

# Climate Change (Scotland) Act 2009

## 2009 asp 12

### PART 1

#### EMISSIONS REDUCTION TARGETS

#### *[<sup>F1</sup>The net-zero emissions target*

#### Textual Amendments

- F1** S. A1 and cross-heading inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 1, 32(2)**; S.S.I. 2020/66, reg. 2

#### **A1**      **The net-zero emissions target**

- (1) The Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline (the target is known as the “net-zero emissions target”).
- (2) The “net-zero emissions target year” is 2045.
- (3) The Scottish Ministers may by regulations modify subsection (2) so as to substitute for the year for the time being mentioned in that subsection—
  - (a) an earlier year, or
  - (b) a later year if—
    - (i) that later year is consistent with the most up-to-date advice they have received from the relevant body, and
    - (ii) that advice states that the later year is appropriate on the basis of either scientific knowledge about climate change or current international carbon reporting practice (or both).
- (4) In preparing a draft of regulations to be made under subsection (3), the Scottish Ministers must have regard to—
  - (a) the target-setting criteria, and
  - (b) the most up-to-date advice they have received from the relevant body.

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- (5) As soon as reasonably practicable after laying for approval a draft of such regulations, the Scottish Ministers must publish a statement setting out—
- (a) their reasons for proposing to modify the net-zero emissions target year,
  - (b) the extent to which the proposed net-zero emissions target year takes account of the target-setting criteria, and
  - (c) whether the proposed net-zero emissions target year is consistent with the most up-to-date advice they have received from the relevant body and, if it is not, the reasons why.]

F2 ...

**Textual Amendments**

- F2** S. 1 and cross-heading repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), ss. 2, 32(2); S.S.I. 2020/66, reg. 2

**F21 The 2050 target**

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*[F3 The interim targets]*

**Textual Amendments**

- F3** S. 2 and cross-heading substituted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), ss. 3, 32(2); S.S.I. 2020/66, reg. 2

**[F32 The interim targets**

- (1) The Scottish Ministers must ensure that the net Scottish emissions account for the year—
  - (a) 2020 is at least 56% lower than the baseline,
  - (b) 2030 is at least 75% lower than the baseline, and
  - (c) 2040 is at least 90% lower than the baseline.
- (2) In this Act, each target set out in subsection (1) is known as an “interim target”.]

**[F42A Modification of the interim targets**

- (1) The Scottish Ministers may by regulations modify one or more of the percentage figures applying for the purposes of any of the interim targets, so as to substitute a higher or lower figure for the one for the time being mentioned in section 2(1)(a), (b) or (c).
- (2) But regulations under subsection (1) may not substitute a lower percentage figure for an interim target if that figure is—
  - (a) inconsistent with the most up-to-date advice the Scottish Ministers have received from the relevant body,

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- (b) not, in that advice, stated to be appropriate on the basis of either scientific knowledge about climate change or current international carbon reporting practice (or both),
  - (c) lower than any percentage figure applying, immediately after the regulations come into force, for an interim target for an earlier year, or
  - (d) lower than 100% for a year which is the same as, or later than, the net-zero emissions target year.
- (3) In preparing a draft of regulations to be made under subsection (1), the Scottish Ministers must have regard to—
- (a) the target-setting criteria, and
  - (b) the most up-to-date advice they have received from the relevant body.
- (4) Subsection (5) applies if—
- (a) the Scottish Ministers lay before the Scottish Parliament for approval a draft of regulations under section A1(3) which modify the net-zero emissions target year to a year earlier than 2045, and
  - (b) any percentage figure applying for the purposes of any interim target for a year which is the same as or later than the proposed net-zero emissions target year, is lower than 100%.
- (5) The Scottish Ministers must, at the same time as or as soon as reasonably practicable after laying the regulations mentioned in subsection (4)(a), lay before the Scottish Parliament for approval a draft of regulations under subsection (1) which modify to 100% a percentage figure mentioned in subsection (4)(b).
- (6) As soon as reasonably practicable after laying for approval a draft of regulations to be made under subsection (1), the Scottish Ministers must publish a statement setting out in respect of each proposed modification of a percentage figure by the regulations—
- (a) their reasons for proposing to modify the percentage figure,
  - (b) the extent to which the proposed modification takes account of the target-setting criteria, and
  - (c) whether the proposed modification is consistent with the most up-to-date advice they have received from the relevant body.]

