applying in Parliament and the devolved legislatures. Paragraph 4 allows any regulations that could be made using the negative resolution procedure to be made using the affirmative resolution procedure; this will allow, say, amendments which would otherwise have to be made using different procedures to be made in the same instrument.

233. Part 2 of Schedule 3 sets out the process where regulations are made jointly between the Secretary of State and/or the Welsh Ministers and/or the relevant Northern Ireland department. The affirmative and resolution procedures apply as they do in Part 1 of Schedule 3. Where the affirmative resolution procedure applies, if either House of Parliament or the relevant devolved legislature does not approve the instrument, then the instrument cannot be made. Where the negative resolution procedure applies, if either House of Parliament or the relevant devolved legislature resolves that the regulations should be annulled, then nothing further can be done under the instrument and it may be revoked by Order in Council.

234. Part 3 of Schedule 3 sets out the process for making joint trading schemes by Her Majesty by Order in Council. The Order in Council procedure is to be used in two situations. First, where a scheme extends or applies both to Scotland and to one or more of England, Wales and Northern

Ireland. Secondly, where a scheme relates to matters which are within the legislative competence of the Scottish Parliament and also to other matters which are not within its legislative competence. Where the affirmative resolution procedure would apply to regulations making the same provision, Her Majesty cannot make an Order in Council unless all the relevant legislatures have passed a resolution approving a draft of the Order in Council. Where the negative resolution procedure would apply to regulations making the same provision, the Order in Council is laid before all the relevant legislatures; if any of them resolves that the Order in Council should be annulled, then nothing further can be done under the Order in Council and Her Majesty may revoke it.

Other supplementary provisions

Section 50 and Schedule 4**: Information**

235. This section introduces Schedule 4 to the Act, which contains powers to enable the collection of information for the purpose of developing a trading scheme. Schedule 4 allows the national authorities and certain agencies to require, by notice, electricity suppliers and potential participants in a trading scheme to provide information required for the establishment of the scheme.

236. Subsection (2) is a "sunset" provision. It provides that the information-gathering (but not the information-sharing) powers in Schedule 4 will cease to have effect on 1st January 2011, the date by which it is anticipated that they will no longer be required.

Schedule 4*: Trading schemes: powers to require information*

237. Schedule 4 contains powers that could be contained in regulations made under Part 3 of the Act. The intention behind providing these specific powers on the face of the Act is to allow information to be gathered for the establishment of the Carbon Reduction Commitment, a new trading scheme, within a relatively short time-scale.

238. Schedule 4 makes provision about who is able to exercise the information gathering powers; these are the national authorities, the Environment Agency and the Scottish Environment Protection Agency, collectively referred to as the "environmental authorities" (paragraph 1).

239. It provides that the environmental authorities can seek information, for the purposes of enabling a trading scheme to be established, from electricity suppliers and distributors (paragraph 2) and from the potential participants in a trading scheme (paragraph 3). The information that may be collected includes, among other things, information about contact details, electricity meters, levels of electricity consumption and any climate change agreements (within the meaning of Schedule 6 to the Finance Act 2000 (c.17)) that have been entered into.

240. If an environmental authority requests information (in writing) from a person under this Schedule, and the person does not comply with the request within 28 days, the authority may issue a formal notice requesting the information. Paragraph 4 sets out the requirements relating to such formal notices. A person who fails, without reasonable excuse, to comply with a notice, or who provides false or misleading information (either knowingly, or suspecting that it is false or misleading) is guilty of a summary offence and liable to a fine not exceeding level 5 on the standard scale (currently £5000). (paragraph 5).

241. Paragraph 6 allows information collected using the powers in Schedule 4 to be shared with the other environmental authorities or with the administrator of the trading scheme. This is the only paragraph in the Schedule which is not subject to the sunset provision in section 50(2).

Section 51**: Powers to give guidance**

242. This section gives the relevant national authority (see section 47) the power to give guidance to an administrator of a trading scheme about how to carry out its functions. The administrator is required to have regard to guidance issued to it.

Section 52**: Powers to give directions**

243. This section gives the relevant national authority (see section 47) the power to give general or specific directions to an administrator of a trading scheme. The administrator must comply with directions given under this section.

Section 53**: Grants to administrators and participants**

244. This section enables the relevant national authority (see section 47) to make grants to participants of trading schemes and impose conditions when giving a grant.

Section 54**: Power to make consequential provision**

245. This section gives the relevant national authority (see section 47) the power to make regulations amending, repealing or revoking primary or secondary legislation as a consequence of regulations made under this Part of the Act, and to make any transitional and saving provisions in connection with such amendments, repeals and revocations.

Interpretation

Section 55**: Interpretation of** Part 3

246. This section defines the terms “administrator”, “participant” and “trading period” used in Part 3.

Part 4**: Impact of and adaptation to climate change**

National reports and programmes

Section 56**: Report on impact of climate change**

247. This section places a duty on the Secretary of State to lay reports before Parliament assessing the risks of the current and predicted impact of climate change for the UK, which might include the risks to the natural environment, to infrastructure, to the economy, to society or any other risks.

248. Subsections (2) and (3) require the Secretary of State to lay the first report before Parliament no later than three years after the section comes into force, and subsequent reports at intervals of no more than five years. Subsection (4) allows the Secretary of State to extend the period for laying a report, but requires him to publish a statement setting out his reasons and saying when the report will be laid.

249. Subsection (5) requires the Secretary of State to take the Committee on Climate Change's advice under section 57 into account before laying the report before Parliament and subsection (6) places a duty on the Secretary of State to send a copy of the report to the other national authorities (defined in section 95 as the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department).

Section 57**: Advice of Committee on Climate Change on impact report**

250. Subsection (1) of this section requires the Committee on Climate Change to provide the Secretary of State with advice in relation to his reports assessing the risks of climate change to the

United Kingdom under section 56. Section 56(5) requires the Secretary of State to take the Committee's advice into account before laying his reports before Parliament.

251. Subsection (2) requires the Committee to give its advice at least six months before the Secretary of State is required to lay his reports before Parliament — under section 56, the first report must be laid before Parliament within 3 years after the Act receives Royal Assent, with subsequent reports at least every five years.

252. Subsection (3) requires the Committee to send copies of its advice to the other national authorities (see section 95) at the same time as it gives its advice to the Secretary of State and subsection (4) requires it to publish its advice in an appropriate manner as soon as is reasonably practical after that.

Section 58**: Programme for adaptation to climate change**

253. This section requires the Secretary of State to prepare UK Government adaptation programmes.

254. Subsection (1) places a duty on the Secretary of State to lay before Parliament adaptation programmes covering the Government's objectives in relation to adaptation to climate change, and its proposals and policies for meeting these objectives (indicating an appropriate timescale). The programme should address the risks identified in the most recent report under section 56.

255. Subsection (2) provides that the objectives, proposals and policies should contribute to sustainable development.

256. Subsection (3) requires the Secretary of State to lay the adaptation programme before Parliament as soon as is reasonably practicable after laying his report on the risks of climate change under section 56. Subsection (4) requires him to send a copy of each programme to the other national authorities.

Section 59**: Reporting on progress in connection with adaptation**

257. This section places a duty on the Committee on Climate Change to report to Parliament on its assessment of the progress made towards the implementation of the objectives, proposals and policies in the Secretary of State's adaptation programmes under section 58.

258. Subsection (1) sets out the basic duty, and provides that progress reports on adaptation should be contained in the reports on progress towards meeting carbon budgets and the 2050 target required by section 36.

259. Subsection (2) sets out the timing of the progress reports under this section. The first progress report is to be made in the second year after the Secretary of State lays his first adaptation programme under section 58. This means that if the first adaptation programme is laid before Parliament in 2012, the Committee's first report on the progress made towards implementing must be laid before Parliament by 30th June 2014 (as required, for 2014, by section 36(4)). In accordance with section 37(4), the Secretary of State would be obliged to respond to that report by 15th October 2014.

260. Subsection (3) provides that subsequent progress reports are to be laid before Parliament every two years, unless the Secretary of State makes an order under subsection (4) to require annual progress reporting. Subsection (5) states that the negative resolution procedure (see section 91) applies to orders made under subsection (4).

Section 60**: Programme for adaptation to climate change: Northern Ireland**

261. This section requires the relevant Northern Ireland department to prepare adaptation programmes.

262. Subsection (1) places a duty on the relevant Northern Ireland department to lay before the Northern Ireland Assembly adaptation programmes covering its objectives in relation to adaptation to climate change, and its proposals and policies for meeting these objectives (indicating an appropriate a timescale). The programme should address the risks identified in the most recent report under section 56.

263. Subsection (2) provides that the objectives, proposals and policies should contribute to sustainable development. Subsection (3) provides that subsequent programmes must include an assessment of the progress made towards implementing the objectives, proposals and policies in the earlier programmes.

264. Subsection (4) requires the relevant Northern Ireland department to lay the adaptation programme before the Northern Ireland Assembly as soon as is reasonably practicable after the report under section 56 has been laid before Parliament and subsection (5) requires the department to send a copy of it to the Secretary of State, the Scottish Ministers and the Welsh Ministers.

Reporting authorities: non-devolved functions

Section 61**: Guidance by Secretary of State to reporting authorities**

265. This section gives the Secretary of State a power to issue guidance to "reporting authorities". The term "reporting authority" is defined in section 70(1) to mean any person or body with functions of a public nature, and statutory undertakers.

266. Subsection (1) gives the Secretary of State the power to issue guidance. It provides that the guidance may deal with how reporting authorities should assess the current and predicted impact of climate change, how they should prepare proposals and policies to adapt to climate change and how they should co-operate with other reporting authorities when assessing the impact of climate change and preparing those proposals and policies.

267. Subsection (2) means that the guidance will not apply to a reporting authority's "devolved functions". Section 70 sets out how to determine what a reporting authority's "devolved functions" are — see the notes on that section for more detail.

Section 62**: Directions by Secretary of State to prepare reports**

268. This section allows the Secretary of State to require reporting authorities, individually or jointly with other reporting authorities, to prepare reports on adaptation.

