



CLIMATE CHANGE BILL IN SCOTTISH PARLIAMENT

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The purpose of this note, prepared for the Committee for the Environment, is to outline the main provisions in the Climate Change (Scotland) Bill to date. This note covers:

- The Bill as introduced in December 2008.
- The Bill as amended to date, after Stage 2 consideration.
- Likely amendments already expected at Stage 3 consideration.

BILL AS INTRODUCED¹

The aim of the Bill is to establish a framework to drive greater efforts at reducing Kyoto Protocol greenhouse gas emissions in Scotland by creating mandatory climate change targets to reduce Scotland's greenhouse gas emissions.

The **main policy areas** covered in the Bill, as introduced, are outlined below.

Part 1 – Emissions Reduction Targets. The Bill:

- Creates the **statutory framework** for greenhouse gas emissions reductions in Scotland, setting reduction targets of 50% for 2030 and 80% for 2050.
- Requires Ministers to **set annual targets**, in secondary legislation, for Scottish emissions from 2010 to 2050.

Part 2 – Advisory Functions. The Bill contains provisions to allow Ministers to **establish a Scottish Committee on Climate Change**, or designate an existing body to exercise advisory functions.

Part 3 – Reporting Duties. The Bill places duties on Ministers to **report regularly to the Scottish Parliament** on Scotland's emissions and on progress made towards the emissions reduction targets.

Part 4 – Duties of Public Bodies. The Bill contains powers to allow Ministers, by order, to:

- Impose climate change **duties on public bodies**.

¹ <http://www.scottish.parliament.uk/s3/bills/17-ClimateChange/b17s3-introd-en.pdf>

- Issue **guidance to those bodies** relating to their climate change duties.
- Require those bodies to **report upon discharge of those duties**.

Part 5 – Other Provisions.

- **Chapter 1 – Adaptation.** The Bill requires Ministers to lay climate change **adaptation programmes** before the Scottish Parliament.
- **Chapter 2 – Forestry.** The Bill will allow modification by secondary legislation of the functions of the Forestry Commissioners to enable the Forestry Commission in Scotland to play a greater role in tackling climate change.
- **Chapter 3 – Energy Efficiency, Energy Performance of Existing Non-Domestic Buildings and Renewable Heat.** The Bill:
 - Requires Ministers to **produce an action plan** setting out their current and proposed measures to promote the energy efficiency of buildings in Scotland, as well as measures to **encourage behavioural change** towards energy efficiency.
 - Contains **measures for assessing** the energy performance of existing non-domestic buildings in order to raise awareness of the contribution that those buildings can make to mitigating climate change through reducing energy demand and, thereby, emissions of greenhouse gases.
 - Places a duty on Ministers to take such steps as they consider appropriate to **promote the use of heat from renewable sources**.
 - **Chapter 4 – Waste Reduction and Recycling.** The Bill will enable Ministers to **make regulations on waste reduction and recycling** by different methods.

BILL AS AMENDED TO DATE²

The main changes to the Bill, following Stage 2 consideration, are outlined below. Note that the Stage 3 debate in the Scottish Parliament is scheduled for 24 June 2009.

Part 1 – Emissions Reduction Targets

Interim target:

- The interim target has been **set for 2020, at a level of 34%** lower than the baseline.
- Ministers are **enabled to modify the target** to a higher figure.

² <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-43.pdf>

Setting annual targets:

- Annual targets set for each year in the period 2011-2019 must be set at a **consistent rate of reduction** to allow the interim target to be met.
- Target-setting criteria include the likely impact on jobs/employment opportunities, those living in poorer/deprived or island communities, and environmental considerations (in particular, biodiversity).
- Annual targets can be modified. In addition:
 - Where this is done, Ministers must lay a report before the Parliament explaining why that modification has been made and make a statement to the Parliament on that report.
 - Where a different modification is made to that recommended by the relevant body, Ministers must lay a report before the Parliament explaining their reasons and make a statement to the Parliament on that report.
- Where the date to set an annual target has been missed, Ministers are allowed to set a date as soon as practicably possible.

Advice before setting annual targets:

- Ministers are required, before setting annual targets, to **publish advice received** from the relevant body.
- The **relevant body must express a view** as to whether the annual targets are appropriate and to explain that view by reference to the target-setting criteria.

