New carbon accounting amendment: Energy Bill – Consolidation

In section 27 (net UK carbon account) of the Climate Change Act 2008, after subsection (3) insert –

"(3A) In respect of any period commencing after 31 December 2027, the regulations must not make provision for carbon units to be credited to or debited from the net United Kingdom carbon account on the basis of the number of carbon units surrendered by operators of installations in the United Kingdom pursuant to the European Union Emissions Trading Scheme."[i]

Explanation:

This amendment is a successor to Clause 80 of the Energy Bill and seeks to simplify the accounting of the UK's carbon budgets under the 2008 Climate Change Act. Clause 80 was inserted by Labour and Liberal Democrat Peers in the House of Lords and successfully passed, and was unanimously supported by Labour and Scottish National Party MPs in Committee stage in the Commons where it was voted down (11-7).

As with Clause 80, this amendment seeks to make the government directly accountable for emissions in the sectors covered by the EU Emissions Trading Scheme (ETS) when determining whether the UK is staying within its national carbon budgets. The EU ETS covers emissions from the electricity sector and heavy industry. Currently, the carbon accounting regulations allow the government to ignore emissions from these sectors when determining whether the carbon budgets have been met. In effect, this makes the government responsible for only half the carbon budgets – those residual parts of the carbon budget that do not fall under the scope of the EU Emissions Trading Scheme (e.g. transport, heat, agriculture).

As currently designed, the UK carbon budgets fail to provide a framework that offers investor confidence to the UK power sector. In particular, they provide no assurance that the government will put the necessary measures in place to ensure that the power sector is largely decarbonised by 2030. The Climate Change Committee has repeatedly indicated that the power sector must reduce emissions below 100g/kWh by 2030 in order to maintain the cost-effective trajectory to our 2050 climate target. The Committee have also expressed their dissatisfaction with the current accounting rules.

If the accounting rules are changed, the Committee has indicated it will provide new advice on the appropriate level of 5th carbon budget.[ii] For the first time ever, the Committee would be able to recommend a budget that reflects the cost-effective pathway for UK emissions economy-wide. Research published by the Committee clearly indicates that the national emissions would need to fall 61% below 1990 levels over the 5th carbon budget period.[iii]

This amendment differs from Clause 80 in one key respect: while Clause 80 prevented any carbon units from the EU Emissions Trading Scheme from affecting the UK carbon account, this new amendment specifically prevents the carbon trading behaviour of private firms from affecting the national account. This is the issue that currently allows the government to ignore emissions from the ETS sectors. Under this new amendment, the government would retain the option of purchasing and cancelling ETS carbon allowances to offset UK emissions at state level. This is an environmentally preferable form of carbon offsetting compared with many types of international offset credits that are currently available to the government. This offsetting option would also strengthen the EU Emissions Trading scheme if exercised.

Appendix 1: The new amendment in context (section 27 of the Climate Change Act)

27 Net UK carbon account

(1) In this Part the "net UK carbon account" for a period means the amount of net UK emissions of targeted greenhouse gases for the period—

(a) reduced by the amount of carbon units credited to the net UK carbon account for the period in accordance with regulations under this section, and

(b) increased by the amount of carbon units that in accordance with such regulations are to be debited from the net UK carbon account for the period.

(2) The net amount of carbon units credited to the net UK carbon account for a budgetary period must not exceed the limit set under section 11 (limit on use of carbon units) for the period.

(3) The Secretary of State must make provision by regulations about—

(a) the circumstances in which carbon units may be credited to the net UK carbon account for a period,

(b) the circumstances in which such units must be debited from that account for a period, and

(c) the manner in which this is to be done.

(3A) In respect of any period commencing after 31 December 2027, the regulations must not make provision for carbon units to be credited to or debited from the net United Kingdom carbon account on the basis of the number of carbon units surrendered by operators of installations in the United Kingdom pursuant to the European Union Emissions Trading Scheme.

(4) The regulations must contain provision for ensuring that carbon units that are credited to the net UK carbon account for a period cease to be available to offset other greenhouse gas emissions.

(5) The regulations must contain provision—

(a) for determining whether the total amount of carbon units allocated to the United Kingdom for each budgetary period under schemes or arrangements imposing a limit on emissions from sources in the United Kingdom represent an amount of net UK emissions of targeted greenhouse gases for the period greater than the carbon budget for the period, and

(b) for ensuring that, if this is the case, carbon units representing the amount of such emissions in excess of the budget are not used to offset greenhouse gas emissions in the United Kingdom or elsewhere.

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[i] We are grateful to environmental lawyers at Client Earth for drafting this amendment in consultation with Sandbag. Client Earth also helped Baroness Worthington and Catherine Johnson to draft the original amendment to the Bill as it appeared in the House of Lords.

[ii] See p.125 of the Climate Change Committee's *5th Carbon Budget* report (https://www.theccc.org.uk/publication/the-fifth-carbon-budget-the-next-step-towards-a-low-carbon-economy)

[iii] In Table 6.1 of their *5th Carbon Budget* report, the Committee on Climate Change indicate that UK emissions should be 1,585 Mt across 2028-2032 (excluding shipping). See https://www.theccc.org.uk/publication/the-fifth-carbon-budget-the-next-step-towards-a-low-carbon-economy This is also demonstrated in the gross emissions trajectory provided in Figure 1.10 in their *Sectoral Scenarios for the 5th Carbon Budget* (see exhibits at https://www.theccc.org.uk/publication/sectoral-scenarios-for-the-fifth-carbon-budget-technical-report)