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**Textual Amendments**

- F4** S. 2A inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), **ss. 4, 32(2)**; S.S.I. 2020/66, reg. 2

*[<sup>F5</sup>The target-setting criteria*

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**Textual Amendments**

- F5** S. 2B and cross-heading inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), **ss. 5, 32(2)**; S.S.I. 2020/66, reg. 2

## **2B The target-setting criteria**

- (1) In this Act, the “target-setting criteria” are—

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- (a) the objective of not exceeding the fair and safe Scottish emissions budget,
  - (b) European and international law and policy relating to climate change (including the United Nations Framework Convention on Climate Change and protocols to that Convention),
  - (c) scientific knowledge about climate change,
  - (d) technology relevant to climate change,
  - (e) economic circumstances, in particular the likely impact of the target on—
    - (i) the Scottish economy,
    - (ii) the competitiveness of particular sectors of the Scottish economy,
    - (iii) small and medium-sized enterprises,
    - (iv) jobs and employment opportunities,
  - (f) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing,
  - (g) social circumstances, in particular the likely impact of the target on those living in poorer or deprived communities,
  - (h) the likely impact of the target on public health,
  - (i) the likely impact of the target on those living in remote rural communities and island communities,
  - (j) energy policy, in particular the likely impact of the target on energy supplies, the renewable energy sector and the carbon and energy intensity of the Scottish economy,
  - (k) environmental considerations and, in particular, the likely impact of the target on biodiversity,
  - (l) the likely impact of the target on the achievement of sustainable development, including the achievement of the United Nations sustainable development goals,
  - (m) current international carbon reporting practice.
- (2) In this Act, the “fair and safe Scottish emissions budget” is the aggregate amount of net Scottish emissions of greenhouse gases for the period 2010 to 2050 as recommended by the relevant body as being consistent with Scotland, in line with the principles set out in article 3 of the United Nations Framework Convention on Climate Change, contributing appropriately to the holding of the increase in global average temperature to well below 2°C above pre-industrial levels, and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.
- (3) The Scottish Ministers may by regulations modify subsection (1) and (2) so as to add, remove or vary the description of a target-setting criterion.]

*[<sup>F6</sup>Advice about targets*

**Textual Amendments**

- F6** S. 2C and cross-heading inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), ss. 6, 32(2); S.S.I. 2020/66, reg. 2

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## **2C Duty to seek advice from the relevant body**

- (1) The Scottish Ministers must request advice from the relevant body at least once before the expiry of each relevant 5 year period.
- (2) A “relevant 5 year period” means a period of 5 years which begins with—
  - (a) in the case of the first period, the date on which this section comes into force, and
  - (b) in the case of a subsequent period, the date on which the previous request for advice was, or is treated as having been, made under subsection (1).
- (3) A request for advice under subsection (1) must request the relevant body's views as to—
  - (a) whether the net-zero emissions target is achievable and, if so, what is the earliest achievable net-zero emissions target year (with views on both matters taking account of the target-setting criteria),
  - (b) whether the percentage figure applying for the purposes of each interim target not yet reported on under section 33 is appropriate by reference to the target-setting criteria (and if not, advice as to any alternative percentage figure that would be appropriate),
  - (c) whether the fair and safe Scottish emissions budget is appropriate, and request that, if not, the body makes a fresh recommendation for the purpose of the budget,
  - (d) the estimated contribution of the net-zero emissions target and the interim targets towards global efforts to limit the global average temperature increase to 1.5°C above pre-industrial levels,
  - (e) the extent to which each relevant target should be met by—
    - (i) taking action to reduce net Scottish emissions of greenhouse gases, and
    - (ii) the crediting of carbon units to the net Scottish emissions account in accordance with regulations under section 13(5),
  - (f) the respective contributions towards meeting each relevant target that should be made by—
    - (i) the sectors of the Scottish economy which are covered by trading schemes within the meaning of section 44 of the 2008 Act, and
    - (ii) the other sectors of the Scottish economy,
  - (g) the respective contributions towards meeting each relevant target that should be made by each of the sectors mentioned in section 35(3),
  - (h) whether the multiplier to reflect the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation which applies for each greenhouse gas by virtue of section 16(3) is appropriate (and if not, advice as to any alternative multiplier that would be appropriate).
- (4) A “relevant target” is—
  - (a) an annual target for a year within the period of 15 years beginning with the year immediately following the year in which a request is made under subsection (1),
  - (b) an interim target for a year within that 15 year period, and
  - (c) the net-zero emissions target, if the net-zero emissions target year is within that 15 year period.

