

# ENERGY ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Electricity Market Reform**

#### *Chapter 8: Emissions performance standard*

#### *Section 59: Suspension etc of emissions limit in exceptional circumstances*

321. *Subsection (2)* provides the Secretary of State with a power to suspend or modify the emissions limit duty on fossil fuel plant located in Great Britain (GB). *Subsection (1)* sets out the circumstances in which the power to suspend or modify the emissions limit duty will arise. It will arise, for example, if the Secretary of State believes there is a risk of a shortfall in electricity supplies and that suspending the emissions limit duty will prevent or reduce a shortfall.
322. *Subsection (3)* defines “electricity shortfall” so that shortfalls in GB and Northern Ireland (NI) can be taken into account to determine whether the power should be exercised. Thus, the Secretary of State may exercise this power where there is a risk to security of electricity supplies in GB or NI. The provisions also enable the Department of Enterprise Trade and Investment (DETI) in Northern Ireland to suspend or modify the emissions limit in respect of fossil fuel plant located in NI (see definition of “appropriate authority” and “relevant plant” in *subsection (12)*).
323. *Subsection (2)* provides for the Secretary of State to direct that the emissions limit duty in respect of a plant in GB be suspended or modified for such period as is specified in that direction. *Subsection (5)* requires the Secretary of State to consult Scottish and Welsh Ministers before giving a direction under *subsection (2)*.
324. A suspension or modification of the emissions limit duty will be effected by way of a direction to the relevant enforcing authorities who will be appointed pursuant to powers in *section 60* and *Schedule 5*.
325. *Subsection (6)* requires the Secretary of State to lay before Parliament a copy of any direction together with a statement of the reasons for making the direction as soon as is practicable after giving a direction. A similar requirement applies to DETI, which is responsible for suspending or modifying the emissions limit in Northern Ireland, see *subsection (8)*.
326. *Subsection (9)* provides that a direction must be made in writing and that a direction may be varied or revoked by a further direction.
327. *Subsection (11)* requires the Secretary of State and DETI to issue, and have regard to, a statement of his or her policy in relation to making directions to suspend or modify the emissions limit duty.