

CLIMATE CHANGE ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: The Committee on Climate Change

Supplementary provisions

Section 39: General ancillary powers

199. *Subsection (1)* gives the Committee on Climate Change the power to do anything that appears to it necessary or appropriate for the purpose of, or in connection with, the carrying out of its functions. *Subsections (2) and (3)* set out examples to illustrate the scope of the power. Ancillary powers are not freestanding; they may be used only to facilitate the exercise of formal functions. *Subsection (4)* requires the Committee to have regard to the desirability of involving the public in the exercise of its functions.

Section 40: Grants to the Committee

200. This section enables each national authority (the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department) to fund the Committee on Climate Change. National authorities may impose conditions when giving a grant (for example, a condition requiring the Committee to supply a financial memorandum or enter into a management agreement).

Section 41: Powers to give guidance

201. This section makes provision on how the Committee on Climate Change can be given guidance on how to carry out its functions. The Committee is required to “have regard” to guidance (see *subsection (5)*) – this means that the Committee must take the guidance into account when exercising the function.

- *Subsection (1)* provides that any guidance on the Committee’s functions generally or its functions under Schedule 1 is to be given by the national authorities (and this means that such guidance must be given jointly by all the national authorities: see section 95(2));
- *Subsection (2)* provides that any guidance given on the Committee’s functions under Part 1 of the Act (for example, the function of advising on an amendment of the 2050 target), on its advice on the level of the 2050 target and on carbon budgets under sections 33 and 34, in connection with international aviation and international shipping under section 35, on the report on the impact of climate change under section 57 or on its duty to make progress reports under section 36 or 59 is to be given by the Secretary of State. Unless he is only issuing guidance in relation to the Committee’s functions under section 59, the Secretary of State must consult the devolved administrations;

Subsection (3) provides that any guidance given on the Committee’s duty to provide advice or other assistance under section 38 or on trading schemes under section 48 is

to be given by the national authority seeking the advice or other assistance. If two or more national authorities are seeking the advice or other assistance, then the guidance must be given jointly.

Section 42: Powers to give directions

202. This section makes provision on how the Committee on Climate Change can be given directions on how to carry out its functions. The Committee is required to comply with the directions (see *subsection (6)*), but the Committee cannot be given directions as to the content of any advice or report (see *subsection (4)*).

- *Subsection (1)* provides that any direction on the Committee's functions generally or its functions under Schedule 1 is to be given (jointly) by the national authorities;
- *Subsection (2)* provides that any direction given on the Committee's functions under Part 1 of the Act (for example, the function of advising on an amendment of the 2050 target), on its advice on the level of the 2050 target and on carbon budgets under sections 33 and 34, in connection with international aviation and international shipping under section 35, on the report on the impact of climate change under section 57 or on its duty to make progress reports under section 36 or 59 is to be given by the Secretary of State. Unless he is only issuing directions in relation to the Committee's functions under section 59, the Secretary of State must consult the devolved administrations;
- *Subsection (3)* provides that any direction given on the Committee's duty to provide advice and other assistance under section 38 or on trading schemes under section 48 is to be given by the national authority seeking the advice or other assistance. If two or more national authorities are seeking the advice or other assistance, then the directions must be given jointly.