

*These notes refer to the Climate Change Act 2008 (c.27)
which received Royal Assent on 26th November 2008*

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Trading Schemes

Authorities and regulations

Schedule 3: Trading schemes regulations: further provisions

232. *Part 1* of Schedule 3 sets out the procedure to be followed where regulations are made by a single national authority. *Paragraph 2* sets out the affirmative resolution procedure applying in Parliament and the devolved legislatures. *Paragraph 3* sets out the negative resolution procedure applying in Parliament and the devolved legislatures. *Paragraph 4* allows any regulations that could be made using the negative resolution procedure to be made using the affirmative resolution procedure; this will allow, say, amendments which would otherwise have to be made using different procedures to be made in the same instrument.
233. *Part 2* of Schedule 3 sets out the process where regulations are made jointly between the Secretary of State and/or the Welsh Ministers and/or the relevant Northern Ireland department. The affirmative and resolution procedures apply as they do in Part 1 of Schedule 3. Where the affirmative resolution procedure applies, if either House of Parliament or the relevant devolved legislature does not approve the instrument, then the instrument cannot be made. Where the negative resolution procedure applies, if either House of Parliament or the relevant devolved legislature resolves that the regulations should be annulled, then nothing further can be done under the instrument and it may be revoked by Order in Council.
234. *Part 3* of Schedule 3 sets out the process for making joint trading schemes by Her Majesty by Order in Council. The Order in Council procedure is to be used in two situations. First, where a scheme extends or applies both to Scotland and to one or more of England, Wales and Northern Ireland. Secondly, where a scheme relates to matters which are within the legislative competence of the Scottish Parliament and also to other matters which are not within its legislative competence. Where the affirmative resolution procedure would apply to regulations making the same provision, Her Majesty cannot make an Order in Council unless all the relevant legislatures have passed a resolution approving a draft of the Order in Council. Where the negative resolution procedure would apply to regulations making the same provision, the Order in Council is laid before all the relevant legislatures; if any of them resolves that the Order in Council should be annulled, then nothing further can be done under the Order in Council and Her Majesty may revoke it.