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- (5) A request for advice under subsection (1) may request the relevant body's views as to any other matter which the Scottish Ministers consider relevant for the purposes of this Part.]

**[<sup>F7</sup>2D Power to seek additional advice**

- (1) The Scottish Ministers may request advice from the relevant body at any time on—
- (a) a matter mentioned in section 2C(3),
  - (b) any other matter which they consider relevant for the purposes of this Part.
- (2) But any request for advice under subsection (1) on all of the matters mentioned in section 2C(3) is to be treated as having been made under section 2C(1).]

**Textual Amendments**

**F7** S. 2D inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), **ss. 7, 32(2)**; S.S.I. 2020/66, reg. 2

**[<sup>F8</sup>2E Ministerial duties following request for advice**

- (1) The Scottish Ministers must publish any advice received in response to a request under section 2C(1) or 2D(1) as soon as reasonably practicable after they receive it.
- (2) Subsection (3) applies if—
- (a) the relevant body's advice states that a particular year is the earliest achievable year for the net-zero emissions target, and
  - (b) that year is not already the net-zero emissions target year.
- (3) The Scottish Ministers must—
- (a) within 3 months of receiving that advice publish a statement setting out how they intend to respond to that advice, and
  - (b) if they do not, within 12 months of receiving that advice, lay for approval a draft of regulations under section A1(3) which modify the net-zero emissions target year to that year, make a statement to the Scottish Parliament setting out the reasons for not doing so.
- (4) Subsection (5) applies if the relevant body's advice states that a percentage figure for an interim target applying when the request is made is not appropriate and that another figure would be appropriate.
- (5) The Scottish Ministers must—
- (a) within 3 months of receiving that advice publish a statement setting out how they intend to respond to that advice, and
  - (b) if they do not, within 12 months of receiving that advice, lay for approval a draft of regulations under section 2A(1) to make the advised modification to that percentage figure, make a statement to the Scottish Parliament setting out the reasons for not doing so.
- (6) Subsection (7) applies if—
- (a) the relevant body's advice states that, for a greenhouse gas, the multiplier figure reflecting the direct and indirect non-carbon dioxide climate change

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- impacts of emissions at altitude from international aviation applying when the request is made is not appropriate and that another figure would be appropriate, and
- (b) the Scottish Ministers do not, within 12 months of receiving that advice, lay for approval a draft order under section 16(1) amending the multiplier to that figure.
- (7) The Scottish Ministers must publish a statement setting out the reasons for not laying for approval a draft order under section 16(1) making the advised modification to that multiplier figure.]

#### Textual Amendments

- F8** S. 2E inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 8, 32(2)**; S.S.I. 2020/66, reg. 2

