EXECUTIVE NOTE

THE CLIMATE CHANGE (LIMIT ON CARBON UNITS) (SCOTLAND) ORDER 2011

SSI 2011/XX

1. The above instrument will, if approved, be made by the Scottish Ministers in exercise of the powers conferred by section 21(1) and (4) of the Climate Change (Scotland) Act 2009 ("the Act"). This instrument is subject to the draft affirmative resolution procedure.

Policy objectives

2. The purpose of the instrument is to set limits on the net amount of carbon units (sometimes known as carbon credits or offsets) that may be credited to net Scottish emissions accounts during the period 2013-2017.

3. Carbon units which may be counted as credits for the purposes of calculating a net Scottish emissions account will be set by Carbon Accounting Regulations covering the period 2013-2017. It is planned that the units specified in those Regulations will be the same as or equivalent to the carbon units set out in the Carbon Accounting Scheme (Scotland) Regulations 2010[1], "the 2010 regulations", which are internationally recognised and used to monitor and track emissions under United Nations and European Union rules. They are subject to significant scrutiny and are accepted as representing genuine and verifiable emissions reductions.

4. As required by section 23 of the Act, the Scottish Ministers requested advice from the Committee on Climate Change on the limit that should be applied to the use of carbon units in the period 2013-2017. The Committee on Climate Change provided its advice in a letter, dated 1 July 2011[2].

5. The advice recommended that the Scottish Government should allow for the option to credit carbon units to net Scottish emissions accounts in the period 2013-2017. Section 14(3) of the Act sets a limit on the amount of carbon units that may be used for this purpose of 20% of the reduction in the amount of the net Scottish emissions account planned for that year. The limits set out in this instrument comply with that restriction and also with the domestic effort target set out in section 8(1) of the Act.

6. Where possible, the Scottish Ministers would prefer to use resources to achieve emissions reductions in Scotland rather use them to purchase carbon units. However, this instrument allows for their use as a contingency measure if necessary.

7. The limits exclude any carbon units which are surrendered by participants in the European Union Emissions Trading System ("the EU ETS"). This continues the approach taken in the period 2010-2012, which enables net Scottish Emissions

[1] SSI 2010/217, http://www.legislation.gov.uk/ssi/2010/216/contents/made

[2] Advice from the CCC to the Scottish Ministers, 1 July 2011: http://hmccc.Advice to the Scottish Government

accounts to take account of the operation of the EU ETS in Scotland without interfering with it. The 2010 Regulations will be amended during 2012 to provide for the crediting and debiting of EU ETS emissions in the period from 2013 onwards.

8. The limit also excludes carbon units acquired by other trading schemes. While the EU ETS is a stand alone scheme, there are other initiatives which may access and purchase credits that are held within the scheme (the "EU allowances" of this Regulation). One such initiative is the Carbon Reduction Commitment (CRC) Energy Efficiency Scheme. The administrator of the CRC is permitted to purchase EU allowances to cover emissions in each scheme period. This has the effect of reducing the number of units within the EU ETS. Therefore units acquired in the CRC or other such schemes also need to be excluded from the limit, in much the same way as those surrendered by participants in the EU ETS .

Consultation

9. There is no statutory obligation for public consultation on this Order. However, in line with section 23 of the Act, the Scottish Ministers requested the advice of the Committee on Climate Change as to the levels at which to set the limits on carbon units.

10. A consultation on proposals for a Scottish Climate Change Bill took place between 29 January and 23 April 2008. This included questions on whether international carbon units should be counted towards meeting the Scottish targets and whether there should be limits on use of carbon units. Most organisations believed that international carbon units should be counted towards Scottish targets, although under half of the individual respondents agreed and most respondents also offered some qualifications or reservations. There was strong support for limits on use of carbon units.

Business and Regulatory Impact Assessment

11. A Business and Regulatory Impact Assessment (BRIA) is not required as the instrument will not, in itself, impose new regulatory burdens on businesses, charities or the voluntary sector. Rather, it is the proposals and policies to achieve the emissions reductions targets that will have a regulatory impact. A suite of measures was identified in the first statutory Report on Proposals and Policies, published in March 2011[3]. The individual measures, or related groups of measures, detailed in the Report on Proposals and Policies were subject to BRIA as appropriate. A second Report on Proposals and policies will be published in 2012 and, if required, further BRIAs will be carried out as appropriate.

12. A Regulatory Impact Assessment was carried out for the Climate Change (Scotland) Bill and published in May 2009[4].

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[3] *Low Carbon Scotland: Meeting the Emissions Reduction Targets 2010-2022*, the first Report on Proposals and Policies: http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/lowcarbon/rpp

[4] Climate Change (Scotland) Bill: Regulatory Impact Assessment: http://www.scotland.gov.uk/Publications/2009/05/01155216/0

13. The public sector equality duty requirement has been considered and no assessment is deemed necessary for this instrument.

Financial Effects

14. Placing an upper limit on the number of carbon units that may be used to credit net Scottish emissions accounts in the period 2013-2017 will assist the Scottish Government to estimate the resource that may be required to purchase carbon units for that period should circumstances be such that offsetting emissions in this way is considered appropriate. The Scottish Government has no current plans to make use of carbon units, therefore no resource has been allocated.

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