269. Subsection (1) provides that the Secretary of State may require a reporting authority to prepare a report covering any or all of the following matters:

- an assessment of the current and predicted impact of climate change on the authority's functions;
- a statement setting out the authority's proposals and policies for adapting to climate change, and its timescales for introducing the proposals and policies;
- an assessment of the progress the authority has made towards implementing any proposals and policies contained in an earlier report.

270. Subsection (2) allows the Secretary of State to require two or more authorities to prepare a joint report. Subsection (3) allows the Secretary of State to give directions to the reporting authority

about the timing of the report and the matters it should cover, and allows the Secretary of State to limit the report's coverage to a particular geographical area.

271. Subsection (4) has the effect that the Secretary of State cannot require an authority to produce a report dealing with how it will adapt to the impact of climate change in relation to its "devolved functions" (defined in section 70 — see the notes on that section for more information). But the Secretary of State can require the report to cover all of the authority's other, non-devolved, functions.

Section 63**: Compliance with Secretary of State's directions**

272. This section requires any reporting authority issued with directions under section 62 to comply with them and sets out other details of how they must prepare their reports.

273. Subsection (1) sets out the basic duty on reporting authorities to comply with directions. Subsection (2) provides that where two or more reporting authorities have been directed to prepare a joint report, then they must take reasonable steps to cooperate with one another in preparing it.

274. Subsection (3) lists a number of reports and programmes that all reporting authorities must have regard to when preparing their own reports following a direction from the Secretary of State:

- the Secretary of State's most recent report on the current and predicted risks of climate change under section 56;
- the Secretary of State's most recent adaptation programme under section 58; and
- any guidance issued by the Secretary of State under section 61.

But reporting authorities need have regard to those reports and programmes only so far as they are relevant.

275. Subsection (4) applies where the Secretary of State directs a reporting authority which has functions exercisable in or as regards Wales or which has "devolved Welsh functions" (as defined in subsections (6) and (7) of section 70). In those circumstances, the authority must also have regard, so far as is relevant, to:

- any guidance issued by the Welsh Ministers under section 66;
- the Welsh Ministers' most recent report on climate change under section 80.

276. Subsection (5) requires a reporting authority to send a copy of its report to the Secretary of State. Subsection (6) requires the Secretary of State to publish the report in such manner as he considers appropriate, but subject to the exceptions in subsection (7). Under subsection (7), the Secretary of State is not required to publish anything that he could refuse to disclose under the Freedom of Information Act 2000 (c.36) or under the Environmental Information Regulations 2004 (S.I. 2004/3391) or which he is prohibited from disclosing by any enactment.

277. Subsection (8) requires reporting authorities to have regard to their own reports in the exercise of all of their functions other than their "devolved functions" (see section 70 for the definition).

Section 64**: Consent of, or consultation with, devolved authorities**

278. This section deals with situations where one or more of the "devolved authorities" (as defined in section 70(3)) has an interest or is involved in a function covered by the Secretary of State's guidance under section 61 or in directions given by the Secretary of State under section 62. For example, the Secretary of State may wish to issue guidance to reporting authorities in an area where he would normally only have the power to act with the consent of, or following consultation with, one or more of the devolved authorities; this section sets out the procedures the Secretary of State must follow.

279. Subsection (1) sets out two situations in which the Secretary of State is required to obtain the consent of a devolved authority before issuing guidance under section 61 or directions under section 62:

- the first situation, under paragraph (a), is where the guidance or directions relate to a function of a reporting authority in relation to which a function is exercisable jointly by the devolved authority and a Minister of the Crown. For example, certain functions on the Welsh border are exercisable jointly by the Secretary of State and the Welsh Ministers; before issuing guidance relating to those functions, the Secretary of State would be required to obtain the consent of the Welsh Ministers;
- the second situation, under paragraph (b), is where a function of a reporting authority relates to a function exercisable by a Minister of the Crown but only with the agreement of the devolved authority.

280. Subsection (2) sets out two situations in which the Secretary of State is required to consult a devolved authority before issuing guidance under section 61 or directions under section 62:

- the first situation, under paragraph (a), is where a devolved authority has a function which relates to a reporting authority's function, but in exercising its function the devolved authority is not required to do so jointly with a Minister of the Crown. This covers situations where a devolved authority and a Minister of the Crown have concurrent functions which cover the same or similar ground but are exercisable independently;
- the second situation, under paragraph (b), is where a reporting authority's function relates to a function of a Minister of the Crown which may only be exercised after consulting the devolved authority.

Section 65**: Report on exercise of power to give directions**

281. Subsection (1) of this section requires the Secretary of State to lay reports before Parliament setting out how he intends to exercise his powers under section 62.

282. Subsection (2) provides that the Secretary of State must state the circumstances in which he is likely to give directions to reporting authorities, and the authorities (or kinds of authorities) to whom directions should be given as a matter of priority; subsection (3) provides that this does not affect the Secretary of State's general discretion as to how he may exercise his power to issue directions.

283. Subsection (4) requires the Secretary of State to consult, as appropriate, persons likely to be affected by his report before he lays it before Parliament.

284. Subsection (5) requires the Secretary of State to lay his first report before Parliament within 12 months of the Act obtaining Royal Assent. Subsection (6) provides that subsequent reports must be laid before Parliament no later than the time he lays his adaptation programme under section 58 before Parliament (this means that there will be reports at least every 5 years).

285. Subsection (7) requires the Secretary of State to send a copy of each report to each of the other national authorities.

Reporting authorities: devolved Welsh functions

Section 66**: Guidance by Welsh Ministers to reporting authorities**

286. This section gives the Welsh Ministers a power to issue guidance to reporting authorities in relation to their devolved Welsh functions. It provides that the guidance may deal with how reporting authorities should assess the current and predicted impact of climate change, how they should

prepare proposals and policies to adapt to climate change, and how they should co-operate with other reporting authorities when adapting to climate change.

287. Subsections (6) and (7) of section 70 set out how to determine what a reporting authority's "devolved Welsh functions" are — see the notes on section 70 for more detail.

Section 67**: Directions by Welsh Ministers to prepare reports**

288. This section allows the Welsh Ministers to require reporting authorities, individually or jointly with other reporting authorities, to prepare reports on adaptation in relation to their devolved Welsh functions.

289. Subsection (1) provides that the Welsh Ministers may require a reporting authority to prepare a report covering any or all of the following matters:

- an assessment of the current and predicted impact of climate change on the authority's devolved Welsh functions;
- a statement setting out the authority's proposals and policies for adapting to climate change in relation to its devolved Welsh functions and its timescales for introducing the proposals and policies;
- an assessment of the progress the authority has made towards implementing any proposals and policies contained in an earlier report.

290. Subsection (2) allows the Welsh Ministers to require two or more authorities to prepare a joint report. Subsection (3) allows the Welsh Ministers to give directions to the reporting authority about the timing of the report and the matters it should cover, and allows the Welsh Ministers to limit the report's coverage to a particular geographical area.

291. The Welsh Ministers can only require a reporting authority to produce a report dealing with the authority's "devolved Welsh functions". See the notes on subsections (6) and (7) of section 70 for an explanation of what this covers.

Section 68**: Compliance with Welsh Ministers' directions**

292. This section requires any reporting authority issued with directions under section 67 to comply with them and sets out other details of how they must prepare their reports.

293. Subsection (1) sets out the basic duty on reporting authorities to comply with directions. Subsection (2) provides that where two or more reporting authorities have been directed to prepare a joint report, then they must take reasonable steps to cooperate with one another in preparing it.

294. Subsection (3) lists a number of reports and programmes that all reporting authorities must have regard to when preparing their own reports following a direction from the Welsh Ministers:

- the Secretary of State's most recent report on the current and predicted risks of climate change under section 56;
- the Secretary of State's most recent adaptation programme under section 58;
- any guidance issued by the Secretary of State under section 61;
- any guidance issued by the Welsh Ministers under section 66;
- the Welsh Ministers' most recent report on climate change under section 80.

But reporting authorities need have regard only to those reports and programmes so far as they are relevant.

295. Subsection (4) requires a reporting authority to send a copy of its report to the Welsh Ministers. Subsection (5) requires the Welsh Ministers to publish the report in such manner as they consider

appropriate, but subject to the exceptions in subsection (7). Under subsection (6), the Welsh Ministers are not required to publish anything that they could refuse to disclose under the Freedom of Information Act 2000 (c.36) or under the Environmental Information Regulations 2004 (S.I. 2004/3391) or which they are prohibited from disclosing by any enactment.

296. Subsection (7) requires reporting authorities to have regard to their own reports in the exercise of all of their "devolved Welsh functions" (see section 70 for the definition).

Section 69**: Consent of, or consultation with, Secretary of State**

297. This section deals with situations where the Secretary of State has an interest or is involved in a function covered by the Welsh Ministers' guidance under section 66 or in directions given by the Welsh Ministers under section 67. For example, the Welsh Ministers may wish to issue guidance to reporting authorities in an area where they would otherwise have the power to act only with the consent of, or following consultation with, a Minister of the Crown; this section sets out the procedures the Welsh Ministers must follow.

298. Subsection (1) sets out two situations in which the Welsh Ministers are required to obtain the consent of the Secretary of State before issuing guidance under section 66 or directions under section 67:

- the first situation, under paragraph (a), is where the guidance or directions relate to a function of a reporting authority in relation to which a function is exercisable jointly by a Minister of the Crown and the Welsh Ministers, the First Minister or the Counsel General. For example, certain functions on the Welsh border are exercisable jointly by the Secretary of State and the Welsh Ministers; before issuing guidance relating to those functions, the Welsh Ministers would be required to obtain the consent of the Secretary of State;
- the second situation, under paragraph (b), is where a function of a reporting authority relates to a function exercisable by the Welsh Ministers, the First Minister or the Counsel General but only with the agreement of a Minister of the Crown.