Net Scottish emissions account and carbon units and carbon accounting:

- The '**domestic effort target**' has been introduced to ensure that the reduction in climate contribution is through predominately domestic sources rather than through international credits.
- The net amount of carbon units that may be credited to the account must not exceed the '**allowable amount**' which is defined.
- Ministers cannot credit carbon units to the net Scottish emissions account in the period 2010-2012, and the amount of units that can be credited to the account for the period 2103-2017 is subject to a limit of to up to 20%.
- Ministers can modify the use of carbon units and take advice before setting or modifying such limits; the Advisory Body is required to express a view on the extent to which the annual targets should be met by the use of carbon units.

Scottish share of emissions from international aviation and international shipping:

- An Order, by which Ministers may make provision regarding greenhouse gas emissions from international aviation and international shipping attributable to Scotland, must be laid before the Parliament no later than 1 June 2010.

Part 2 – Advisory Functions**Functions of advisory body:**

- The functions of the Advisory Body include **providing advice, analysis, information and other assistance** to Ministers in respect of Ministers' functions under the *interim target*.

Advice on annual targets:

- The provision for the Advisory Body to express a view on the contribution of 'sectors of the Scottish economy' towards meeting the annual targets has been replaced by a more specific requirement for it to **express a view on how the energy efficiency, energy generation, land use and transport sectors can contribute** to greenhouse gas emissions reduction.
- The Advisory Body is required to **express a view as to 'what' annual targets are appropriate**, rather than 'whether' annual targets are appropriate.

Part 3 – Reporting Duties**Reports on annual targets:**

- The report on annual targets not only states the amount of the net Scottish emissions account for the target year, but also:
 - The proportion of the reduction in the net Scottish emissions account which is accounted for by reductions in net Scottish emissions.
 - The amount of the net Scottish emissions account for each preceding target year and the cumulative amount of the net Scottish emissions account for the target year and all preceding target years.
 - The average greenhouse gas emissions per megawatt hour of electricity generated in Scotland in the target year.
 - The average greenhouse gas emissions per megawatt hour, and the estimated lifetime cumulative emissions, of any new electricity generation capacity greater than 50 megawatts approved in Scotland in the target year.
- If any adjustment is required to the annual target because the method of measuring or calculating net Scottish emissions changes, Ministers must state, in their **report to the Parliament, why the adjustment is required, the adjustment required, and the adjusted amount**.

Reports on emissions attributable to Scottish consumption of goods and services:

- Ministers are required to lay before the Parliament an **annual report on the emission of greenhouse gases** (whether in Scotland or elsewhere) which are produced by or otherwise associated with the consumption and use of goods and services in Scotland during that year.

Reports on interim and 2050 targets:

- Ministers are required to lay a report, no later than 31 December 2015, before the Parliament on the **progress being made towards meeting the interim target**, stating whether the progress being made is consistent with a reduction over time to meet both the interim and the 2050 targets.
- Reports on the interim and 2050 targets must state the cumulative amount of the net Scottish emissions account.

Provision of further information to the Scottish Parliament:

- Parliamentary scrutiny of the various reports required under the Bill has been increased:
 - Ministers must **send ‘immediately’, to parliamentary committee Conveners, copies of the reports** on annual, interim and 2050 targets, proposals and policies for meeting annual targets, and proposals and policies to compensate for excess emissions.
 - Ministers must **have regard to any resolution or report of a parliamentary committee** on these reports.
 - Ministers must **attend the appropriate parliamentary committees**, if invited to do so, to give evidence on the report.

Part 4 – Duties of Public Bodies**Duties of public bodies relating to climate change:**

- Public bodies are **required, in exercising their functions, to act: in the best way** calculated to contribute to the delivery of the emissions reduction targets; in the best way calculated to help to deliver any adaptation programmes; and in a way that it considers is the most sustainable.

Guidance to relevant public bodies:

- Ministers now **‘must’ give guidance to relevant public bodies**, and those bodies ‘must’ have regard to such guidance.

Reporting on climate change duties:

- Any public body found to be failing to comply with its climate change duties must prepare a report on the action it is taking to comply with those duties in the future.

Part 5 – Other Provisions

Chapter 1 – Adaptation:

- The adaptation programme laid before the Parliament must include arrangements for **involving employers, trade unions and other stakeholders** in meeting adaptation objectives, and mechanisms for **ensuring public engagement**.
- Ministers must report on progress towards implementation of programmes for adaptation, progress towards implementation of programmes for adaptation, and on programmes for adaptation, in order to strengthen the Government's approach to adaptation, increase scrutiny, accountability and provide for an annual report on its adaptation programme.
- Ministers are required to lay a land use strategy, including objectives for sustainable land use, before the Parliament no later than 31 March 2011.

