

Status: Point in time view as at 18/02/2014.

Changes to legislation: Energy Act 2013, Cross Heading: General is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

EMISSIONS LIMIT DUTY: MONITORING AND ENFORCEMENT

General

- 4 (1) Enforcement regulations may—
- (a) make provision which corresponds or is similar to any provision made, or capable of being made, under section 2(2) of the European Communities Act 1972 in connection with the ETS Directive (subject to any modifications that the appropriate national authority considers appropriate);
 - (b) apply or incorporate (with or without modifications) other enactments relating to the prevention or control of environmental pollution (including, in particular, regulations implementing the ETS Directive and directly applicable EU legislation).
- 5 (1) Provision included in enforcement regulations by virtue of section 62(9)(a) may affect legislation.
- (2) For this purpose, provision affects legislation if it amends, repeals or revokes any provision made by or under primary legislation.
- (3) Enforcement regulations made by the Scottish Ministers, the Welsh Ministers or the Department of Environment may not include any provision affecting legislation unless it is within legislative competence.
- (4) Enforcement regulations made by the Secretary of State—
- (a) may include provision affecting legislation that is made in consequence of any enforcement regulations made by the Scottish Ministers, the Welsh Ministers or the Department of Environment, but
 - (b) may not include any such provision that could be included in the regulations mentioned in paragraph (a) except with the consent of the authority making those regulations.
- (5) For this purpose, a provision of enforcement regulations is within legislative competence if—
- (a) in the case of regulations by the Scottish Ministers, it would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament;
 - (b) in the case of regulations by the Welsh Ministers, it would be within the legislative competence of the National Assembly for Wales if it were included in an Act of that Assembly;
 - (c) in the case of regulations by the Department of Environment, it would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.

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- (6) Provision included in enforcement regulations by virtue of section 62(9)(b) may include provision modifying provision made by virtue of paragraph 2(3)(c) in cases where there is no applicable emissions limit in respect of any year.

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