299. Subsection (2) sets out two situations in which the Welsh Ministers are required to consult the Secretary of State before issuing guidance under section 66 or directions under section 67:

- the first situation, under paragraph (a), is where a Minister of the Crown has a function which relates to a reporting authority's function, but in exercising his function the Minister of the Crown is not required to do so jointly with the Welsh Ministers, the First Minister or the Counsel General. This covers situations where the Welsh Ministers and a Minister of the Crown have concurrent functions which cover the same or similar ground but are exercisable independently;
- the second situation, under paragraph (b), is where a reporting authority's function relates to a function of the Welsh Ministers, the First Minister or the Counsel General which may be exercised only after consulting a Minister of the Crown.

Interpretation

Section 70**: Interpretation**

300. Subsection (1) of this section defines the term "reporting authority" as used in sections 61 to 69. The term covers any person or body with functions of a public nature (all public sector bodies, except those in subsection (2)) and persons who are, or are deemed to be, "statutory undertakers"

under the relevant town and country planning legislation applicable in the different parts of the United Kingdom (for example, many utilities providers).

301. Subsection (2) expressly provides that some persons or bodies who would otherwise be covered are not "reporting authorities", namely any Minister of the Crown, either House of Parliament, any devolved authority (as defined in subsection (3)) and any devolved legislature (as defined in section 97).

302. Subsection (3) defines the term "devolved authority", for the purposes of sections 61 to 69 and this section, to mean:

- the Welsh Ministers, the First Minster or the Counsel General;
- the Scottish Ministers, the First Minister, the Lord Advocate or the Solicitor General for Scotland; and
- a Minister within the meaning of the Northern Ireland Act 1998 (c.47) or a Northern Ireland department.

303. Subsection (4) defines what is meant by a reporting authority's "devolved functions" for the purposes of sections 61 to 69 and this section. This term covers functions of a reporting authority which are already effectively governed (or are capable of being governed) by the devolved administrations or devolved legislatures, or where the devolved administrations have related functions, and where no related functions are retained by a Minister of the Crown. This provision includes flexibility so that it will continue to reflect the devolution settlements in the future (for example, if the National Assembly for Wales is given further legislative competence).

304. Subsection (5) sets out the situations where functions which are exercisable by a Minister of the Crown are not to be treated as preventing a reporting authority's function being a "devolved function" under subsection (4). Paragraph (a) covers situations where a Minister of the Crown only has a listed continuing or intervention function. Paragraph (b) covers situations where a Minister of the Crown is only required to agree to the exercise of a function by the devolved authority and paragraph (c) covers situations where a Minister of the Crown's only function is to be consulted by the devolved authority.

305. Subsection (6) defines what is meant by a reporting authority's "devolved Welsh functions". This term covers functions of a reporting authority which are already effectively governed (or are capable of being governed) by the Welsh Ministers or the National Assembly for Wales, or in relation to which the Welsh Ministers, the First Minister or the Counsel General have related functions.

306. Subsection (7) sets out some situations in which a reporting authority's functions are not to be treated as "devolved Welsh functions". These are situations in which the Welsh Ministers, the First Minister or the Counsel General have the function only of giving or withholding consent to exercise of functions by, or being consulted by, a Minister of the Crown.

Part 5**: Other provisions**

Waste reduction schemes

Section 71 and Schedule 5**: Waste reduction schemes**

307. This section and Schedule 5 (which it introduces) allow for the making of waste reduction schemes, which are schemes to incentivise occupiers of domestic premises to produce less waste and recycle more of what they produce.

308. Subsection (1) provides for Schedule 5 to amend the Environmental Protection Act 1990 (c.43). It does so by adding to that Act a new section 60A, which provides that a waste collection authority whose area is in England may make a waste reduction scheme in accordance with a new Schedule to that Act, Schedule 2AA. It is Schedule 2AA which details what a waste reduction scheme is and how it must be made.

309. Subsection (2) provides that Schedule 5 may only be brought into force in accordance with sections 72 to 75, which allow the Secretary of State to designate certain areas where waste collection authorities may make waste reduction schemes on a pilot basis. Following the pilots, the power for authorities to make waste reduction schemes may be rolled out to all other areas in England, if the Secretary of State so decides.

310. Subsection (3) provides that for the purposes of sections 72 to 75, "the waste reduction provisions" means the provisions inserted by Schedule 5 and any subordinate legislation made under those provisions.

Schedule 5*: Waste reduction schemes*

311. Paragraph 1 inserts a new section, section 60A, into the Environmental Protection Act 1990, allowing a waste collection authority in England to make a scheme in accordance with new Schedule 2AA.

312. Paragraph 2 inserts a new Schedule, Schedule 2AA, into the Environmental Protection Act 1990 (see below).

313. Paragraph 3 amends the Environmental Protection Act 1990 by inserting two new subsections into section 46 (receptacles for household waste) and making consequential amendments to section 46. Section 46 allows local authorities to serve a notice requiring occupiers to place waste for collection in receptacles of a kind and number specified. The amendments allow local authorities which are operating waste reduction schemes to require occupiers to place waste for collection in receptacles identified by specified means, either in addition or as an alternative to requiring them to place waste in specified receptacles.

314. Paragraph 4 amends section 161 of the Environmental Protection Act 1990 (regulations, orders and directions) in order to specify which Parliamentary procedure shall apply to certain statutory instruments made pursuant to the waste reduction provisions. Paragraph 4(2) inserts new section 161(2ZA), which, in combination with paragraph 16(5) of Schedule 2AA, provides that a statutory instrument containing regulations made under paragraph 11 of Schedule 2AA (power to make provision as to administration etc) which modify an Act of Parliament shall be subject to the affirmative resolution procedure. Paragraph 4(3) inserts new section 161(4)(aa), which provides that the following orders made pursuant to Schedule 2AA shall be subject to the affirmative resolution procedure: those orders made under paragraph 2(3) (conditions for making waste reduction scheme), 6(2) (requirement of revenue-neutrality), 15(2) (interpretation), or an order made under paragraph 5(1) (charging: supplementary provisions) where paragraph 16(3) applies.

New Schedule 2AA of the Environmental Protection Act 1990

315. *New* Schedule 2AA, consisting of sixteen paragraphs, sets out the detailed rules regarding waste reduction schemes.

316. Paragraph 1(1) describes the purpose of a waste reduction scheme, being to provide a financial incentive to produce less domestic waste and recycle more of what is produced, thus reducing the amount of residual domestic waste. Paragraph 1(2) provides that a scheme may cover the whole

or any part of the area of a waste collection authority, and that it may apply to all domestic premises, to domestic premises other than those of a description specified in the scheme, or to those domestic premises whose descriptions are specified in the scheme.

317. Paragraph 2(1) sets out certain conditions which a waste collection authority must have satisfied before it puts a scheme into effect, being (a) that a good recycling service is available to the occupiers of premises within the scheme, and (b) that the scheme takes account of the needs of groups who might be unduly disadvantaged by it, and (c) that the authority has a strategy for preventing, minimising or otherwise dealing with the unauthorised deposit or disposal of waste.

318. Paragraph 2(2)(a) defines a "recycling service" as arrangements for the collection of recyclable domestic waste from premises separately from other waste, and paragraph 2(2)(b) defines a "good" recycling service as a service which meets the standards specified in guidance issued by the Secretary of State. Paragraph 2(3) allows the Secretary of State by order, subject to the affirmative resolution procedure, to amend paragraph 2(1) and (2).

319. Paragraphs 3 to 6 deal with the rules on how authorities may impose charges and give rebates or make payments within a scheme.

320. Paragraph 3(1) states that a waste reduction scheme must provide for a financial incentive which the authority considers will be effective to achieve the purpose of the scheme. Under paragraph 3(2), this incentive may be provided by means of rebates from council tax or by other payments, or by means of charges under paragraph 4, or by any combination of those means.

321. Paragraph 4(1) allows a waste reduction scheme to include provision for charging occupiers by reference to the amount of residual waste collected, the size of receptacles used, the number of receptacles, or the frequency of collection, or by any combination of these factors. Paragraph 4(2) allows that the scheme may in particular require occupiers, by notice under section 46 of the Environmental Protection Act 1990, to place residual waste in receptacles of a specified kind and/or to identify such receptacles in a specified way.

322. Paragraph 4(3) specifies that a charge under paragraph 4 in respect of a receptacle is in addition to any charge under section 46 of the Environmental Protection Act 1990 in respect of the cost of providing the receptacle. Paragraph 4(4) specifies that the amount of any charge under paragraph 4 need not be related to the authority's costs.

323. Paragraph 4(5) allows a scheme to provide as to the person or persons by whom any charge is payable. Paragraph 4(6) allows a scheme to require any charge to be paid in advance on the basis of an estimate of the amount likely to be payable, or to require payments to be made on account or by instalments.

324. Paragraph 5 sets out supplementary provisions in relation to charging. Paragraph 5(1) allows the Secretary of State by order to limit the amount of a charge under paragraph 4 that may be imposed in respect of any premises in any financial year. Paragraph 16(2) and (3) provides that an order under paragraph 5(1) is subject to the negative resolution procedure, except where it is the first such order to be made or if, on subsequent occasions, it increases the charge limit by more than is necessary to reflect changes in the value of money.

325. Paragraph 5(2) provides that where an occupier fails to pay a charge under paragraph 4 this does not affect an authority's duty under section 45(1)(a) of the Environmental Protection Act 1990 to arrange for collection of the occupier's household waste.

326. Paragraph 5(3) provides that section 45(3) of the Environmental Protection Act 1990, which places a general prohibition on charging for collection of household waste, takes effect subject to the ability of authorities to make charges under paragraph 4.

327. Paragraph 6(1) provides that from year to year, and taking one year with another, the aggregate amount of charges under a waste reduction scheme must not exceed the aggregate amount of the rebates or other payments under the scheme. This means that where the payment of charges is required, schemes must be revenue neutral. Paragraph 6(2) allows the Secretary of State by order to amend paragraph 6(1). Paragraph 6(3) stipulates that any such order amending paragraph 6(1) may also make consequential amendments to paragraph 4(4). Any order under paragraph 6 will be subject to the affirmative resolution procedure.

