

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Carbon Target and Budgeting

Carbon units, carbon accounting and the net UK carbon account

Section 26: Carbon units and carbon accounting

133. In addition to the level of “net UK emissions” (which is defined in section 29 (1)(c)), the “net UK carbon account” (as determined in accordance with section 27) is affected by the addition and subtraction of “carbon units” through a process of “carbon accounting”. This section, and section 27, allow the Secretary of State to determine what carbon units should be added to and subtracted from the net UK carbon account and how “carbon accounting” will work.
134. *Subsection (1)* allows the Secretary of State to make regulations setting out specifically what “carbon units” can be used for carbon accounting purposes. “Carbon units” in the regulations can only be:
- units representing a reduction in the amount of greenhouse gas emissions;
 - units representing the removal of greenhouse gas from the atmosphere; or
 - units representing greenhouse gas emissions which are allowed under a scheme or arrangement which limits total emissions of greenhouse gases (for example, under certain kinds of emissions trading scheme).
135. *Subsection (2)* allows the Secretary of State to make regulations which contain details of how carbon units should be registered and kept track of, and allows him to establish and maintain accounts containing carbon units. Carbon units can be moved between accounts. The intention is to establish an accounting system broadly similar to, and compatible and co-ordinated with, that used to keep track of the UK’s assigned amount units (AAUs) and other units issued under the Kyoto Protocol; subsection (2) specifically provides that the Secretary of State can use an existing system as the basis of the carbon accounting system.
136. *Subsection (3)* gives more detail of what the regulations can say. The Secretary of State is allowed to appoint a body to operate the accounting scheme, to set up a new body for that purpose, to make provision allowing him to give guidance and directions to the body and to require users of the scheme to pay charges towards the cost of operating the scheme.
137. *Subsection (4)* provides that if an existing body is appointed to operate the accounting scheme, then the Secretary of State can make any necessary amendments to relevant enactments.
138. The procedures relating to the regulations are set out in section 28.

Section 27: Net UK carbon account

139. *Subsection (1)* defines the term “net UK carbon account” for a budgetary period as being net UK emissions (as defined in section 29(1)(c)) as decreased by a number of carbon units to be credited to the account and increased by a number of carbon units to be debited from the account in accordance with regulations made by the Secretary of State.
140. *Subsection (2)* provides that the net amount of carbon units credited to the net UK carbon account must not exceed the limit for the period set by order under section 11. See the notes on section 11 for details of how the “net amount of carbon units” is calculated.
141. *Subsection (3)* requires the Secretary of State to make regulations setting out the circumstances in which carbon units are to be credited to and debited from the net UK carbon account, and the manner in which it is to be done. For example, the regulations could provide that units purchased through the EU Emissions Trading Scheme can be treated as units to be credited to the net UK carbon account.
142. *Subsection (4)* provides that where carbon units are to be credited to the net UK carbon account, then provision must be made so that they are no longer available to offset other greenhouse gases: they must be put beyond use so that they cannot be double-counted.
143. *Subsection (5)* provides that the regulations must make specific provision for dealing with the situation where the UK has a cap on emissions under a European or international scheme or arrangement that is less stringent than the carbon budget for a period, for example, if the UK’s target under the first commitment period of the Kyoto Protocol (2008–2012) is less stringent than the domestic carbon budget for that period. In that situation, the regulations must provide that the excess allowances are not used to offset greenhouse gas emissions in the UK or elsewhere.

Section 28: Procedure for regulations under section 26 or 27

144. This section sets out the procedure that must be followed when carbon accounting regulations are made under section 26 or section 27.
145. *Subsection (2)* provides that the affirmative resolution procedure must be used in the following cases:
- for the first set of carbon accounting regulations;
 - if the regulations specify a new kind of carbon unit;
 - if the regulations alter the value of a carbon unit;
 - if the regulations modify primary legislation.
146. *Subsection (3)* provides that the negative resolution procedure applies in all other situations.
147. *Subsection (4)* requires the Secretary of State to consult the devolved administrations before laying or making the regulations (depending on which Parliamentary process is being used).
148. *Subsection (5)* requires the Secretary of State to consult the Committee on Climate Change on the first set of regulations and whenever subsequent regulations specify a new kind of carbon unit or alter the value of a carbon unit.