

CLIMATE CHANGE (EMISSIONS REDUCTION TARGETS) (SCOTLAND) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Emissions accounting

Section 15 – Permitted use of carbon units purchased by the Scottish Ministers

76. Section 15 makes provision in relation to the permitted use of carbon units purchased by the Scottish Ministers.
77. Section 15(1) inserts a new section 13A (permitted use of carbon units purchased by the Scottish Ministers) into the 2009 Act. Except where otherwise specified, the following paragraphs refer to the subsections of new section 13A.
78. Subsection (1) confers a power on the Scottish Ministers to, by regulations, set a limit representing the maximum amount of carbon units purchased by them that may be credited to the net Scottish emissions account for a year.
79. Subsection (2) provides that the limit must not exceed an amount which represents 20% of the planned reduction in the net Scottish emissions account for that year. The default zero-limit (in section 13(5A) of the 2009 Act) along with this limit on the crediting of carbon units, replace the domestic effort target under section 8(1) of the 2009 Act. The domestic effort target required the Scottish Ministers to ensure that reductions in net Scottish emissions account for at least 80% of the reduction in the net Scottish emissions account for a target year (i.e. no more than 20% of the reduction should be due to the crediting of carbon units). Limiting the maximum amount of carbon units purchased by the Scottish Ministers that may be credited to the net Scottish emissions account for a year to no more than 20% of the reduction ensures that, for carbon units purchased by the Scottish Ministers, a broadly similar outcome is achieved.
80. Subsection (3) sets out how the planned reduction is to be calculated.
81. Subsection (4) provides that a limit may only be set for a year which has not yet been reported on under section 33 and which ends no more than 10 years after the year in which the regulations come into force.
82. Section 14(2) inserts a new paragraph (aa) into section 96(7) (subordinate legislation) of the 2009 Act. Regulations laid under section 13(5) are, by default, subject to the affirmative procedure by virtue of section 96(4) of the 2009 Act. But new paragraph (aa) ensures that where the regulations do not propose an increase to a limit, the regulations are subject instead to the negative procedure.
83. Section 14(2A) amends section 97 of the 2009 Act, which makes provision about pre-laying procedure for subordinate legislation made under that Act in certain circumstances. Subsection (2A)(a) amends section 97(1) to add regulations made under section 13A(1) that propose an increase to the maximum amount of carbon units that

These notes relate to the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15) which received Royal Assent on 31 October 2019

may be credited to the net Scottish emissions account for a year to the list of regulations that are subject to the pre-laying procedure as set out in section 97 of the 2009 Act.

84. Subsection (3)(b) amends section 97(2) to require the Scottish Ministers, when laying a copy of the proposed regulations to increase the maximum amount of carbon units, to also lay a statement setting out the extent to which the proposal is consistent with the most up-to-date advice received from the relevant body.
85. Subsection (3)(c) amends section 97(7) to require the Scottish Ministers, when laying a draft of the proposed regulations for approval by resolution of the Scottish Parliament, to lay a statement setting out the extent to which the proposed limit is consistent with the advice received from the relevant body.
86. Section 15(4) revokes three Orders made under the 2009 Act which imposed limits on the net amount of carbon units that may be credited to a net Scottish emissions account. These limits are replaced by a general default rule in section 13(5A) of the 2009 Act (inserted by section 14 of the Act) which provides that the amount of carbon units purchased by the Scottish Ministers that may be credited to any such account is zero.