328. Paragraph 7(1) states that an authority must comply with the requirements in paragraph 7(2) and (3) on communicating the provisions of a scheme, before the scheme comes into operation. Paragraph 7(2) provides that an authority must publish the scheme in such manner as it considers appropriate. Paragraph 7(3) provides that an authority must send to the occupier of any premises within a scheme a notice detailing the requirements of the scheme with regard to collection, any rebates or other payments available and the manner in which they are to be made, and any charges and the manner in which they are to be collected.

329. Paragraph 8 provides that a scheme must contain provision enabling a person to appeal against any decision affecting, directly or indirectly, that person's entitlement to a rebate or other payment, or liability to pay a charge, under the scheme.

330. Paragraph 9(1) provides that an authority must keep a separate account of any rebates or other payments under the scheme and any charges received by it under the scheme. Paragraph 9(2) allows any person interested to inspect the account and make copies of it or any part of it, at any reasonable time and without payment. Paragraph 9(3) and (4) provide that it is an offence for any person having custody of the account to obstruct intentionally a person exercising their rights under paragraph 9(2), and that a person guilty of such an offence is liable to a fine not exceeding level 3 on the standard scale (currently £1000).

331. Paragraph 10(1) provides that where a waste collection authority that operates a scheme is not also the waste disposal authority for that area, the waste disposal authority may pay to the collection authority contributions of such amounts as the disposal authority may determine towards expenditure of the collection authority which is attributable to the scheme. The possibility of such payments by the disposal authority has been provided for because a disposal authority may benefit from a scheme by having less waste to deal with, but such a benefit would arise from the implementation of a waste reduction scheme by the collection authority.

332. Paragraph 10(2) provides that the collection authority must supply information to the disposal authority to enable the disposal authority to determine the appropriate level of payment under paragraph 10(1).

333. Paragraph 11 gives the Secretary of State the power to make regulations as to the administration of waste reduction schemes. Regulations under this paragraph are subject to the negative resolution procedure unless they amend an Act of Parliament (section 161(2ZA) of the Environmental Protection Act 1990).

334. Paragraph 11(1) enables such regulations to make provision about how the amount of any rebate or other payment is to be determined and how it is to be given, and how the amount of any charge is to be determined and how it is to be collected or enforced.

335. Paragraph 11(2) makes clear that such regulations may in particular provide for appeals against determination or any failure to make a determination, for the appointment of persons or bodies to hear appeals, and for charges to be recoverable, if a county court so orders, as if they were payable under a county court order,

336. Paragraph 11(3) allows the regulations to provide that the administration of a waste reduction scheme may be integrated with the administration of council tax (and by sub-paragraph (3)(b) the regulations may provide for consequential modification of council tax legislation). Paragraph 11(4) provides further detail on this: in particular, the regulations may provide: (a) for including material relating to the scheme in the council tax demand notice, (b) for applying the procedure for appeals about liability to council tax to questions arising under the scheme, and (c) for applying the procedures on enforcement of council tax liability to any liability under the scheme.

337. Paragraph 12 allows an authority to use information it obtains under council tax legislation for the purposes of administering a waste reduction scheme.

338. Paragraph 13(1) allows an authority to amend or revoke its scheme. Paragraph 13(2) provides that, before bringing an amendment into operation, the authority must publish the amended scheme in such manner as it thinks appropriate and, if the amendment affects any matters previously notified to occupiers, send a notice to the occupier of any premises within the scheme explaining the effect of the amendment.

339. Paragraph 13(3) states that the amendment or revocation of a scheme does not affect any entitlement or liability under the scheme in respect of a period before the amendment or revocation takes effect. Paragraph 13(4) states that the revocation of a scheme does not affect the duty of an authority to comply with paragraph 6(1), the requirement of revenue-neutrality.

340. Paragraph 14(1) allows the Secretary of State to issue guidance to waste collection authorities and waste disposal authorities as to the exercise of their functions in relation to waste reduction schemes. Paragraph 14(2) provides that any such guidance must be published in such manner as the Secretary of State considers appropriate and may be amended or replaced by further guidance, or revoked. Paragraph 14(3) provides that waste collection authorities and waste disposal authorities must have regard to any such guidance.

341. Paragraph 15(1) defines the terms “domestic premises”, “domestic waste”, “enactment”, “recyclable waste”, “residual domestic waste” and “specified” used in Schedule 2AA. Paragraph 15(2) allows the Secretary of State by order, subject to affirmative resolution, to amend the definition of “domestic premises”. Paragraph 15(3) states that references in Schedule 2AA to recycling include re-using and composting.

342. Paragraph 16 sets out the details of which Parliamentary procedure applies to certain powers within Schedule 2AA to make order and regulations.

343. Paragraph 16(1) provides that the affirmative resolution procedure applies to an order made under paragraph 2(3) (amending the conditions for making a scheme), paragraph 6(2) (amending the requirement of revenue-neutrality) or paragraph 15(2) (amending the definition of “domestic premises”).

344. Paragraph 16(2) and paragraph 16(3) provide that the negative resolution procedure applies to an order made under paragraph 5(1) (setting a limit on the amount of the charge), except where it is the first such order to be made or where it increases the limit by more than is necessary to

reflect changes in the value of money since the limit was previously set, in which cases the affirmative resolution procedure applies.

345. Paragraph 16(4) and paragraph 16(5) provide that the negative resolution procedure applies to regulations made under paragraph 11 (making provision as to administration), except where they modify an Act of Parliament, in which case the affirmative resolution procedure applies.

346. Paragraph 16(6) provides that where an order or regulations are subject to the affirmative resolution procedure, they must be approved by each House of Parliament before they are made.

Section 72**: Waste reduction provisions: piloting**

347. This section provides for the piloting of waste reduction schemes.

348. Subsection (1) provides that a waste collection authority which wishes to make a pilot waste reduction scheme in its area must submit its proposals to the Secretary of State for approval. If the Secretary of State considers that the proposals are suitable for piloting one or more aspects of the waste reduction provisions, the Secretary of State may make an order designating the area of that authority as a pilot area, so that the authority may make a scheme in accordance with the approved proposals.

349. Subsection (2) provides that a maximum of five areas can be designated as pilot areas.

350. Subsection (3) stipulates what the Secretary of State's order designating a pilot area must provide. The order must state that the waste reduction provisions shall have effect in relation to that area for the purpose of enabling the authority to make and operate the proposed scheme, and state the period for which the waste reduction provisions are to be allowed to take effect.

351. Subsection (4) allows the Secretary of State, in making subordinate legislation or issuing guidance about waste reduction schemes, to make different provision for different pilot areas, and the Secretary of State may exercise these powers at any time after section 72 has come into force (see section 100 — section 72 comes into force two months after the Act receives Royal Assent).

352. Subsection (5) provides that, where subordinate legislation in draft would otherwise be treated as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

Section 73**: Waste reduction provisions: report and review**

353. Subsection (1) imposes on the Secretary of State a duty to lay before Parliament a report on how the waste reduction provisions have operated in each pilot area.

354. Subsection (2) provides that the report must contain: a description of the scheme and how it compares with other schemes, a copy of the designation order, a description of how the relevant enactments and guidance in that pilot area differed from that applying in other pilot areas and in areas not designated, and an assessment of whether a scheme has been successful.

355. Subsection (3) provides that the Secretary of State's report must also review the waste reduction provisions in the light of their operation in the relevant pilot area or areas.

Section 74**: Waste reduction provisions: interim report**

356. Subsection (1) provides that, if the Secretary of State considers that it will not be possible to lay a report under section 73 in relation to a pilot area within three years of this Act being passed, the Secretary of State must lay an interim report within the three years.

357. Subsection (2) provides that the interim report must contain: a description of the scheme and how it differs from other such schemes, a copy of the designating order, and a description of how the enactments and guidance applying in that pilot area differ from those applying in other pilot areas and in non-pilot areas.

358. Subsection (3) provides that, where a scheme has not yet been implemented, the interim report must describe progress towards its implementation.

359. Subsection (4) provides that, where a scheme has been implemented, the interim report must describe its operation and assess progress towards its objectives, if such an assessment can reasonably be made.

Section 75**: Waste reduction provisions: roll-out or repeal**

360. Subsection (1) states that subsections (2) to (6), which provide for the Secretary of State to roll out or repeal the waste reduction provisions, apply after the Secretary of State has laid a report before Parliament in accordance with section 73.

361. Subsection (2) provides two options should the Secretary of State wish to roll out the waste reduction provisions generally so as to allow a scheme to be made for any area. Subsection (2)(a) allows the Secretary of State to make an order providing that the provisions shall come into force generally on a date specified in the order. Alternatively, subsection (2)(b) allows the Secretary of State to make an order making such amendments to the provisions as appear necessary or expedient in the light of how they operated in the pilot areas, and to provide that the provisions as so amended shall come into force generally on a date specified in the order.

362. Subsection (3) and subsection (4) provide that amendments made by an order under subsection (2)(b) may include provision for the Secretary of State to make subordinate legislation, in which case the amendments should also provide for such subordinate legislation to be subject to either the negative resolution procedure or the affirmative resolution procedure, as the Secretary of State thinks fit.

363. Subsection (5) provides that, should the Secretary of State decide not to make an order under subsection (2) which rolls out the waste reduction provisions generally, he must make an order repealing the provisions.

364. Subsection (6) provides that any order made under subsection (2)(b) or (5) must be made by affirmative resolution.

Collection of household waste

Section 76**: Collection of household waste**

365. Section 76 amends section 46 of the Environmental Protection Act 1990 to insert a new subsection (11), which provides that a waste collection authority is not obliged to collect household waste placed for collection in contravention of a requirement under section 46. The amendment applies in both England and Wales.

Charges for single use carrier bags

Section 77 and Schedule 6**: Charges for single use carrier bags**

366. This section introduces Schedule 6 and allows for the making of regulations about charges for single-use carrier bags.

