

CLIMATE CHANGE (SCOTLAND) ACT 2009

EXPLANATORY NOTES

THE ACT

Part 5 – Other Climate Change Provisions

Chapter 2 – Land Use

Duty to produce a land use strategy

101. [Section 57](#) requires the Scottish Ministers to produce a land use strategy.
102. Subsection (1) requires that the Scottish Ministers must lay the strategy before the Scottish Parliament no later than 31 March 2011. Subsection (2) provides that the strategy must set out objectives in relation to sustainable land use, proposals and policies for meeting those objectives, and timescales over which the policies and proposals are expected to take effect. Subsection (3) states that these objectives, policies and proposals must contribute to achieving the emissions reduction targets set by the Act, the objectives set in an adaptation programme and sustainable development. Subsections (4) and (5) make provisions regarding publishing a draft strategy, the need for consultation and reporting on consultation. Subsection (6) requires the Scottish Ministers to revise the land use strategy at least every five years.

Variation of permitted times for making muirburn

103. [Section 58](#) of the Act inserts a new section 23A into the Hill Farming Act 1946 (the “1946 Act”).
104. Subsection (1) of new section 23A enables the Scottish Ministers to make successive orders specifying the dates before or after which it is lawful to make muirburn in any year. Subsection (1) also clarifies the effect of any order made under subsection (1), that is, to substitute for any of the dates specified in section 23(1), (2) or (3) of the 1946 Act, the dates specified in any such order.
105. Subsection (2) of new section 23A provides that the Scottish Ministers may make an order under new section 23A(1) of the 1946 Act only where they consider it necessary or expedient to do so in relation to climate change. Subsection (3) of new section 23A prevents the order-making power being exercised so as to reduce the length of the muirburn season below that currently provided for under section 23 of the 1946 Act.
106. Subsection (5) of new section 23A of the 1946 Act provides that any statutory instrument containing an order made under subsection (1) of that section is subject to affirmative parliamentary procedure.
107. [Schedule 2](#) to the Act provides for a minor amendment of section 23(1) of the 1946 Act, to clarify that section 23 of the 1946 Act is subject to any provision made by order under new section 23A(1) of that Act.

Power to modify functions of Forestry Commissioners

108. Subsection (1) of section 59 allows the Scottish Ministers, by order, to modify the functions of the Forestry Commissioners in or as regards Scotland. Subsection (2) provides that such modifications may be made only where the Scottish Ministers consider it necessary or expedient to allow them to comply with their duties under sections 1, 2(1) or 3(1)(b) of the Act to reduce greenhouse gas emissions or more generally in relation to climate change.
109. Subsection (3) provides that the order may modify the Forestry Commissioners' functions to allow them to form or participate in corporate bodies or trusts.
110. Subsection (4) imposes the duty in section 1 of the Nature Conservation (Scotland) Act 2004 on any body corporate or trust established by the Forestry Commissioners by virtue of an order under subsection (1).
111. [Section 96](#) makes more general provision in relation to the power to make an order under section 59, and makes provision as to the parliamentary procedure for such an order. Subsections (2) and (3) of section 96 provide that an order made by the Scottish Ministers under section 59 may make different provision for different cases or purposes, or make any appropriate consequential, incidental, supplementary, transitory, transitional or saving provision, including modification of any enactment. Section 96(4) provides that an order made under section 59 is subject to affirmative resolution procedure.