

ENERGY ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Energy Efficiency

Chapter 1: Green Deal

General

Section 35: Appeals

112. This section requires the Secretary of State to provide a right of appeal against any sanction imposed or other action taken by the Secretary of State (or a specified public body) under section 3(3)(h) or (i) (non-compliance with conditions or other requirements of the scheme, code or agreement), section 6(4) (redress where the permission or consent mentioned in section 5(2)(b) was not obtained or was improperly obtained) or section 16 (non-compliance with sections 12 to 15).
113. The right of appeal which the Secretary of State must provide for is a right of appeal to a court or tribunal (*subsection (2)*). *Subsections (3) and (4)* set out the provision which the Secretary of State may make in respect of the right of appeal including, in particular, provision as to the court's or tribunal's powers in respect of an appeal application. *Subsections (5) and (6)* enable the Secretary of State and Scottish Ministers respectively to revoke or amend any subordinate legislation for the purpose of or in consequence of any provision falling within subsection (3)(a), (d), (f) or (g) (jurisdiction and powers of the court or tribunal, appeal procedure, and recovery of sums determined to be payable). The Scottish Ministers' power in subsection (6) is limited to making provision to revoke or amend subordinate legislation where making that provision would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.