367. Subsection (3) defines who is the relevant national authority for the purposes of making regulations under the Schedule; this is the Secretary of State in relation to England, the Welsh Ministers in relation to Wales and the Department of the Environment in Northern Ireland in relation to Northern Ireland.

368. Subsection (4) sets out the circumstances in which the affirmative procedure applies to the making of regulations (that is, where the first set of regulations is made by the relevant national authority under the Schedule, where the regulations contain provisions imposing or providing for the imposition of new civil sanctions, where the regulations increase the maximum amount of a monetary penalty or change the basis on which it is to be determined and where the regulations amend or repeal primary legislation). Otherwise, regulations under the Schedule are subject to the negative resolution procedure.

Schedule 6*: Charges for single use carrier bags*

369. Part 1 of Schedule 6 contains enabling powers to make regulations about charges for single use carrier bags.

370. Paragraph 1 provides a general power for the relevant national authority (defined in section 77(3)) to make regulations about charging by sellers of goods for the supply of single use carrier bags. Powers to define what is meant by “sellers” and by “single use carrier bags” are set out in paragraphs 3 and 5.

371. Paragraph 2 provides that the regulations may require sellers of goods to charge for single use carrier bags supplied either at the place where the goods are sold, or for the purpose of delivering goods.

372. Paragraph 3 provides that “sellers” of goods are to be defined in the regulations, including by reference to one or more of the following: a person's involvement in selling goods or a person's interest in the goods or in the premises at or from which the goods are sold. It provides that the regulations may apply to a range of different sellers, including all sellers of goods, sellers named in the regulations and sellers identified by reference to factors specified in the regulations. The factors that may be specified in the regulations may include the place from which the goods are sold, the type and value of goods supplied and the seller's turnover.

373. Paragraph 4 provides that the regulations may specify the minimum amount that sellers must charge for each single use bag or provide for that amount to be determined in accordance with the regulations.

374. Paragraph 5 provides that the definition of a ‘single-use carrier bag’ is to be included in the regulations, which may be by reference to technical specifications such as a bag's size, thickness or composition and/or its intended use.

375. Paragraph 6 contains powers to appoint an administrator to administer the provisions made by the regulations. It also provides that the regulations may confer powers and duties on the administrator to enable it to carry out its functions.

376. Paragraph 7 provides that the regulations may require records to be kept in relation to charges made for single use carrier bags, including records relating to the amounts received by the seller by way of charges and the uses to which the proceeds of the charge are put. The regulations may also require that this information is published and is made available to the relevant national authority, an administrator or members of the public upon request.

377. Paragraph 8 provides that the regulations may confer powers and duties on an administrator in order to enforce the regulations and in particular, to enable the administrator to obtain relevant documents and information where the administrator reasonably believes that there has been a breach of the regulations.

378. Part 2 of Schedule 6 sets out the provision that may or must be made in relation to civil sanctions for breaches of other aspects of the regulations made under the Schedule.

379. Paragraph 9 contains a power for the relevant national authority to include in regulations civil sanctions to deal with breaches of requirements in the regulations. Civil sanctions may take the form of fixed monetary penalties (defined in paragraph 10) and discretionary requirements (defined in paragraph 12).

380. Paragraph 10 provides that the regulations may grant an administrator a power to issue fixed penalty notices not exceeding £5,000 to any person who breaches the regulations. The notices may only be issued in cases where the administrator is satisfied on the balance of probabilities that a breach of the regulations has occurred.

381. Paragraph 11 specifies certain minimum requirements that regulations providing for fixed monetary penalties must include. In particular, before the administrator can impose a penalty it must first issue a 'notice of intent'. The person subject to this notice will then have the opportunity to make written representations and objections against the penalty. Alternatively, the person could choose to discharge liability for the penalty by paying a discharge payment of a specified amount which must be no more than the penalty. Any representations or discharge payment must be made within 28 days of receipt of the notice, or such shorter period as prescribed by the notice of intent. If a discharge payment is made, no further action will be taken against that person.

382. After this period, if the administrator chooses to impose the penalty, it must issue a 'final notice' setting out certain specified information such as the grounds for imposing the penalty and how payment may be made. Paragraph 11 also sets out the provision that may be made by regulations as to the right of appeal against the decision to impose a fixed penalty notice and the minimum grounds on which an appeal may be brought.

383. Paragraph 12 provides that the regulations may grant an administrator the power to impose, by notice, one or more requirements ("discretionary requirements") on a person. These requirements are:

> The payment of a monetary penalty of an amount that the administrator will determine ("variable monetary penalty");
> • To take such steps as may be specified by an administrator within such time period as the administrator may specify to ensure that the incident of non-compliance does not continue or recur ("non-monetary discretionary requirement").

384. The administrator must be satisfied on the balance of probabilities that a person has breached the regulations before imposing such a requirement. The regulations must provide that variable monetary penalties are capped to a maximum amount to be specified in, or determined in accordance with, the regulations.

385. Paragraph 13 specifies certain minimum requirements that regulations providing for discretionary requirements must include. In particular, the provisions must require the administrator to serve a notice on the person of its intention to impose discretionary requirements on that person and the time within which the recipient can make representations and objections (which cannot be less than 28 days from receipt of the notice) against the proposed sanction.

386. After the end of the time for making representations and objections, the administrator can then decide whether to impose, withdraw or vary the discretionary requirement or replace it with a different requirement.

387. Where the administrator decides to impose a discretionary requirement, this must be done by way of a notice. The final notice must contain the information set out in sub-paragraph (4), including the person's right of appeal against the sanction.

388. Sub-paragraph (5) sets out the minimum grounds for appeal against the discretionary requirement that must be available.

389. By virtue of paragraph 14, the regulations providing for discretionary requirements may also allow an administrator to issue a monetary penalty by notice for the failure to comply with a non-monetary discretionary requirement (a “non-compliance penalty”). Non-compliance penalties are not available for failure to pay a variable monetary penalty. Failure to pay any monetary penalty can lead to the administrator recovering the amount due through civil debt procedures or as if payable under court order (see paragraph 16).

390. Paragraph 15 provides that an administrator cannot be granted power to impose both a fixed monetary penalty and a discretionary requirement in relation to the same breach.

391. Paragraph 16 provides that regulations providing for civil sanctions may make provision for discounts for early payment of a monetary penalty and for the payment of interest or a financial penalty for late payment of the original penalty. The total amount of any late payment penalty must not exceed the total amount of the penalty imposed. It provides for the enforcement of unpaid penalties (and any interest or late payment charges) through the civil courts. It also allows the regulations to create a more streamlined process of recovery by treating the penalty as if it were payable under a court order.

392. Paragraph 17 provides that regulations may confer power on the administrator to recover its costs, by notice, from a person on whom a discretionary requirement is imposed. The costs are those incurred by the administrator in relation to the imposition of the sanction, up to the point of its imposition, and include investigation costs, administration costs and the costs of obtaining expert (including legal) advice. The person is not required to pay any costs he can show have been unnecessarily incurred. It requires that, where a costs notice is served, the person subject to the notice has a right of appeal against the decision of the administrator regarding payment of costs.

393. Paragraph 18 contains certain procedural provisions for appeals from civil penalties. In particular, it provides that appeals must be heard by the First-tier Tribunal (established under the Tribunals, Courts and Enforcement Act 2007 (c.15)) or another tribunal created under an enactment.

394. Paragraph 19 provides that the regulations may confer a power on an administrator to issue a publicity notice to a person on whom a civil sanction has been imposed. Such a notice would require the recipient to publicise, at their own cost, that a sanction has been imposed, as well as such other information as may be specified in the regulations. If the person fails to publish the notice as required, the regulations may provide for the administrator to publish the notice and to recover the costs from the person to whom the notice relates.

395. Paragraph 20 provides that the regulations may make provision for officers of a body corporate and partners of a partnership to be liable to civil sanctions.

396. Paragraph 21 provides that where an administrator is to have the power to impose civil sanctions, there is to be a corresponding duty on the administrator to publish guidance containing

certain information about how it will use its civil sanction powers, including details about fixed monetary penalties and discretionary requirements such as: when they are likely to be imposed, how fixed and variable monetary penalties will be determined, how liability for penalties may be discharged and the effect of a discharge and on rights of appeal.

397. Paragraph 22 provides that regulations providing for civil sanctions must secure the publication of reports by the administrator on the use of civil sanctions.

398. Paragraph 23 provides that civil sanction powers may not be conferred on an administrator in regulations unless the relevant national authority is satisfied that the administrator will comply with better regulation requirements.

399. Paragraph 24 requires the relevant national authority to review the operation of the civil sanction provisions set out in regulations three years after they come into force and to publish the results of the review.

400. Paragraph 25 provides the relevant national authority with the power to suspend an administrator's powers to impose civil penalties in certain circumstances by issuing a direction to the administrator. Such directions may be revoked by the relevant national authority. Before issuing a direction, the relevant national authority must consult the administrator and such other persons as it considers appropriate. Any directions issued must be laid before Parliament and must be published.

401. Paragraph 26 provides for money received from penalties to go the relevant national authority's Consolidated Fund.

402. Part 3 of Schedule 6 makes further provision about the procedures to be followed when making regulations about charges for single use carrier bags.

403. Paragraph 27 set out the procedure to be followed where regulations are made by a single national authority. Sub-paragraphs (2) and (3) set out the affirmative resolution procedure applying in Parliament and the devolved legislatures. Sub-paragraphs (4) to (6) set out the negative resolution procedure applying in Parliament and the devolved legislatures. Sub-paragraph (7) allows any regulations that could be made using the negative resolution procedure to be made using the affirmative procedure; this will allow, say, amendments which would otherwise have to be made using different procedures to be made in the same instrument.

404. Paragraph 28 sets out the procedure where regulations are made jointly between the Secretary of State and/or the Welsh Ministers and/or the Department of the Environment in Northern Ireland. The affirmative and negative procedures apply as they do in paragraph 27. If either House of Parliament or the relevant devolved legislature does not approve the instrument, then the instrument cannot be made.

