

# ENERGY ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1: Decarbonisation

##### *Section 1: Decarbonisation target range*

57. *Subsection (1)* places a duty on the Secretary of State to ensure, once a decarbonisation target range has been set, that the carbon intensity of the electricity generation sector in the United Kingdom does not exceed the maximum level permitted by that decarbonisation target range.
58. *Subsection (2)* gives the Secretary of State a power, by order, to set a decarbonisation target range or to amend a decarbonisation target range that has already been set. An order setting or amending a decarbonisation target range is defined as a “decarbonisation order”.
59. *Subsection (3)* defines “decarbonisation target range” as a range for the carbon intensity of electricity generation in the United Kingdom. *Subsection (4)* refers to section 4, which defines “carbon intensity of electricity generation in the United Kingdom” and contains further provisions about how carbon intensity is to be calculated – see the commentary on that section for more detail.
60. *Subsection (5)* provides that a decarbonisation target range cannot be set in relation to any year before 2030, and that the power in subsection (2) to set a decarbonisation target range cannot be exercised before the carbon budget for the corresponding period has been set by the Secretary of State under section 4(2) of the Climate Change Act 2008. In effect, this means that a decarbonisation target range for the year 2030 cannot be set before 2016, when the level of the fifth carbon budget, which covers the period 2028-2032, is expected to be set in law.
61. *Subsection (6)* limits the circumstances in which the Secretary of State may amend a decarbonisation target range which has already been set, and provides that a decarbonisation target range may be amended only if it is appropriate to do so as a result of significant changes in the factors on which the decision to set, or previously amend, the decarbonisation target range was based.
62. *Subsection (7)* prevents a decarbonisation target range being revoked unless a decarbonisation target range remains in effect.
63. *Subsection (8)* allows the Secretary of State to amend and repeal certain other statutory provisions when the power in *subsection (2)* is exercised:
  - *subsection (8)(a)* allows a decarbonisation order to amend section 23(4) of the Climate Change Act 2008. This is to enable the Secretary of State to make consequential amendments to this Act if the power in section 23 of the 2008 Act is exercised to make amendments to the budgetary periods established by that Act. This is intended to provide coherence between this Act and the 2008 Act in terms of the start and end dates of carbon budgetary periods;

*These notes refer to the Energy Act 2013 (c.32)  
which received Royal Assent on 18 December 2013*

- *subsection (8)(b)* enables the repeal of the three yearly progress reporting requirement on decarbonisation and Carbon Capture and Storage contained in section 5 of the Energy Act 2010. This is to remove duplication, since the scope of these reporting requirements is covered by section 3 of this Act.
64. When a decarbonisation order is made which includes the provisions permitted by *subsection (8)*, *subsection (9)(a)* allows that order to include supplementary, incidental and consequential provision and *subsection (9)(b)* allows transitional provision and savings to be made. For example, it may be appropriate to retain the reporting requirement in section 5 of the Energy Act 2010 insofar as it relates to Carbon Capture and Storage.
  65. *Subsection (10)* requires that an order setting or amending a decarbonisation target range is to be made by statutory instrument subject to the affirmative resolution procedure (that is, a draft of the order must be approved by both Houses of Parliament).
  66. *Subsection (11)* requires the Secretary of State to consult the Department of Enterprise, Trade and Investment in Northern Ireland, and Scottish and Welsh Ministers before setting or amending a decarbonisation target range.