Chapter 2 – Forestry:

- The biodiversity duty, under the Nature Conservation (Scotland) Act 2004, is applied to any such body, trust etc formed by the Forestry Commissioners.

Chapter 3 – Energy Efficiency, Energy Performance of Existing Non-Domestic Buildings and Renewable Heat:

- The plan for promoting energy efficiency must now include improving the energy efficiency of living accommodation and must set annual energy efficiency targets.
- The definition of 'energy efficiency' has been extended to include 'surplus heat from electricity generation or other industrial processes for district heating or other purposes'.
- Ministers are required to **prepare and publish a plan for the promotion of the use of heat from renewable sources**, including targets for the percentage of heat to be produced from renewable sources and a date set by which such targets should be met. Ministers must make a statement to the Parliament on the plan.
- Ministers are required to provide (or revise existing) guidance on the conditions to which consent will be granted for the construction of new, or the extension of existing, energy generating stations of a capacity greater than 50 megawatts.
- Ministers 'must' provide for the assessment of the energy performance of non-domestic buildings, and the emission of greenhouse gases produced by or otherwise associated with such buildings, or with activities carried out in such buildings.
- Owners of non-domestic buildings must comply with such assessments, and powers available to Ministers, to ensure compliance, are strengthened.

- **Council tax can be reduced for energy efficient improvements to dwellings.**
- The definition of 'maintenance', in terms of a tenement management scheme, in the Tenements (Scotland) Act 2004 includes installation of insulation.
- Ministers are required to amend the relevant legislation so that air source heat pumps, wind turbine micro-generation equipment within the curtilage of domestic properties, and micro-generation equipment within the curtilage of non-domestic buildings is **considered permitted development** (will not need planning permission).
- Ministers are required to ensure that the energy performance of any newly constructed building that becomes part of the civil estate in Scotland falls within the top quartile of energy performance.
- The Bill requires Ministers are required to lay a report before the Parliament for each financial year (beginning 2010-2011) assessing progress made towards improving the efficiency and contribution to sustainability of civil estate buildings.

Chapter 4 – Waste Reduction and Recycling:

- Regulations on waste reduction and recycling are laid before the Parliament will be subject to a 60-day scrutiny period.
- The Order on the provision of information on waste must be laid no later than 1 year from the date of the Bill receiving Royal Assent.

Note, also, that after considerable debate at Stage 1, the Government announced that it would remove from the Bill the provision that would enable the Forestry Commissioners to delegate their functions, thus allowing it to lease out part of the forest estate. The Bill has been so amended.

Part 6 – General and Miscellaneous

- Ministers and the Advisory Body are required to take into account the way in which they exercise their functions (as conferred on them by the Bill) contributes to the achievement of sustainable development.

ADDITIONAL AMENDMENTS LIKELY BEFORE STAGE 3³

At Stage 2, Ministers agreed to discuss, consider or act on the following amendments, at/before Stage 3, as outlined below.

Part 1

Ministers agreed to discuss amendments:

- That take account of the impact of greenhouse gas emissions that occur outside Scotland, but for purposes of providing goods or services in Scotland.

³ <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-43.pdf>

- On emissions reduction proposals in Scotland that do not adversely affect other countries.

Part 2

Ministers agreed to bring back amendments to:

- Require the Advisory Body's functions to provide advice on the interim target as well as advice on the effectiveness of Ministers' proposals and policies for achieving the interim and 2050 targets.
- Require the Government to define and quantify how various sectors are expected to contribute to overall emissions reduction.

Part 4

Ministers agreed to bring back amendments to require reports by public bodies on compliance with their climate change duties to contain information about the way in which procurement policies and wider workplace policies contribute to these duties.

Part 5

Ministers agreed to:

- Discuss an amendment to insert a public engagement strategy into the Bill.
- Bring forward an amendment to require Ministers to report on measures they intend to take to reduce emissions from non-domestic buildings, and when they intend to make provisions for powers to ensure compliance.

Agreement appeared to be reached on the principle of creating climate change burdens for a public body or Ministers to reduce greenhouse gas emissions.