405. Paragraph 29 provides that where regulations made under the Schedule would otherwise be treated as a hybrid instrument under the standing orders of either House of Parliament, the instrument is to proceed as if it were not a hybrid instrument.

Renewable transport fuel obligations

Section 78 and Schedule 7**: Renewable transport fuel obligations**

406. This section introduces Schedule 7 to the Act. Schedule 7 amends Chapter 5 of Part 2 of the Energy Act 2004 which enables the Secretary of State to set up a renewable transport fuel obligations scheme ("RTFO scheme") by order ("RTF order").

407. An RTFO scheme is a scheme that requires specified transport fuel suppliers to produce evidence that for a specified period a specified amount of renewable transport fuel has been supplied at or for delivery to places in the United Kingdom. "Specified" for these purposes means specified in or determined in accordance with the RTF order. A "transport fuel supplier" means a person who, in the course of any business of his, supplies transport fuel at or for delivery to places in the United Kingdom. Renewable transport fuel means:

a) biofuel (a liquid or gaseous fuel that is produced wholly from biomass);

b) blended biofuel (a liquid or gaseous fuel consisting of a blend of biofuel and fossil fuel);

c) any solid, liquid or gaseous fuel (other than fossil fuel or nuclear fuel) which is produced wholly by energy from a renewable source or wholly by a process powered wholly by such energy; or

d) any solid, liquid or gaseous fuel which is of a description of fuel designated by an RTF order as renewable transport fuel.

408. The Renewable Transport Fuel Obligations Order 2007 ("2007 order") was made under existing powers in the Energy Act 2004 on 25th October 2007. The 2007 order set up an RTFO scheme with the first obligation period to commence on 15th April 2008. The 2007 order also established the Office of the Renewable Fuels Agency (a non-departmental public body) ("RFA") and appointed the RFA as Administrator of the scheme.

409. The main changes to the Energy Act 2004 contained in Schedule 5 are explained in the following paragraphs. Some of the changes will enable the RTFO scheme to be altered by order in the future. These include the powers to appoint a new Administrator and transfer functions accordingly (in new section 125C) and the provisions about payments received by the Administrator under the scheme (in section 128 as amended). Other amendments will apply in relation to the scheme as soon as they come into force, such as the duty on the Administrator to promote renewable fuels which have a beneficial environmental effect (in new section 125A), the powers for the Secretary of State to give directions (in new section 125B and section 126 as amended) and the provisions for disclosure of information to the Administrator by Her Majesty's Revenue and Customs (in new sections 131A to 131C).

410. Paragraph 2 substitutes new sections 125, 125A, 125B and 125C of the Energy Act 2004 for the existing section 125 of that Act.

411. New section 125 deals with the appointment of the first Administrator of the RTFO scheme. The 2007 order appointed the RFA as the Administrator under section 125 as it currently stands. New section 125 replicates the provision currently in section 125 allowing an RTF order to establish a body corporate and to appoint that body as the Administrator. It will preserve the effect of the 2007 order.

412. New section 125A allows an RTFO order to confer or impose functions on the Administrator. It also imposes a new duty on the Administrator to promote the supply of renewable transport fuel which by its production, supply or use, causes or contributes to the reduction of carbon emissions and contributes to sustainable development or to environmental protection or enhancement.

413. New section 125B(1) makes further provision about the functions of the Administrator. Paragraphs (a) and (b) re-enact the provision currently in section 125(3)(a) and (b) of the Energy

Act in enabling powers to be conferred on the Administrator to require information from fuel suppliers; paragraph (c) re-enacts the provision currently in section 125(3)(c) of the Energy Act in enabling powers to be conferred on the Administrator to impose charges on fuel suppliers. Subsection (2) creates a new power for the Secretary of State to give written directions to the Administrator about the exercise of his powers conferred by virtue of subsection (1)(a) or (b). The Administrator must comply with any such directions. The power includes power to revoke or vary any directions given. This power may be used for example to direct the Administrator to collect information in a particular form or using a particular methodology to show the carbon savings achieved by renewable transport fuel supplied and certificated under the RTFO scheme.

414. New section 125B(5) replaces the provisions of section 125 of the Energy Act 2004 which set out what the Administrator must do with money that he receives from charges imposed on transport fuel suppliers by an RTF order (although the 2007 order does not impose any such charges). It alters the current requirement that any such charges must be used to meet the Administrator's costs by providing that if the Administrator is the Secretary of State any charges must be paid into the Consolidated Fund.

415. New section 125C creates a new power for the Secretary of State by order to replace an existing Administrator with a new Administrator and to provide for the transfer of functions, staff, property, rights and liabilities from the old to the new Administrator. The new Administrator can be the Secretary of State or an existing statutory body or a body corporate established under this new power.

416. The new power is subject to the negative resolution procedure unless it is used to establish a new body corporate or to modify an Act of Parliament, Act of the Scottish Parliament, Act or Measure of the National Assembly for Wales or an Act of the Northern Ireland Assembly, in which case the affirmative resolution procedure will apply.

417. Paragraph 3 amends section 126 of the Energy Act 2004 which enables an RTF order to make provision about how amounts of transport fuel may count towards discharging obligations imposed by an RTFO scheme. New section 126(5) means that if a future RTF order makes such provision by reference to a document it may provide for references to the document to have effect as references to it as revised or re-issued from time to time. This will enable reference to be made to international standards for carbon and sustainability without the need to amend the order whenever those standards are revised.

418. Paragraph 3 also amends section 126 of the Energy Act 2004 to create a new power for the Secretary of State to give written directions to the Administrator about the exercise of any of the Administrator's functions in connection with counting or determining amounts of transport fuel for the purpose of the RTFO scheme. The Administrator must comply with any such directions. The power includes power to revoke or vary any directions given. This power may be used for example to direct the Administrator to use a particular methodology if a future RTF order requires amounts of transport fuel to be counted or determined by reference to its effects on carbon emissions or sustainable development.

419. Paragraph 4 amends the provisions of the Energy Act 2004 which set out what the Administrator must do with money he receives when administering the RTFO scheme from buy-out payments.

420. Currently, the powers in section 128 of the Energy Act 2004 mean that the Administrator may (if an RTF order so provides, as the 2007 order does) receive buy-out payments from transport fuel suppliers who choose to buy-out their obligation rather than supply the specified amount of renewable

transport fuel. By section 128(7) such sums must be paid to transport fuel suppliers under a system of allocation specified in the RTF order (subject to first meeting the costs of the Administrator if the RTF order so provides under the power in section 128(6), which the 2007 order does not).

421. As a result of amendments to section 128 by paragraph 4, where the Administrator is the Secretary of State new section 128(6)(a) will require the buy-out payments to be paid into the Consolidated Fund. But new section 128(6)(b) will allow (but not require) the RTF order to provide for the Secretary of State to make payments to transport fuel suppliers under a system of allocation specified in the order. The RTF order must ensure that the total paid out does not at any time exceed the total of the buy-out payments received up to that time (new section 128(7)).

422. If the Administrator is a person other than the Secretary of State, it will be possible for the RTF order to provide instead that the Administrator must use some or all of the buy-out payments to meet his costs or must pay some or all of the buy-out payments to the Secretary of State (in which case they will be payable by him into the Consolidated Fund) (new section 128(8)). To the extent that the payments are not dealt with in this way, they will have to be paid to transport fuel suppliers under a system of allocation specified in the RTF order (new section 128(9)).

423. Paragraph 5 amends section 129(7) of the Energy Act 2004 which currently provides that civil penalties received by the Administrator under an RTF order must be paid to the Secretary of State for payment into the Consolidated Fund. The amendment makes it clear that, if the Secretary of State is the Administrator, he is to pay those sums into the Consolidated Fund directly.

424. Paragraph 6 inserts into the Energy Act 2004 new sections 131A, 131B and 131C which make provision enabling information to be disclosed by Her Majesty's Revenue and Customs (“HMRC”) to the Administrator, as well as prohibiting further disclosure of the information. The information in question is restricted to information held in connection with HMRC's functions under or by virtue of the Hydrocarbon Oil Duties Act 1979. This is to limit the information to that which is relevant to the Administrator's functions.

425. New section 131A permits the information to be disclosed to the Administrator or an authorised person (a person who provides services to or acts on behalf of the Administrator and is authorised by the Administrator to receive the information).

426. New section 131B prohibits the disclosure of the information by the Administrator, an authorised person or any other person who obtains it in the course of providing services to or acting on behalf of the Administrator, except in certain specified cases (for example a disclosure required by a court order). The restrictions on further disclosure only apply to information received under new section 131A that has not also been received by the Administrator or an authorised person by another means.

427. Wrongful disclosure contrary to new section 131B is an offence under new section 131C if the information is about a person who is identified in or identifiable from the disclosure. The offence is triable either summarily or on indictment. Section 131C provides that a person convicted on indictment may be imprisoned for up to 2 years or fined or both, and that on summary conviction a person is liable to imprisonment for up to 12 months or to a fine not exceeding the statutory maximum (currently £5000) or both. It also provides that, in England and Wales, the penalty on summary conviction of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force will be 6 months' imprisonment. The same penalty will apply in Northern Ireland. A person charged with an offence under new section 131C has a defence if he can prove

that he reasonably believed that the disclosure was lawful or that the information was already lawfully in the public domain.

Carbon emissions reduction targets

Section 79 and Schedule 8**: Carbon emissions reduction targets**

428. This section introduces Schedule 8 to the Act, which makes amendments to the provisions of section 33BC of the Gas Act 1986, section 41A of the Electricity Act 1989 and section 103 of the Utilities Act 2000 which relate to powers of the Secretary of State to set carbon emission reduction targets.

Schedule 8*: Carbon emissions reduction targets*

429. Paragraph 1 makes amendments to section 33BC of the Gas Act 1986.

430. Paragraph 1(1) introduces the amendments to section 33BC of the Gas Act 1986. Section 33BC is the enabling power which allows the Secretary of State to impose carbon emissions reduction obligations on those gas companies falling within its scope.

