



Climate Change Act 2008

2008 CHAPTER 27

PART 3

TRADING SCHEMES

Authorities and regulations

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.

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.

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.