

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Other provisions

Miscellaneous

Section 80: Report on climate change: Wales

454. This section requires the Welsh Ministers to lay before the National Assembly for Wales, from time to time, a report on greenhouse gas emissions and the impacts of climate change on Wales.
455. *Subsection (1)* requires the Welsh Ministers to include in their report their objectives in relation to greenhouse gas emissions and the impacts of climate change in Wales, the action they (and others) have taken to deal with those emissions and impacts and their future priorities for dealing with them.
456. *Subsection (2)* requires the Welsh Ministers to set out how they intend to exercise their power to issue directions to reporting authorities under section 67. *Subsection (3)* provides that this does not affect the Welsh Ministers' general discretion as to how they may exercise their power to issue directions
457. *Subsection (4)* makes it a requirement that the second and subsequent report under this section should include an assessment of the progress made towards implementing the objectives in earlier reports.
458. *Subsection (5)* defines "Wales", for the purpose of this section, by reference to section 158(1) of the [Government of Wales Act 2006 \(c.32\)](#). This definition includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.

Section 81: Climate change measures reports in Wales

459. This section devolves to the Welsh Ministers the function under section 3 of the [Climate Change and Sustainable Energy Act 2006 \(c.19\)](#) of preparing an energy measures report in relation to Wales. It also widens the obligation to cover certain other measures and provides that the Secretary of State's consent is required in relation to certain elements of a report.
460. *Subsection (2)* inserts a new section 3A after section 3 of the [Climate Change and Sustainable Energy Act 2006 \(c.19\)](#). New section 3A requires the Welsh Ministers to prepare a "climate change measures report", which is a report containing information for Welsh local authorities in relation to measures which they may take and which would or might have certain effects, including (in contrast to section 3) the effect of addressing the impacts of climate change. *Subsection (5)* of new section 3A requires the Secretary of State's consent where the report contains information about local authority measures in relation to which the Secretary of State has certain functions, exercisable in relation to Wales (for example, the function of making building regulations).

Section 82: Repeal of previous reporting obligation

461. This section repeals section 2 of the [Climate Change and Sustainable Energy Act 2006 \(c.19\)](#). The reporting requirements under that section are substantially replicated by the reporting requirements in sections 16 and 36 in Parts 1 and 2 of the Act.

Section 83: Guidance on reporting

462. *Subsection (1)* of this section requires the Secretary of State to publish guidance on how greenhouse gas emissions can be measured or calculated by persons responsible for activities which lead to those emissions. The intention behind the guidance is to support businesses wishing to report on their emissions and to improve the consistency of emissions reporting by those businesses, so that the reports can be more easily understood and compared.
463. *Subsection (2)* requires the Secretary of State to publish the guidance by 1st October 2009 and *subsection (3)* allows the Secretary of State to revise the guidance from time to time. *Subsection (4)* places the Secretary of State under an obligation to consult the other national authorities (see section 95) before publishing or revising any guidance and *subsection (5)* allows the Secretary of State to publish the guidance in any manner he considers appropriate.

Section 84: Report on contribution of reporting to climate change objectives

464. *Subsection (1)* of this section requires the Secretary of State to carry out a review of the contribution that reporting of greenhouse gas emissions could make to the UK Government's objectives in relation to climate change, and report the conclusions of the review to Parliament by 1st December 2010 (*subsection (2)*). It is expected that the review will explore the costs and benefits of the reporting of greenhouse gas emissions by businesses, public sector organisations and others.
465. *Subsection (3)* requires the Secretary of State to carry out his review in consultation with the other national authorities (as defined in section 95).

Section 85: Regulations about reporting by companies

466. *Subsection (1)* of this section places a duty on the Secretary of State, by 6th April 2012, either to make regulations under section 416(4) of the [Companies Act 2006 \(c.46\)](#) requiring companies to include in their Directors' Report such information about emissions as the regulations may require, or to lay before Parliament explaining why he has not done so.
467. *Subsection (2)* provides that the duty to make regulations is complied with if they concern any specified type of company or any specified category of emissions. The regulations do not have to apply to all of the emissions of all companies.

Section 86: Report on the civil estate

468. This section places a duty on the Treasury to make an annual report to Parliament on the progress made towards improving the efficiency and contribution to sustainability of buildings which form part of the Government's civil estate.
469. *Subsection (1)* sets out the basic duty to make a report to Parliament in respect of each year, beginning with 2008. *Subsection (2)* provides that the report must contain two specific elements: it must set out the progress made towards reducing the size of the civil estate and progress made towards ensuring that buildings that become part of the civil estate fall within the top quartile of energy performance.
470. *Subsection (3)* places a duty on the Treasury to include in the report a statement explaining why, if a building which has become part of the civil estate does not fall

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

within the top quartile of energy performance, the building has nevertheless become part of the estate.

471. *Subsection (4)* provides that each report must be laid before Parliament by 1st June in the year after the year it relates to. So the report in respect of 2008 must be laid before Parliament by 1st June 2009.
472. *Subsection (5)* provides that the word “building” in this section only applies to buildings which do not use energy for heating or cooling any part of their interior. *Subsection (6)* provides that a building only forms part of the “civil estate” for the purposes of this section if it is used for central government administration (as opposed to operational activities) and, on the date the Act receives Royal Assent, it is of a description of buildings for which the Treasury has responsibilities in relation to efficiency and sustainability.
473. *Subsections (7) and (8)* give the Treasury the power to provide, by affirmative resolution order, that buildings of a specified description are or are not to be considered to form part of the civil estate for the purposes of this section.

Section 87: Power of Ministers and departments to offset greenhouse gas emissions

474. This section authorises any Minister of the Crown or government department, the Scottish Ministers, the Welsh Ministers and any Northern Ireland department to acquire units, or interests in units, representing reductions in emissions of greenhouse gases, removals of greenhouse gases from the atmosphere and units under cap-and-trade trading schemes.
475. This section therefore enables Her Majesty’s Government and the devolved administrations to offset emissions through the purchase of units (often referred to as “carbon credits”) or interests in units (such as the right to buy units at a fixed price at some point in the future). It also allows central government and the devolved administrations to purchase units or interests in units, by arrangement, for other public bodies which do not have to power to do so of their own accord. Units acquired using this power which meet the requirements of regulations under section 26 (carbon units and carbon accounting) may be used to reduce the level of the net UK carbon account (see section 27).
476. *Subsection (3)* provides that units or interests in units purchased by the Treasury are to be treated as being held by the persons who constitute the Treasury at that time.

Section 88: Fines for offences relating to pollution

477. *Subsection (1)* of this section amends section 105(2) of the [Clean Neighbourhoods and Environment Act 2005 \(c.16\)](#) to enable an increase in the maximum fines on summary conviction that can be provided for under the [Pollution Prevention and Control Act 1999 \(c.24\)](#).
478. This subsection will enable the maximum fines on summary conviction under regulations made under the Pollution Prevention and Control Act 1999 to be brought into line with the equivalent maximum fines under section 33(8) of the [Environmental Protection Act 1990 \(c.43\)](#) in order to ensure consistency in this area of regulation.
479. *Subsection (2)* amends the [Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#) so that such a change is made to those Regulations immediately on commencement of the section. This makes the penalties consistent with those which were imposed for offences against the [Waste Management Licensing Regulations 1994 \(S.I. 1994/1056\)](#).