431. Paragraph 1(2) inserts a new subsection (1A) into section 33BC of the Gas Act 1986. Subsection (1A) allows the Secretary of State to exercise the power (to impose carbon emissions reduction obligations) so as to impose more than one obligation on a person in relation to the same period or periods which may overlap.

432. Paragraph 1(3) inserts a new paragraph (ba) into section 33BC(5) of the Gas Act 1986. The new paragraph gives the Secretary of State the power to require the whole or any part of a carbon emissions reduction target to be met by action promoted to persons of a specified description, action promoted in specified areas or a combination of the two.

433. Paragraph 1(4) inserts a definition of “specified” into section 33BC (13). This is necessary as a result of the new paragraph (ba) (introduced by paragraph 1(3)) allowing the Secretary of State to specify persons to whom or areas in which action must be promoted by those under a carbon emissions reduction obligation.

434. Paragraphs 2 and 3 make amendments to the Electricity Act 1989.

435. Paragraph 2 inserts a definition of “electricity generators” into section 6(9) of the Electricity Act 1989.

436. Paragraph 3(1) introduces amendments to section 41A of the Electricity Act 1989. Section 41A is the enabling power which allows the Secretary of State to impose carbon emissions reduction obligations on those electricity companies falling within its scope.

437. Paragraph 3(2) widens the scope of the enabling power in section 41A(1) so that it includes electricity generators. This is achieved by the insertion of a new paragraph (za) into section 41A(1). As a result of this amendment the Secretary of State may exercise the enabling power so as to impose a carbon emissions reduction obligation on electricity generators, electricity distributors and electricity suppliers. To date, under section 41A, the Secretary of State has only exercised the power in relation to electricity suppliers.

438. Paragraph 3(3) makes a similar amendment to that made by paragraph 1(2).

439. Paragraph 3(4) makes a consequential amendment to section 41A(3) which is necessary as a result of bringing electricity generators within the scope of section 41A(1).

440. Paragraph 3(5) makes consequential amendments to section 41A(4) which are necessary as a result of bringing electricity generators within the scope of section 41A(1).

441. Paragraph 3(6) contains a mixture of consequential amendments to section 41A(5) which are necessary as a result of bringing electricity generators within the scope of section 41A(1) but also introduces a new provision. Paragraph 3(6)(b) introduces a new paragraph (ba) into section 41A(5) which reflects the amendment made by paragraph 1(3).

442. Paragraphs 3(7), 3(8), 3(9), and 3(10) make consequential amendments to sections 41A(6), (7)(d), (8)(d) and (11) respectively. All of these amendments are necessary as a result of bringing electricity generators within the scope of section 41A(1).

443. Paragraph 3(11) inserts a definition of "specified" into section 41A(13). This is necessary as a result of the new paragraph (ba) (introduced by paragraph 3(6)(b) into section 41A(5)) allowing the Secretary of State to specify persons to whom or areas in which action must be promoted by those under a carbon emissions reduction obligation.

444. Paragraph 3(12) amends the heading of section 41A so that it reflects the scope of the provision as a result of electricity generators being brought within its scope.

445. Paragraph 4 makes amendments to section 42AA of the Electricity Act 1989.

446. Paragraph 4(1) introduces amendments to section 42AA of the Electricity Act 1989. Section 42AA requires the National Consumer Council to publish information on the standards of performance of electricity suppliers and electricity distributors relating to any carbon emissions reduction obligation imposed on them under section 41A.

447. Paragraphs 4(2) and 4(3) make consequential amendments to section 42AA so as to ensure that electricity generators are within its scope and that the National Consumer Council can publish information relating to their standards of performance relating to any carbon emissions reduction obligation placed upon them in the future.

448. Paragraph 5 makes a consequential amendment to section 64(1) of the Electricity Act 1989 which is necessary as a result of bringing electricity generators within the scope of the power in section 41A. Paragraph 5 amends the definition of "electricity distributor" and "electricity supplier" in section 64(1) so as to include "electricity generator".

449. Paragraph 6 makes amendments to section 103 of the Utilities Act 2000.

450. Paragraph 6(1) introduces amendments to section 103 of the Utilities Act 2000. Section 103 contains a power which relates to the exercise of power under section 33BC of the Gas Act 1986 and section 41A of the Electricity Act 1989. Section 103 provides the Secretary of State with the power to set overall carbon emissions reduction targets.

451. Paragraph 6(2) makes a consequential amendment to section 103(1)(b) which is necessary as a result of electricity generators being brought within the scope of the enabling power in section 41A of the Electricity Act 1989.

452. Paragraph 6(3) inserts a new subsection (1A) into section 103 of the Utilities Act 2000. In light of the amendments introduced by paragraphs 1(2) and 3(3) which allow the Secretary of State to impose more than one carbon emissions reduction obligation on those persons falling within the scope of the enabling powers, paragraph 6(3) introduces a new subsection (1A) which allows the Secretary of State to specify more than one overall carbon emissions reduction target in relation to the same period or periods which overlap to any extent.

453. Paragraphs 6(4) and 6(5) introduce consequential amendments which are necessary as a result of electricity generators being brought within the scope of the enabling power in section 41A of the Electricity Act 1989.

Miscellaneous

Section 80**: Report on climate change: Wales**

454. This section requires the Welsh Ministers to lay before the National Assembly for Wales, from time to time, a report on greenhouse gas emissions and the impacts of climate change on Wales.

455. Subsection (1) requires the Welsh Ministers to include in their report their objectives in relation to greenhouse gas emissions and the impacts of climate change in Wales, the action they (and others) have taken to deal with those emissions and impacts and their future priorities for dealing with them.

456. Subsection (2) requires the Welsh Ministers to set out how they intend to exercise their power to issue directions to reporting authorities under section 67. Subsection (3) provides that this does not affect the Welsh Ministers' general discretion as to how they may exercise their power to issue directions

457. Subsection (4) makes it a requirement that the second and subsequent report under this section should include an assessment of the progress made towards implementing the objectives in earlier reports.

458. Subsection (5) defines “Wales”, for the purpose of this section, by reference to section 158(1) of the Government of Wales Act 2006 (c.32). This definition includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.

Section 81**: Climate change measures reports in Wales**

459. This section devolves to the Welsh Ministers the function under section 3 of the Climate Change and Sustainable Energy Act 2006 (c.19) of preparing an energy measures report in relation to Wales. It also widens the obligation to cover certain other measures and provides that the Secretary of State's consent is required in relation to certain elements of a report.

460. Subsection (2) inserts a new section 3A after section 3 of the Climate Change and Sustainable Energy Act 2006 (c.19). New section 3A requires the Welsh Ministers to prepare a “climate change measures report”, which is a report containing information for Welsh local authorities in relation to measures which they may take and which would or might have certain effects, including (in contrast to section 3) the effect of addressing the impacts of climate change. Subsection (5) of new section 3A requires the Secretary of State's consent where the report contains information about local authority measures in relation to which the Secretary of State has certain functions, exercisable in relation to Wales (for example, the function of making building regulations).

Section 82**: Repeal of previous reporting obligation**

461. This section repeals section 2 of the Climate Change and Sustainable Energy Act 2006 (c.19). The reporting requirements under that section are substantially replicated by the reporting requirements in sections 16 and 36 in Parts 1 and 2 of the Act.

Section 83**: Guidance on reporting**

462. Subsection (1) of this section requires the Secretary of State to publish guidance on how greenhouse gas emissions can be measured or calculated by persons responsible for activities which lead to those emissions. The intention behind the guidance is to support businesses wishing to report on their emissions and to improve the consistency of emissions reporting by those businesses, so that the reports can be more easily understood and compared.

463. Subsection (2) requires the Secretary of State to publish the guidance by 1st October 2009 and subsection (3) allows the Secretary of State to revise the guidance from time to time. Subsection (4) places the Secretary of State under an obligation to consult the other national authorities (see section 95) before publishing or revising any guidance and subsection (5) allows the Secretary of State to publish the guidance in any manner he considers appropriate.

Section 84**: Report on contribution of reporting to climate change objectives**

464. Subsection (1) of this section requires the Secretary of State to carry out a review of the contribution that reporting of greenhouse gas emissions could make to the UK Government's objectives in relation to climate change, and report the conclusions of the review to Parliament by 1st December 2010 (subsection (2)). It is expected that the review will explore the costs and benefits of the reporting of greenhouse gas emissions by businesses, public sector organisations and others.

465. Subsection (3) requires the Secretary of State to carry out his review in consultation with the other national authorities (as defined in section 95).

Section 85**: Regulations about reporting by companies**

466. Subsection (1) of this section places a duty on the Secretary of State, by 6th April 2012, either to make regulations under section 416(4) of the Companies Act 2006 (c.46) requiring companies to include in their Directors' Report such information about emissions as the regulations may require, or to lay before Parliament explaining why he has not done so.

467. Subsection (2) provides that the duty to make regulations is complied with if they concern any specified type of company or any specified category of emissions. The regulations do not have to apply to all of the emissions of all companies.

Section 86**: Report on the civil estate**

468. This section places a duty on the Treasury to make an annual report to Parliament on the progress made towards improving the efficiency and contribution to sustainability of buildings which form part of the Government's civil estate.

469. Subsection (1) sets out the basic duty to make a report to Parliament in respect of each year, beginning with 2008. Subsection (2) provides that the report must contain two specific elements: it must set out the progress made towards reducing the size of the civil estate and progress made towards ensuring that buildings that become part of the civil estate fall within the top quartile of energy performance.

470. Subsection (3) places a duty on the Treasury to include in the report a statement explaining why, if a building which has become part of the civil estate does not fall within the top quartile of energy performance, the building has nevertheless become part of the estate.

471. Subsection (4) provides that each report must be laid before Parliament by 1st June in the year after the year it relates to. So the report in respect of 2008 must be laid before Parliament by 1st June 2009.

472. Subsection (5) provides that the word “building” in this section only applies to buildings which do not use energy for heating or cooling any part of their interior. Subsection (6) provides that a building only forms part of the “civil estate” for the purposes of this section if it is used for central government administration (as opposed to operational activities) and, on the date the Act receives Royal Assent, it is of a description of buildings for which the Treasury has responsibilities in relation to efficiency and sustainability.

