

EXPLANATORY MEMORANDUM TO

THE CARBON BUDGET ORDER 2021

2021 No. XXX

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.

2. Purpose of the instrument

- 2.1 The Carbon Budget Order 2021 sets the carbon budget for the sixth budgetary period (2033-2037) (the sixth carbon budget), at 965 million tonnes of carbon dioxide equivalent.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is to the whole of the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Secretary of State, Rt Hon Kwasi Kwarteng, has made the following statement regarding Human Rights:

“In my view the provisions of the Carbon Budget Order 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Climate Change Act 2008 (“the Act”) requires that the Secretary of State ensures that the “net UK carbon account” for 2050 is at least 100% lower than the 1990 baseline (section 1). The net UK carbon account is the amount of net UK emissions of targeted greenhouse gases for a period reduced by the amount of carbon units credited to the UK carbon account and increased by the amount of carbon units debited from the net UK carbon account for that period.
- 6.2 With a view to meeting the 2050 target, the Secretary of State must set five year “carbon budgets” representing the maximum level of the net UK carbon account for these budgetary periods.
- 6.3 The Carbon Budgets Order 2009 (S.I. 2009/1259) sets the first three carbon budgets for the purposes of section 4(2)(a) of the Act. The Carbon Budgets Order 2011 (S.I. 2011/1603) sets the fourth carbon budget for the purposes of section 4(2)(b) of the Act. The Carbon Budgets Order 2016 (S.I. 2016/785) sets the fifth carbon budget for

the purposes of section 4(2)(b) of the Act. Separate Memoranda were prepared in relation to each of these Orders.

- 6.4 The order setting the sixth carbon budget is subject to the affirmative resolution procedure as per section 8(3) of the Act.
- 6.5 The sixth carbon budget is to be set by the 30 June 2021 (sections 4(2)(b) and 8 of the Act).

7. Policy background

What is being done and why?

- 7.1 The sixth carbon budget is the total permissible level of the net UK carbon account for the five-year period 2033-2037. The level is set out in Article 2 of the Carbon Budget Order 2021, at 965 million tonnes of carbon dioxide equivalent. The proposed sixth carbon budget level is consistent with the 2050 target specified in Section 1 of the Act, as required by section 8(2)(a) of the Act. The Carbon Budget Order 2021 is of political and legal importance in that it fulfils the requirements as set out in section 4(2)(b).
- 7.2 This budget is the level recommended by the Climate Change Committee (CCC). The Government has set out its response to the CCC's advice on the sixth carbon budget in more detail in the Impact Assessment (IA), published alongside this Order. This also includes an explanation of how the factors in section 10 of the Act have been taken into account.
- 7.3 The Government is required by section 14 of the Act to publish a report of its proposals and policies for meeting the carbon budgets as soon as is reasonably practicable after the setting the carbon budgets.

The coverage of "international aviation" and "international shipping"

- 7.4 Emissions from international aviation and shipping will count towards emissions from sources in the United Kingdom for the purposes of the sixth carbon budget. They will be formally included by regulations under section 30 of the Act.

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 or 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 issue covered by the Order to which this Explanatory Memorandum relates. However, there are some specific consultation requirements. The Secretary of State must take into account the CCC's advice provided under section 34(1)(b) in relation to the budgetary period and must consult the Devolved Administrations before laying the draft Order proposing the limit for each budgetary period. These requirements have been met.

10.2 The Secretary of State is also required to publish a statement setting out how the views of the Devolved Administrations have been taken into account as per section 9(3) of the Act, and this statement is set out in the IA.

11. Guidance

11.1 No guidance has been published in relation to the matters contained in the Order. This memorandum, alongside the IA, provides the full background to the Government's decision.

12. Impact

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

12.2 There is no impact on the public sector.

12.3 A full IA is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. This presents the analytical evidence that informs the setting of the proposed level of the sixth carbon budget. It also sets out the need for the UK to be on a cost-effective emissions pathway to 2050 in order to meet its statutory obligations contained within the Act. There are no direct costs and benefits in setting the budget level alone. The overall costs and benefits of meeting the sixth carbon budget level will depend on how we choose to meet it, and on important drivers such as energy prices and technology costs. The IA gives an illustration of the scale of these impacts.

13. Regulating small business

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

14. Monitoring & review

14.1 Section 21 of the Act provides a power to amend an order setting a carbon budget where certain criteria, developments in scientific knowledge about climate change or European or international law or policy, can be satisfied.

15. Contact

15.1 Andy Hackett at the Department for Business, Energy and Industrial Strategy
Telephone: 020 7215 5992 or email: andy.hackett@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Sarah James, Deputy Director for Net Zero and Carbon Budgets at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister of State (Minister for Business, Energy and Clean Growth) at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.