

CLIMATE CHANGE AND SUSTAINABLE ENERGY ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Building regulations relating to emissions and use of fuel and power

26. **Section 13** adds a new section to the Building Act 1984 (section 35A) which extends the current time limit of 6 months (as provided in section 127(1) of the Magistrates' Courts Act 1980) within which summary proceedings for breach of building regulations relating to the conservation of fuel and power (that is the provisions in what is currently Part L of the building regulations) and relating to the reduction of greenhouse gases can be commenced. The current time limit of 6 months starts to run from the date the offence is committed. This means that within that 6 month period any potential breach has to come to the attention of the authorities, be investigated and, if there is sufficient evidence, summary proceedings have to be commenced. Under new section 35A there is an absolute time limit of two years from the date the offence is committed to bring summary proceedings. However, as soon as there is sufficient evidence of a breach, summary proceedings must be commenced within 6 months.
27. Section 35A (1) allows an information to be laid before the magistrates within a period of 6 months from the "relevant date" (defined in subsection (4)) provided that proceedings are begun within 2 years of the day the offence was committed.
28. Section 35A (2) enables the Secretary of State to designate by regulation the provisions of the building regulations to which the time limits in subsection (1) will apply.
29. Section 35A (3) defines the scope of the provisions which can be designated under subsection (2).
30. Section 35A (4) defines the relevant date for purposes of subsection (1)(b) as being the date on which sufficient evidence to justify proceedings comes to the knowledge of the person commencing proceedings.
31. Section 35A (5) sets out the procedure for a local authority prosecutor to certify the date when knowledge of evidence sufficient to commence proceedings came to his knowledge and provides that the certificate is to be conclusive evidence of that date.
32. Section 35A (6) ensures that the extended time limits provided for in subsection (1) do not apply to an offence that is committed before it is designated as a relevant offence under subsection (2).
33. Subsection (2) makes consequential amendment to ensure that the time limit in section 53(6) of the Building Act is consistent with that in section 35A (1). Section 53(6) operates in the circumstances where an approved inspector discovers a breach of the regulations in the course of his duties in relation to an initial notice (as provided for in section 47 of the Building Act). Where an approved inspector discovers such a breach he will (as he has no enforcement powers) normally hand over his function to

*These notes refer to the Climate Change and Sustainable Energy
Act 2006 (c.19) which received Royal Assent on 21 June 2006*

the local authority who have 6 months from the date the function is handed over to commence summary proceedings. Therefore, subsection (2), in relation to the breaches of the building regulations provided for in new section 35A, brings the time limit in section 53(6) into line with that provided for in new section 35A.

34. **Section 14** imposes upon the Secretary of State a duty to report to Parliament, within 6 months of the section's coming into force, on measures taken to secure a greater incidence of compliance with building regulations relating to the conservation of fuel and power and the reduction of greenhouse gas emissions. The Secretary of State may from time to time lay subsequent reports