473. Subsections (7) and (8) give the Treasury the power to provide, by affirmative resolution order, that buildings of a specified description are or are not to be considered to form part of the civil estate for the purposes of this section.

Section 87**: Power of Ministers and departments to offset greenhouse gas emissions**

474. This section authorises any Minister of the Crown or government department, the Scottish Ministers, the Welsh Ministers and any Northern Ireland department to acquire units, or interests in units, representing reductions in emissions of greenhouse gases, removals of greenhouse gases from the atmosphere and units under cap-and-trade trading schemes.

475. This section therefore enables Her Majesty's Government and the devolved administrations to offset emissions through the purchase of units (often referred to as “carbon credits”) or interests in units (such as the right to buy units at a fixed price at some point in the future). It also allows central government and the devolved administrations to purchase units or interests in units, by arrangement, for other public bodies which do not have to power to do so of their own accord. Units acquired using this power which meet the requirements of regulations under section 26 (carbon units and carbon accounting) may be used to reduce the level of the net UK carbon account (see section 27).

476. Subsection (3) provides that units or interests in units purchased by the Treasury are to be treated as being held by the persons who constitute the Treasury at that time.

Section 88**: Fines for offences relating to pollution**

477. Subsection (1) of this section amends section 105(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16) to enable an increase in the maximum fines on summary conviction that can be provided for under the Pollution Prevention and Control Act 1999 (c.24).

478. This subsection will enable the maximum fines on summary conviction under regulations made under the Pollution Prevention and Control Act 1999 to be brought into line with the equivalent maximum fines under section 33(8) of the Environmental Protection Act 1990 (c.43) in order to ensure consistency in this area of regulation.

479. Subsection (2) amends the Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538) so that such a change is made to those Regulations immediately on commencement of the section. This makes the penalties consistent with those which were imposed for offences against the Waste Management Licensing Regulations 1994 (S.I. 1994/1056).

Part 6**: General supplementary provisions**

Territorial scope of provisions relating to greenhouse gas emissions

Section 89**: Territorial scope of provisions relating to greenhouse gas emissions**

480. This section provides that emissions from sources or other matters occurring in, above or below "UK coastal waters" or on the "UK sector of the continental shelf" count as emissions from the UK.

481. Subsection (2) defines "UK coastal waters" as areas on the land side of the seaward limit of the territorial sea adjacent to the UK (i.e. out to 12 nautical miles), and "the UK sector of the continental shelf" by reference to section 1(7) of the Continental Shelf Act 1964 (broadly, out to 200 nautical miles or the half-way point between countries, whichever is closer).

482. Subsection (3) provides that this section is subject to section 30, which provides that emissions from international aviation and international shipping are not to be regarded as emissions from UK sources for the purposes of Part 1 of the Act, unless regulations have been made to bring them in.

Orders and regulations

Section 90**: Orders and regulations**

483. This section makes general provision in respect of powers to make orders or regulations under the Act. Subsection (3) allows orders or regulations to include supplementary, incidental and consequential provision and to make transitional provision and savings. Subsections (4) and (5) provide that any provision that may be made by order may instead be made by regulations, and vice versa; this is a matter of administrative convenience — the precise form of the instrument has no legal significance.

Section 91**: Affirmative and negative resolution procedure**

484. This section defines the terms "affirmative resolution procedure" and "negative resolution procedure" as they apply to instruments made by the Secretary of State. Subsection (3) provides that the affirmative resolution procedure may be used wherever the negative resolution procedure is stipulated; this will allow provisions which would otherwise have to be made using different procedures to be made in the same instrument. Subsection (4) provides that this section does not apply to instruments making trading schemes (see section 49 and Schedule 3) or instruments in relation to single use carrier bags (see section 77 and Schedule 6), both of which have their own specific procedures.

Interpretation

Section 92**: Meaning of "greenhouse gas"**

485. This section defines the term "greenhouse gas" to include:

- carbon dioxide (CO2);
- methane (CH4);
- nitrous oxide (N2O);
- hydrofluorocarbons (HFCs);
- perfluorocarbons (PFCs);
- sulphur hexafluoride (SF6).

486. The definition of greenhouse gases follows that used in the Kyoto Protocol. Note that the term "targeted greenhouse gas", used in relation to the targets and budgets in Part 1 of the Act, is defined separately in section 24; for the time being, the lists of gases are identical.

487. Subsections (2) to (4) give the Secretary of State a power to amend the definition of "greenhouse gas" by negative resolution order. But the power can only be exercised if the Secretary of State

considers that an international agreement has been reached which recognises that the gas contributes to climate change.

Section 93**: Measurement of emissions etc by reference to carbon dioxide equivalent**

488. This section provides that emissions of greenhouse gases are to be measured or calculated in "tonnes of carbon dioxide equivalent" (defined in subsection (2)); this is to allow for the differing relative forcing effects and atmospheric lifetimes of differing greenhouse gases — for example, over 100 years, a tonne of methane has 23 times the global warming effect of carbon dioxide. These factors are known as "global warming potentials", and are to be calculated consistently with international carbon reporting practice (defined in section 94).

Section 94**: Meaning of "international carbon reporting practice"**

489. This section defines the term "international carbon reporting practice" as accepted practice under the United Nations Framework Convention on Climate Change (UNFCCC) or other international agreements which the Secretary of State may specify using a negative resolution statutory instrument. For example, a post-2012 agreement may be specified for the purposes of this section. An order may supplement or replace the requirement to follow UNFCCC practices.

Section 95**: Meaning of "national authority"**

490. This section defines the term "national authority" to mean the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department (see section 96). Subsection (2) provides that functions conferred on "the national authorities" are to be exercised jointly: they must agree on the way the function should be exercised and act together.

Section 96**: Meaning of "relevant Northern Ireland department"**

491. This section defines the term "relevant Northern Ireland department". Different Northern Ireland departments deal with different administrative matters in Northern Ireland; this section provides that any given function is to be performed by the department which is responsible for the relevant matter. Where two or more departments are responsible, then the term refers to both of them (subsection (2)). Subsection (3) explains the process for answering a question as to which department is responsible for a matter.

Section 97**: Minor definitions**

492. This section defines the other terms used in the Act. In particular, this section defines "emissions" as meaning emissions of a given greenhouse gas into the atmosphere that are attributable to human activity; non-anthropogenic emissions are excluded.

Section 98**: Index of defined expressions**

493. This section contains an index of the expressions which are defined in the Act and refers the reader to where the definition can be found.

Final Provisions

Section 99**: Extent**

494. Apart from the sections and Schedules listed below, the Act extends to the whole of the United Kingdom (for more information see the notes on territorial application above):

- Sections 71 to 76, 81 and 88, and Schedule 5, extend to England and Wales only;
- Section 77 and Schedule 6 extend to England and Wales and Northern Ireland only;
- Section 79 and Schedule 8 extend to England and Wales and Scotland only.

Section 100**: Commencement**

495. This Act has been drafted so that the provisions will come into force as follows:

• Part 1 (carbon target and budgeting), Part 2 (the Committee on Climate Change) and Part 6 (general supplementary provisions) come into force on Royal Assent;

• section 71(1) and Schedule 5 (waste reduction schemes) come into force in accordance with sections 72 to 75 (which make provision about piloting such schemes);

• section 81 (climate change measures reports in Wales) comes into force on a day to be appointed by the Welsh Ministers;

• section 82 (repeal of previous reporting provision) comes into force on 1st January 2009 (so that the reporting requirements under section 2 of the Climate Change and Sustainable Energy Act 2006 (c.19) apply in 2008);

• the rest of the Act comes into force two months after Royal Assent.

COMMENCEMENT DATE

496. See section 100 of the Act and the commentary above. The majority of provisions come into force on Royal Assent or two months later. One section comes into force on a day to be appointed and one section comes into force on 1st January 2009.

HANSARD REFERENCES

497. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	**Date**	**Hansard Reference**
House of Lords		
Introduction	14th November 2007	Vol 696 Col. 473
Second Reading	27th November 2007	Vol 696 Cols. 1123–1214
Committee	11th December 2007	Vol 697 Cols. 121–135, 150–188 and 202–222
	17th December 2007	Vol. 697 Cols. 477–487, 513–544 and 553–570
	8th January 2008	Vol. 697 Cols 741–806 and 823–842
	9th January 2008	Vol. 697 Cols. 851–892
	14th January 2008	Vol. 697 Cols. 1063–1125 and 1139–1172
	23rd January 2008	Vol. 698 Cols. 230–293 and 300–328
	30th January 2008	Vol. 698 Cols. 656–736
	4th February 2008	Vol. 698 Cols. 905–913
Report	25th February 2008	Vol. 699 Cols. 449–501 and 518–544
	4th March 2008	Vol. 699 Cols. 982–1029 and 1064–1084
	11th March 2008	Vol. 699 Cols. 1401–1469 and 1484–1506
	18th March 2008	Vol. 700 Cols. 147–210 and 226–248

Stage	**Date**	**Hansard Reference**
Third Reading	31st March 2008	Vol. 700 Cols. 744–779
Lords Consideration of Commons Amendments	17th November 2008	Vol. 705 Cols. 959–1004
House of Commons		
Introduction	1st April 2008	No debate
Second Reading	9th June 2008	Vol. 477 Cols. 37–132
Committee	24th June to 8th July 2008	Public Bill Committee
Report and Third Reading	28th October 2008	Vol. 481 Cols. 733–842
Commons Consideration of Lords Amendments in lieu of, or to, certain Commons Amendments	18th November 2008	Vol. 483 Cols. 193–203

Royal Assent— 26th November 2008 House of Lords Hansard Vol. 705 Col. 1477
House of Commons Hansard Vol. 483 Col. 855

Modifications

Provision	Modification	Notes	Further Information
Sch. 4 para. 2	CRC Energy Efficiency Scheme Order 2010/768, Pt 8 art. 64(2)(b)		

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