



Climate Change (Scotland) Act 2009

2009 asp 12

PART 4

DUTIES OF PUBLIC BODIES RELATING TO CLIMATE CHANGE

Duties of public bodies

44 Duties of public bodies relating to climate change

- (1) A public body must, in exercising its functions, act—
 - (a) in the way best calculated to contribute to the delivery of the targets set in or under Part 1 of this Act;
 - (b) in the way best calculated to help deliver any programme laid before the Scottish Parliament under section 53;
 - (c) in a way that it considers is most sustainable.
- (2) In this Part, a “public body” means a Scottish public authority within the meaning of section 3(1)(a) of the Freedom of Information (Scotland) Act 2002 (asp 13).
- (3) The Scottish Ministers may, if they consider it appropriate to do so, by order, make further provision relating to the imposition on relevant public bodies of duties relating to climate change.
- (4) The duties imposed by subsection (1) and any duty imposed by virtue of an order under subsection (3) are referred to in this Act as “climate change duties”.
- (5) In this Part, a public body which has climate change duties under subsection (1) or by virtue of subsection (3) is a “relevant public body”.
- (6) An order under subsection (3) may in particular—
 - (a) impose climate change duties on—
 - (i) all public bodies;
 - (ii) public bodies of a particular description;
 - (iii) individual public bodies;
 - (b) impose different climate change duties on different public bodies or descriptions of public body;

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(c) remove climate change duties.

(7) Before laying a draft of a statutory instrument containing an order under subsection (3) before the Scottish Parliament, the Scottish Ministers must consult, in so far as reasonably practicable, the persons mentioned in subsection (8).

(8) Those persons are—

- (a) such associations of local authorities; and
- (b) such other persons,

as the Scottish Ministers consider appropriate.

(9) The Scottish Ministers must co-operate with a relevant public body to help that body comply with its climate change duties.

45 Guidance to relevant public bodies

(1) The Scottish Ministers must give guidance to relevant public bodies in relation to climate change duties and those bodies must have regard to such guidance.

(2) Before giving guidance under subsection (1), the Scottish Ministers must consult, in so far as reasonably practicable, the persons mentioned in subsection (3).

(3) Those persons are—

- (a) such associations of local authorities; and
- (b) such other persons,

as the Scottish Ministers consider appropriate.

(4) The Scottish Ministers may vary or revoke guidance given under this section and where guidance is varied to a substantial extent, subsections (2) and (3) apply.

(5) The Scottish Ministers must publish any guidance given under this section.

46 Reporting on climate change duties

(1) The Scottish Ministers may, by order, make provision—

- (a) requiring relevant public bodies to prepare reports on compliance with climate change duties;
- (b) requiring any relevant public body found, following an investigation under section 48, to be failing to comply with its climate change duties, to prepare a report on the actions it has taken, is taking or intends to take to secure future compliance with those duties;
- (c) subject to subsection (2), setting out what information reports must contain;
- (d) setting out the form and manner of reports;
- (e) setting out the period within which reports must be sent to the Scottish Ministers.

(2) A report required by virtue of subsection (1)(a) must, in particular, contain information relating to how—

- (a) procurement policies of relevant public bodies; and
- (b) procurement activity by relevant public bodies,

have contributed to compliance with climate change duties.

(3) An order under subsection (1) may in particular—

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- (a) require two or more relevant public bodies to prepare a joint report in relation to compliance with one or more climate change duties; and
- (b) require those bodies to co-operate with each other for the purpose of preparing that report.