



# Energy Act 2013

## 2013 CHAPTER 32

### PART 1

#### DECARBONISATION

##### **1 Decarbonisation target range**

- (1) It is the duty of the Secretary of State to ensure, in respect of each year in relation to which a decarbonisation target range is set, that the carbon intensity of electricity generation in the United Kingdom is no greater than the maximum permitted level of the decarbonisation target range.
- (2) The Secretary of State may by order (“a decarbonisation order”) set or amend a decarbonisation target range in relation to a year.
- (3) A “decarbonisation target range”, in relation to any year, means a range for the carbon intensity of electricity generation in the United Kingdom.
- (4) Section 4 makes further provision in relation to subsection (3).
- (5) The earliest year in relation to which a decarbonisation target range may be set is 2030; and the first decarbonisation order may not be made before the date on which the carbon budget for the budgetary period which includes the year 2030 is set by virtue of the duty of the Secretary of State under section 4(2)(b) of the Climate Change Act 2008.
- (6) A decarbonisation order may amend a decarbonisation target range only if it appears to the Secretary of State that significant changes affecting the basis on which the decarbonisation target range was set (or previously amended) make it appropriate to do so.
- (7) The Secretary of State may not revoke a decarbonisation order unless, in respect of each year in relation to which the order sets a decarbonisation target range, a decarbonisation target range remains in effect.
- (8) A decarbonisation order may—

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- (a) amend section 23(4) of the Climate Change Act 2008 (alteration of budgetary periods) so that after “Act” there is inserted “or sections 1 to 4 of the Energy Act 2013”;
  - (b) repeal section 5 of the Energy Act 2010 (reports on decarbonisation and CCS progress).
- (9) Provision made by virtue of subsection (8) may also—
- (a) include incidental, supplementary and consequential provision;
  - (b) make transitory or transitional provision or savings.
- (10) A decarbonisation order is to be made by statutory instrument and a statutory instrument containing a decarbonisation order may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) Before laying before Parliament a draft of a statutory instrument containing a decarbonisation order the Secretary of State must consult the Department of Enterprise, Trade and Investment, the Scottish Ministers and the Welsh Ministers.

## **2 Matters to be taken into account**

- (1) The following matters must be taken into account by the Secretary of State in setting or amending a decarbonisation target range.
- (2) The matters are—
- (a) scientific knowledge about climate change;
  - (b) technology relevant to the generation and storage of electricity and to the demand for and use of electricity;
  - (c) economic circumstances, and in particular the likely impact on the economy and the competitiveness of particular sectors of the economy;
  - (d) fiscal circumstances, and in particular the likely impact on taxation, public spending and public borrowing;
  - (e) social circumstances, and in particular the likely impact on fuel poverty;
  - (f) the structure of the energy market in the United Kingdom;
  - (g) differences in circumstances between England, Wales, Scotland and Northern Ireland;
  - (h) circumstances at European and international level;
  - (i) the duties of the Secretary of State under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets).

## **3 Further duties of the Secretary of State**

- (1) As soon as is reasonably practicable after a decarbonisation order is made, the Secretary of State must lay before Parliament a report setting out proposals and policies for fulfilling the duty in section 1(1).
- (2) Before laying the report under subsection (1), the Secretary of State must consult the Department of Enterprise, Trade and Investment, the Scottish Ministers and the Welsh Ministers; and the Secretary of State must send a copy of the report to them.
- (3) The Secretary of State must in respect of each year—

- (a) beginning with the year after the first year in which a decarbonisation order is made, and
- (b) ending with the final year in relation to which a decarbonisation target range is set,

lay before Parliament a statement of the carbon intensity of electricity generation in the United Kingdom in relation to that year.

- (4) Section 4 makes further provision in relation to subsection (3).
- (5) The statement must include—
  - (a) a summary of the means by which the carbon intensity was calculated;
  - (b) in any statement after the first, a declaration of whether the carbon intensity has decreased or increased since the previous statement.
- (6) In respect of any year in relation to which a decarbonisation target range is set, the statement must also include—
  - (a) a declaration that the carbon intensity in relation to that year was no greater than the maximum permitted level of the decarbonisation target range, or
  - (b) the reasons why the carbon intensity in relation to that year was greater than the maximum permitted level of the decarbonisation target range.
- (7) The statement required by subsection (3) must be laid before Parliament not later than the 31st March in the second year following the year in respect of which the carbon intensity is being stated.
- (8) The Secretary of State must send a copy of the statement required by subsection (3) to the Department of Enterprise, Trade and Investment, the Scottish Ministers and the Welsh Ministers.

#### **4 Meaning and calculation of “carbon intensity of electricity generation in the United Kingdom”**

- (1) In sections 1 and 3, “carbon intensity of electricity generation in the United Kingdom” means grams of carbon dioxide equivalent emissions, measured per kilowatt hour of electricity generated in the United Kingdom (calculated consistently with international carbon reporting practice).
- (2) For the purposes of subsection (1)—
  - (a) “carbon dioxide equivalent” means a gram of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice);
  - (b) “the United Kingdom” includes—
    - (i) the territorial sea adjacent to the United Kingdom, and
    - (ii) any area for the time being designated by an Order in Council under section 84(4) of the Energy Act 2004 (a “Renewable Energy Zone” for the purposes of that Act).
- (3) In this section—
  - (a) “greenhouse gas” has the meaning given by section 92(1) of the Climate Change Act 2008;
  - (b) “international carbon reporting practice” has the meaning given by section 94(1) of that Act.

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- (4) But the Secretary of State may by order make further provision about—
- (a) the meaning of “carbon intensity of electricity generation in the United Kingdom” (including, in particular, the meaning of “the United Kingdom”);
  - (b) the means by which the carbon intensity is to be calculated;
  - (c) the meaning of “in relation to any year”;
- and subsections (1) to (3) are subject to provision made by any such order.
- (5) An order under this section is to be made by statutory instrument and a statutory instrument containing such an order may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) An order under this section may—
- (a) include incidental, supplementary and consequential provision;
  - (b) make transitory or transitional provision or savings;
  - (c) make different provision for different cases or circumstances or for different purposes;
  - (d) make provision subject to exceptions.
- (7) Before laying before Parliament a draft of a statutory instrument containing an order under this section the Secretary of State must consult the Department of Enterprise, Trade and Investment, the Scottish Ministers and the Welsh Ministers.