EXECUTIVE NOTE

DRAFT : THE CLIMATE CHANGE (LIMIT ON CARBON UNITS) (SCOTLAND) ORDER 2010

1. The above instrument will, if approved be made by the Scottish Ministers in exercise of the powers conferred by section 21(1) of the Climate Change (Scotland) Act 2009 ("the Act"). This instrument is subject to the draft affirmative resolution procedure.

Policy objectives

2. The purpose of the instrument is to set a limit on the net amount of carbon units (i.e. carbon credits) that may be credited to net Scottish emissions accounts during the period 2010-2012.

3. This instrument forms part of an implementation package, to be laid before Parliament alongside other instruments made pursuant to the Act. Separate Executive Notes have been drafted in relation to them.

4. The carbon units that may be counted as credits for the purposes of this instrument are set out in the Carbon Accounting Scheme (Scotland) Regulations 2010. The units specified in those regulations are the internationally recognised and used to monitor and track emissions under United Nations and European Union rules. They are subject to significant scrutiny and are accepted as representing genuine and verifiable emissions reductions.

5. As required by section 23 of the Act, the Scottish Ministers requested advice from the Committee on Climate Change on the limit that should be applied to the use of carbon units in the period 2010-2012. This advice was published on 24 February and is available at the following address –http://www.theccc.org.uk/reports/scottish-report.

6. The advice recommends that the Scottish Government should not plan to use carbon units in the period 2010-12. However, given the constraints of an annual targets framework, it suggests that use should not be ruled out in case of, for example, an unusually cold winter leading to higher emissions.

7. Where possible, the Scottish Ministers would prefer to use resources to achieve emissions reductions in Scotland rather use them to purchase carbon units. The Scottish Ministers believe that targets for 2010-12 can be achieved without use of carbon units and Article 2 of this order therefore sets a zero limit on the use of carbon units during the period 2010-2012.

8. The limit excludes any carbon units which are surrendered by participants in the European Union Emissions Trading Scheme ("the EU ETS"). Their inclusion in the limit on the use of carbon units would place an unwanted restriction on the corporate use of the EU ETS.

9. The limit also excludes carbon units acquired by other trading schemes. While the EU ETS is a stand alone scheme, there are other initiatives which may access and purchase credits that are held within the scheme (the "EU allowances" of this Regulation). One such initiative is the Carbon Reduction Commitment (CRC). Participants in the CRC are permitted to purchase European Union Allowances (EUAs) to cover their emissions in each scheme period. This has the effect of reducing the number of credits overall within the EU ETS. Therefore units acquired in the CRC or other such schemes also need to be excluded from the limit, in much the same way as those surrendered by participants in the EU ETS .

Consultation

10. There is no statutory obligation for public consultation on this Order. However, in line with section 23 of the Act, the Scottish Ministers requested the advice of the Committee on Climate Change as to the levels at which to set the limit on carbon units.

11. A consultation on proposals for a Scottish Climate Change Bill, took place between 29 January and 23 April 2008. This included questions on whether international carbon units should be counted towards meeting the Scottish targets and whether there should be limits on use of carbon units. Most organisations believed that international carbon units should be counted towards Scottish targets, although under half of the individual respondents agreed and most respondents also offered some qualifications or reservations. There was strong support for limits on use of carbon units.

Regulatory Impact Assessment

12. A Regulatory Impact Assessment (RIA) is not required as the instrument will not, in itself, impose new regulatory burdens on businesses, charities or the voluntary sector. Rather, it is the proposals and policies to achieve the emissions reductions targets that will have a regulatory impact. These will be identified in the statutory Report on Proposals and Policies, to be laid in draft before the Scottish Parliament in September 2010. The individual measures, or related groups of measures, detailed in the Report on Proposals and Policies will be subject to Regulatory Impact Assessment as appropriate.

13. An RIA was carried out for the Climate Change (Scotland) Bill. The final Assessment was published in May 2009, and is available at the following address – http://www.scotland.gov.uk/Publications/2009/05/01155216/0.

Financial Effects

14. Placing a zero-limit on the use of carbon units means that Government resources will not be used to purchase carbon units in the period 2010-12.

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