

# CLIMATE CHANGE ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Impact of and adaptation to climate change**

#### **Reporting authorities: non-devolved functions**

#### *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.