

CLIMATE CHANGE (SCOTLAND) ACT 2009

EXPLANATORY NOTES

THE ACT

Part 6 – General and Miscellaneous

Public engagement

187. [Section 91](#) requires the Scottish Ministers to prepare and publish a public engagement strategy setting out the steps they intend to take to (a) inform persons in Scotland about the targets set by the Act, and (b) encourage them to contribute to the achievement of those targets
188. This strategy must identify actions which persons in Scotland can take to contribute to the achievement of the targets set by the Act, and it must be published by 31 December 2010. As soon as reasonably practicable after publication it has to be laid before the Parliament. Subsections (4) and (5) require the Scottish Ministers to review the strategy at least every five years and subsection (7) requires that the second and subsequent public engagement strategies contain an assessment of the progress made towards implementing earlier strategies.

Sustainable development

189. [Section 92](#) requires the Scottish Ministers and the advisory body, when exercising their functions under the Act, to take into account the need to do so in a way that contributes to the achievement of sustainable development.

Equal opportunities

190. [Section 93](#) requires the Scottish Ministers and the advisory body, when exercising their functions under the Act, to encourage equal opportunities and the observance of the equal opportunities requirements.

Impact of budget proposals on emissions

191. [Section 94](#) requires the Scottish Ministers, at the same time as laying any document before the Scottish Parliament setting out draft budget proposals for the use of resources in any financial year, to also lay a document describing the direct and indirect impact on greenhouse gas emissions of the activities to be funded by virtue of the proposals. Subsection (2) defines “use of resources”.

Crown application

192. [Section 95](#) provides that the Act applies to the Crown, including to Her Majesty in her private capacity.

Subordinate legislation

193. [Section 96](#) sets out the procedures that apply for the making of orders and regulations under the Act. Subsections (2) and (3) provide that such orders and regulations 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. Subsections (4) and (5) provide that all orders and regulations made under the Act are subject to affirmative procedure (as extended by section 97 in certain cases, which introduces a pre-laying procedure), except a commencement order made under section 100, and those orders and regulations listed in subsections (6) and (7). The orders and regulations listed in those subsections are subject to negative resolution procedure, unless certain conditions apply – such as that they modify an Act of Parliament or an Act of the Scottish Parliament - in which case they are subject to affirmative resolution procedure.

Subordinate legislation: pre-laying procedure

194. The effect of section 97 is to provide that, with a few exceptions, the first regulations exercising powers under sections 84 and 88 (which relate to deposit and return schemes and carrier bag charges respectively) are to be subject to the procedure set out in this section. The exceptions are referred to in subsection (1), and are those which are subject to negative procedure in terms of section 96(5). These include regulations dealing with the amount of deposits, information notices about the operation of deposit and return schemes, and fees for the registration of retailers and producers.
195. Otherwise, the procedure set out in this section for the first exercise of the powers in sections 84 and 88 is that, under subsections (2) to (5), the Scottish Ministers must lay a copy of the proposed regulations before the Parliament, with a statement of reasons for proposing to make these regulations, and specify a period of not less than 90 days, of which at least 30 must be days on which the Parliament is not dissolved or in recess. During this period, the Scottish Ministers must publicise the proposed regulations and representations may be made to Ministers, the Parliament may make resolutions relating to the regulations, or a parliamentary committee may prepare a report on them. Under subsection (7), when the Scottish Ministers lay the draft regulations for approval they must provide a statement providing details of any such representations, resolutions or reports, and what changes (if any) they have made to the proposed regulations in the light of these.
196. Thereafter procedure for making the regulations is affirmative, as provided for at section 96(4).

Interpretation

197. [Section 98](#) brings together defined expressions used in the Act and either defines them or indicates where in the Act definitions of them can be found.

Minor and consequential modifications

198. [Section 99](#) introduces schedule 2, which contains amendments and repeals to other legislation.

Short title and commencement

199. [Section 100](#) provides that all of the provisions of the Act, except section 100 itself, sections 27 to 32 and 56 (relating to the powers and duties of the advisory body), 70 (relating to permitted development rights in relation to air source heat pumps and micro wind turbines in domestic properties) and 96(subordinate legislation), are to come into force on a day set by the Scottish Ministers by order. Sections 44 to 52 must be commenced no later than 18 months after Royal Assent.

*These notes relate to the Climate Change (Scotland) Act
2009 (asp 12) which received Royal Assent on 4 August 2009*

200. Sections 27 to 32 and 56 come into force in accordance with section 26 (i.e. when an order designating the advisory body is made under section 24). Section 70 comes into force on the day after Royal Assent. As the Act is silent as to a particular day for the coming into force of sections 96 and 100, these come into force on the day of Royal Assent. Section 100 also specifies the short title of the Act.