

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE CLIMATE CHANGE (TARGETED GREENHOUSE GASES) ORDER 2022

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Climate Change (Targeted Greenhouse Gases) Order 2022 (“the Order”) is subject to the affirmative procedure and was laid before the UK Parliament on 19 October 2022. A copy of the Order was laid alongside this memorandum on 21 October and can also be found at:

<https://www.legislation.gov.uk/ukdsi/2022/9780348239713/contents>

Summary of the Order and its objective

The Climate Change Act 2008

3. Part 1 of the Climate Change Act 2008 (“the CCA”), requires the Secretary of State to reduce the net UK carbon account for the year 2050 to at least 100% below the level of net UK emissions of the 1990 baseline (i.e. the aggregate amount of net UK emissions of carbon dioxide for that year and the net UK emissions of each of the other targeted greenhouse gases for the year that is the base year for that gas, those base years being specified in section 25 of the CCA).
4. “Targeted greenhouse gas” is defined in section 24 of the CCA. “Net carbon account” is defined in section 27. “Net UK emissions” is defined in section 29.
5. Part 1 of the CCA requires the Secretary of State to set “carbon budgets” representing UK emissions for five-year periods, taking account of any “carbon units” which are credited or debited to the net UK carbon account under a system of “carbon accounting”. It places a duty on the Secretary of State to report UK emissions to the UK Parliament, and to report on the measures the UK Government will take to meet the carbon budgets instituted under Part 1.
6. Section 80 of the CCA also imposes a duty on the Welsh Ministers to lay before the Senedd from time to time a report on the objectives of the Welsh Ministers in relation to greenhouse gas emissions and the impact of climate change in Wales, the action that has been taken by the Welsh Ministers and others to deal with such emissions and that impact, and the

future priorities for the Welsh Ministers and others for dealing with such emissions and that impact.

Summary and objective

7. The Order makes provision in respect of emissions for the purpose of carbon reporting under the CCA. The result is that NF₃ emissions will be included within the scope of emissions recorded for the Annual Statement of Emissions 2021 (published March 2023), the full accounting period for the UK's Third Carbon Budget (2018-2022), and for subsequent UK carbon budgets.

Provision to be made by the Order for which consent is sought

8. Article 2 of the Order designates nitrogen trifluoride ("NF₃") as a targeted greenhouse gas for the purpose of section 24(1)(g) of the CCA.
9. Article 3 of the Order amends the CCA so that-
 - the base year for NF₃ as a targeted greenhouse gas is established as 1995,
 - NF₃ is included within the definition of greenhouse gas.
10. It is the view of the Welsh Government that the provision described in paragraphs 8 and 9 and above, so far as it extends to England and Wales and applies in relation to Wales, amends primary legislation within the legislative competence of the Senedd. It is that provision for which consent is sought.
11. The provision of the CCA affected by the Order is concerned with measures designed to deal with the effect of emissions on climate change. Such provision can be characterised as relating to 'environmental protection' (including 'pollution'), which is not a matter reserved to the UK Parliament by Schedule 7A to the Government of Wales Act 2006.

Financial implications

12. There are no financial implications in Wales in consenting to the provisions in the Order.

Why is it appropriate for the Instrument to make this provision

13. It is my view that the Order represents the most practicable and proportionate legislative vehicle to enable the provision in question to apply in Wales.
14. That provision will bring the CCA into line with the Environment (Wales) Act 2016, which establishes a statutory framework for reducing greenhouse gas emissions in Wales. It already includes NF₃ as a

greenhouse gas (see section 37(1)(g) of the Environment (Wales) Act 2016), with a 1995 baseline year (see section 38(2)(g)).

Julie James MS
Minister for Climate Change
21 October 2022