EXPLANATORY MEMORANDUM TO

THE CARBON BUDGET ORDER 2026

2026 No. XXXX

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Katie White, Parliamentary Under-Secretary of State (Minister for Climate) at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Jonathan Hoare, Deputy Director for Net Zero Strategy, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lucy Birt at the Department for Energy Security and Net Zero can be contacted by email at the following address with any queries regarding the instrument: SI_order@energysecurity.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order sets the carbon budget for the 2038-2042 budgetary period at 535 million tonnes of carbon dioxide equivalent ($MtCO_2e$). Carbon budgets set a cap on the maximum level of the net UK carbon account for each five-year budgetary period. This Order is made in accordance with the duty to set carbon budgets for budgetary periods imposed by the Climate Change Act 2008 ("The Act").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Section 1 of the Act requires the Secretary of State to ensure that the "net UK carbon account" for 2050 is at least 100% lower than the 1990 baseline ("the 2050 Target"). The net UK carbon account is defined in section 27 of the Act. With a view to meeting the 2050 Target, the Secretary of State must set five year "carbon budgets" representing the maximum level of the net UK carbon account for these budgetary periods.

5.2 The seventh carbon budget is the total permissible level of the net UK carbon account for the five-year period from 2038-2042. The level is set out in Article 2 of the Carbon Budget Order 2026, at 535 $MtCO_2e$.

5.3 The seventh carbon budget level is consistent with the 2050 Target specified in Section 1 of the Act, as required by section 8(2)(a) of the Act.

5.4 Further detail on the carbon budget level is set out in the Impact Assessment (IA), published alongside this Order. This also includes an explanation of how the matters in section 10 of the Act have been taken into account.

5.5 The Secretary of State is required by section 14 of the Act to publish a report setting out proposals and policies for meeting carbon budgets as soon as is reasonably practicable after setting each carbon budget.

What was the previous policy, how is this different?

5.6 For the purposes of section 4(2)(a) of the Act, the Carbon Budgets Order 2009 (S.I. 2009/1259) sets the first three carbon budgets. For the purposes of section 4(2)(b) of the Act, the Carbon Budget Order 2011 (S.I. 2011/1603) sets the fourth carbon budget, the Carbon Budget Order 2016 (S.I. 2016/785) sets the fifth carbon budget and the Carbon Budget Order 2021 (S.I. 2021/750) sets the sixth carbon budget. Separate Explanatory Memoranda were prepared in relation to each of these Orders.

5.7 This Order sets the seventh carbon budget for 2038–2042 at 535 $MtCO_2e$.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument does not amend the Climate Change Act 2008 but complies with the duty under section 4(1) to set the seventh carbon budget for the period 2038–2042. The earlier Orders set the level for the first six carbon budgets. No new powers or obligations are created beyond those already in the Act.

Why was this approach taken to change the law?

6.2 This is the only possible approach to setting the seventh carbon budget as under section 8(3) of the Act, an order setting a carbon budget is subject to the affirmative resolution procedure.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Act does not require public consultation on the issue covered by the Order to which this Explanatory Memorandum relates. However, there are some specific consultation requirements. The Secretary of State must take into account the advice of the CCC provided under section 34 of the Act in relation to the budgetary period and must take into account any representations made by the devolved governments before laying the draft Order proposing the limit for each budgetary period. These requirements have been met and are set out in the IA published alongside this order.

8. Applicable Guidance

8.1 No guidance has been published in relation to the matters contained in the Order.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full IA is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 At the point of setting the level of a carbon budget, the government does not yet need to agree the package of policies and proposals that will enable the carbon budgets to be met – this is the focus of the subsequent delivery plan that will be published in accordance with section 14 of the Act.

9.3 There is no, or no significant, impact on business, charities or voluntary bodies. This will be addressed in the subsequent delivery plan and individual policies.

9.4 The legislation does not impact small or micro businesses. This will be addressed in the subsequent delivery plan and individual policies.

9.5 There is no, or no significant, impact on the public sector. This will be addressed in the subsequent delivery plan and individual policies.

9.6 The overall costs and benefits of meeting the seventh carbon budget level will depend on how the Government chooses to meet it, and on external factors that are important drivers such as energy prices and technology costs. The IA gives an illustration of the scale of these impacts.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause and does not fall under the scope of the Small Business, Enterprise and Employment Act 2015.

10.2 Section 21 of the Act provides a power to amend an order setting a carbon budget where certain criteria can be satisfied, such as developments in scientific knowledge about climate change or European or international law or policy.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary of State (Minister for Climate) at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights: “In my view the provisions of the Carbon Budget Order 2026 are compatible with the Convention rights.”

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). The Climate Change Act 2008 remains a domestic statute and was not made under any Brexit-related legislation.