

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Carbon Target and Budgeting

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;

*These notes refer to the Climate Change Act 2008 (c.27)
which received Royal Assent on 26th November 2008*

- *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.