

EXPLANATORY MEMORANDUM TO

THE CLIMATE CHANGE ACT 2008 (2050 TARGET AMENDMENT) ORDER 2019

2019 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 Section 1 of the Climate Change Act 2008 (“the Act”) sets out the Government’s target for reducing emissions of greenhouse gases by 2050. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 amends section 1 so that the target is for net zero greenhouse gas emissions (following any adjustment for trading in carbon units).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument increases the required percentage reduction of greenhouse gas emissions from at least 80% to at least 100%. The words “at least” remain appropriate in a net zero context, in recognition of the fact that it is possible to overperform against the updated 2050 target, by achieving net negative emissions.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws).

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 99 of the Act) and the territorial application of this instrument is not limited either by the Act or by the instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom together with UK coastal waters and the UK sector of the continental shelf (see section 89 of the Act).

5. European Convention on Human Rights

- 5.1 The Rt Hon Chris Skidmore MP has made the following statement regarding Human Rights:

“In my view the provisions of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Act requires the Secretary of State to ensure the “net UK carbon account” for 2050 is at least a stated percentage below what is referred to as the “1990 baseline”.
- 6.2 The meaning of the “net UK carbon account” is set out in section 27 of the Act, read with section 29. It means the amount of UK emissions of greenhouse gases, less UK removals (these may come from forestry activities for example), adjusted for trading in carbon units in accordance with regulations made under section 27. Clearly, we do not yet know what the carbon market will look like in 2050 and regulations under section 27 covering 2050 will be made much closer to the time.
- 6.3 In general, the “1990 baseline” means the level of net UK emissions in 1990 (but the base year is 1995 for certain gases – see section 25). The instrument keeps all of these concepts but increases the required percentage reduction from at least 80% to at least 100%.
- 6.4 On 2 May 2019 the Committee on Climate Change, the body of independent advisers established under Part 2 of the Act, provided advice to the Government in response to a request made in October 2018. That advice is the immediate trigger for this instrument. Further details of the advice are set out in paragraph 7.6.

7. Policy background

What is being done and why?

- 7.1 The Act, passed in 2008, committed the United Kingdom to reducing greenhouse gas emissions by at least 80 per cent by 2050 when compared to 1990 levels. This target was set to ensure the UK played its role to limiting global temperature rise to 2°C.
- 7.2 On 22 April 2016 the United Kingdom, as a Party to the United Nations Framework Convention on Climate Change, signed the Paris Agreement, in which, for the first time nearly 200 Countries agreed to keep the global temperature rise well below two degrees and pursue efforts to limit the warming to 1.5C. In addition, in order to achieve the long-term temperature goal, the Agreement commits Parties ‘to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century’. The United Kingdom ratified the Paris Agreement on 18 November 2016.
- 7.3 At the 21st Conference of the Parties to the UNFCCC, the Intergovernmental Panel on Climate Change (IPCC) was invited by the Parties to publish a Special Report on the impacts of global warming of 1.5°C and associated greenhouse gas emissions pathways.
- 7.4 The IPCC released this Special Report on 8 October 2018. The report contains the most up-to-date assessment of the science on impacts and associated greenhouse gas emissions pathways for 1.5°C, compared to 2°C.
- 7.5 In response to the IPCC’s Special Report the Government requested advice from the Committee on Climate Change on the implications of the Paris Agreement and the report for the UK’s long-term emissions reduction targets, asking whether further action was needed to meet goals of the Paris Agreement.
- 7.6 On 2 May 2019 the Committee on Climate Change provided that advice. This recommended that that the UK should legislate as soon as possible to reach net-zero greenhouse gas emissions.

7.7 The Government accepts and agrees with the Committee’s advice that the greenhouse gas emissions target for 2050 should be amended to provide for net zero emissions and, having taken into account representations from the devolved administrations who have not raised any issues with the amendment proposed, this instrument gives effect to that decision.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This instrument does not give rise to the need for any consolidation.

10. Consultation outcome

10.1 The Act does not require public consultation on the subject matter of this instrument. However, the Secretary of State must obtain and take into account the Committee on Climate Change’s advice and any views expressed by the devolved administrations.

10.2 The Committee on Climate Change’s advice can be found here:
<https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-UKs-contribution-to-stopping-global-warming.pdf>

10.3 If the instrument makes provision different from that recommended by the Committee, the Secretary of State must publish a statement setting out the reasons for that decision, pursuant to s3(6). The Secretary of State is also required to publish a statement setting out whether and how the views of the devolved administrations have been taken into account, pursuant to s3(5). The statement to meet those requirements is set out at paragraph 7.7 and the paragraphs below.

10.4 The Committee on Climate Change’s headline advice was:

“The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping”

All devolved administrations welcomed the Committee’s advice on amending the 2050 target to net zero. The Welsh Government, in its representations following publication of the Committee’s advice, also agreed with the recommendation that any new UK target should include international aviation and shipping.

10.5 In line with the Committee’s advice, the Government has taken steps to legislate on a net zero target at the earliest opportunity. The Government recognises that international aviation and shipping have a crucial role to play in reaching net zero emissions globally. However, there is a need for further analysis and international engagement through the appropriate frameworks. For now, therefore, we will continue to leave headroom for emissions from international aviation and shipping in carbon budgets to ensure that emissions reduction strategies for international aviation and shipping can be developed within International Maritime Organisation and International Civil Aviation Organisation frameworks at the appropriate pace, and so that the UK can remain on the right trajectory for net zero greenhouse gas emissions across the whole economy.

11. Guidance

11.1 No guidance has been published in relation to the matters contained in this instrument, because none is considered to be required. This memorandum provides a full explanation of the background.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is limited to central government who are responsible for ensuring this target is delivered.

12.3 An Impact Assessment has not been prepared for this instrument. Measures brought forward to support delivery of this target will be subject to Impact Assessment in the usual way.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is set out within the Act.

- Each year the Committee on Climate Change are required to review the progress that has been made towards meeting the 2050 target in section 1 and report whether further progress that is needed to meet the target (section 36).
- Under section 2 the Secretary of State has the power amend the 2050 target, when there have been significant developments in scientific knowledge about climate change, or European or international law or policy.

14.2 The instrument does not include a statutory review clause as the legal obligations in this regard under the Small Business, Enterprise and Employment Act 2015 do not apply.

15. Contact

15.1 Tilly Nekar at Department for Business, Energy and Industrial Strategy, Tel: 020 7215 5000 or email: carbonbudgets@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Emma Bulmer, Deputy Director for Clean Growth and Carbon Budgets at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Chris Skidmore MP at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.