

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Impact of and adaptation to climate change

Reporting authorities: devolved Welsh functions

Section 69: Consent of, or consultation with, Secretary of State

297. This section deals with situations where the Secretary of State has an interest or is involved in a function covered by the Welsh Ministers' guidance under section 66 or in directions given by the Welsh Ministers under section 67. For example, the Welsh Ministers may wish to issue guidance to reporting authorities in an area where they would otherwise have the power to act only with the consent of, or following consultation with, a Minister of the Crown; this section sets out the procedures the Welsh Ministers must follow.
298. *Subsection (1)* sets out two situations in which the Welsh Ministers are required to obtain the consent of the Secretary of State before issuing guidance under section 66 or directions under section 67:
- the first situation, under paragraph (a), is where the guidance or directions relate to a function of a reporting authority in relation to which a function is exercisable jointly by a Minister of the Crown and the Welsh Ministers, the First Minister or the Counsel General. For example, certain functions on the Welsh border are exercisable jointly by the Secretary of State and the Welsh Ministers; before issuing guidance relating to those functions, the Welsh Ministers would be required to obtain the consent of the Secretary of State;
 - the second situation, under paragraph (b), is where a function of a reporting authority relates to a function exercisable by the Welsh Ministers, the First Minister or the Counsel General but only with the agreement of a Minister of the Crown.
299. *Subsection (2)* sets out two situations in which the Welsh Ministers are required to consult the Secretary of State before issuing guidance under section 66 or directions under section 67:
- the first situation, under paragraph (a), is where a Minister of the Crown has a function which relates to a reporting authority's function, but in exercising his function the Minister of the Crown is not required to do so jointly with the Welsh Ministers, the First Minister or the Counsel General. This covers situations where the Welsh Ministers and a Minister of the Crown have concurrent functions which cover the same or similar ground but are exercisable independently;
 - the second situation, under paragraph (b), is where a reporting authority's function relates to a function of the Welsh Ministers, the First Minister or the Counsel General which may be exercised only after consulting a Minister of the Crown.