

Status: Point in time view as at 26/01/2009.

Changes to legislation: Climate Change Act 2008, SCHEDULE 3 is up to date with all changes known to be in force on or before 24 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 49

TRADING SCHEMES REGULATIONS: FURTHER PROVISIONS

PART 1

REGULATIONS MADE BY A SINGLE NATIONAL AUTHORITY

- 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.
- 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.
- 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.
- 4 Any provision that may be made by regulations subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

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PART 2

REGULATIONS MADE BY TWO OR MORE NATIONAL AUTHORITIES

- 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.
- 6 If any of the regulations are subject to affirmative resolution procedure, all of them are subject to that procedure.
- 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.
- 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.

PART 3

POWER TO MAKE PROVISION BY ORDER IN COUNCIL

- 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.
- 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.

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- 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.
- 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.
- 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.

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