

EXPLANATORY MEMORANDUM TO

THE CARBON BUDGET ORDER 2016

2016 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Carbon Budget Order 2016 sets the carbon budget for the fifth budgetary period (2028-32) (the fifth carbon budget).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

- 4.1 The Climate Change Act 2008 (“the Act”) requires the Secretary of State to ensure that the “net UK carbon account” for 2050 is at least 80% 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 net UK carbon account and increased by the amount of carbon units debited from the net UK carbon account for that period.
- 4.2 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.
- 4.3 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. These carbon budgets cover the periods 2008-2012, 2013-2017, 2018-2022. A separate Memorandum was prepared in relation to them.
- 4.4 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. A separate Memorandum was prepared in relation to it.
- 4.5 The fifth carbon budget is subject to the affirmative resolution procedure as per section 8(3) of the Act.
- 4.6 The fifth carbon budget was to be set by the 30 June 2016 (sections 4(2)(b) and 8). The Carbon Budget Order 2016 was laid on 30 June 2016 but will come into force on the day it is made.

5. Extent and Territorial Application

- 5.1 This instrument extends to the whole of the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 The Secretary of State, The Rt Hon Amber Rudd MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Carbon Budget Order 2016 are compatible with the Convention rights.”

7. Policy background

The fifth carbon budget

- 7.1 The fifth carbon budget is the total permissible level of the net UK carbon account for the five year period 2028-2032. The level is set out in Article 2 of the Carbon Budget Order 2016. The proposed fifth 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 2016 is of political and legal importance in that it fulfils the requirements as set out in section 4(2)(b).
- 7.2 The Government has set out its response to the Committee on Climate Change’s (CCC) advice on the fifth 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 are not included in the targets and budgets set out in the Act. In December 2012 the UK Government met its obligation under section 30(3) of the Act in its statement on international aviation and shipping emissions, setting out “we are deferring a firm decision on whether to include international aviation and shipping emissions within the net carbon account at this time”¹.

8. Consultation outcome

- 8.1 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.
- 8.2 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 Impact Assessment (IA).

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/65686/7334-int-aviation-shipping-emissions-carb-budg.pdf.

9. Guidance

- 9.1 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.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment is submitted with this memorandum and will be 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 fifth 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 fifth carbon budget level would 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. The proposed budget level of 1,725 million tonnes of carbon dioxide equivalent (MtCO₂e) could be met at an overall benefit to UK society averaging around £1.8bn per year during the fifth carbon budget period, with a range of -£5.1bn to £9.0bn depending on energy prices and technology costs.

11. Regulating small business

- 11.1 The legislation does not apply to activities undertaken by small businesses.

12. Monitoring & review

- 12.1 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.

13. Contact

- 13.1 For queries, please contact Ronan Devaney at the Department of Energy and Climate Change: carbonbudgets@decc.gsi.gov.uk