#### *Annual targets*

#### [<sup>F93</sup> **Annual targets: 2021 to year before net-zero year**

- (1) The Scottish Ministers must ensure that the net Scottish emissions account is at least the relevant target figure lower than the baseline for each year in the period—
- (a) beginning with 2021 and ending with 2029 (the “2021-2029 period”),
- (b) beginning with 2031 and ending with 2039 (the “2031-2039 period”), and
- (c) beginning with 2041 and ending with the year which immediately precedes any net-zero emissions target year after 2041 (the “final annual target period”).
- (2) The relevant target figure for each year in the 2021-2029 period is a percentage figure calculated by—
- (a) taking the difference between the percentage figures applying for the purposes of the interim targets for 2020 and 2030, and
- (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2020 and ending with 2030.
- (3) The relevant target figure for each year in the 2031-2039 period is a percentage figure calculated by—
- (a) taking the difference between the percentage figures applying for the purposes of the interim targets for 2030 and 2040, and
- (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2030 and ending with 2040.
- (4) The relevant target figure for each year in the final annual target period is a percentage figure calculated by—
- (a) taking the difference between the percentage figure applying for the purposes of the interim target for 2040 and 100%, and
- (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2040 and ending with the net-zero emissions target year.

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- (5) In calculating or recalculating a relevant percentage figure by virtue of this section or section 3A or 3B, the figure must be rounded to one decimal place, with numbers at the midpoint or greater being rounded up and other numbers being rounded down.
- (6) In this Act, each target set by virtue of this section (or recalculated in accordance with section 3A or 3B) is known as an “annual target”.

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**Textual Amendments**

**F9** Ss. 3-3B substituted for s. 3 (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), ss. 10, 32(2); S.S.I. 2020/66, reg. 2

**3A Annual targets: recalculation if net-zero emissions target year is in certain periods**

- (1) Subsection (2) applies where regulations made under section A1(3) modify the net-zero emissions target year to a year which is in either—
- (a) the 2021-2029 period, or
  - (b) the 2031-2039 period.
- (2) The relevant target figure applying by virtue of section 3 for a year which is—
- (a) in the same period as the net-zero emissions target year but before the net-zero emissions target year, is modified in accordance with subsection (4),
  - (b) the same as, or after, the net-zero emissions target year, is modified to become 100%.
- (3) Where regulations made under section A1(3) modify the net-zero emissions target year to a year which is after 2041, the relevant target figure applying by virtue of section 3 for a year which is before the net-zero emissions target year (as set by those regulations) is modified in accordance with subsection (4).
- (4) Where this subsection applies to a relevant target figure, that figure is modified to become a percentage figure calculated by—
- (a) taking the difference between—
    - (i) the target figure applying for the interim target which immediately precedes the net-zero emissions target year, and
    - (ii) 100%, and
  - (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with the year of the interim target which immediately precedes the net-zero emissions target year and ending with the net-zero emissions target year.
- (5) Any modification under this section does not apply to a year which is the same as, or earlier than, the year in which the regulations under section A1(3) come into force.

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**Textual Amendments**

**F9** Ss. 3-3B substituted for s. 3 (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), ss. 10, 32(2); S.S.I. 2020/66, reg. 2



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### **3B Annual targets: further rules on recalculation**

- (1) This section applies where the Scottish Ministers make regulations under either of the following—
  - (a) section A1(3),
  - (b) section 2A(1) modifying one or more of the percentage figures applying for the purposes of any interim target.
- (2) An annual target in relation to a year which is subsequent to the year in which the regulations mentioned in subsection (1) come into force is to be recalculated under section 3 and, where applicable, modified under section 3A in accordance with the figures applying immediately after those regulations come into force.
- (3) But an annual target in relation to a year which is the same as, or earlier than, the year in which the regulations mentioned in subsection (1) come into force is not to be recalculated or modified, except where subsection (4) applies.
- (4) This subsection applies where, at the same time as or as soon as reasonably practicable after laying for approval a draft of regulations mentioned in subsection (1), the Scottish Ministers publish a statement that the regulations are in response to, and consistent with, the most up-to-date advice they have received from the relevant body advising that targets should be modified for the sole reason of a change in international carbon reporting practice.
- (5) Where subsection (4) applies, an annual target in respect of a year for which the Scottish Ministers have not yet reported on under section 33 is also to be recalculated in accordance with subsection (2) for the purposes of assessing and reporting in accordance with section 33.]

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#### **Textual Amendments**

- F9** Ss. 3-3B substituted for s. 3 (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 10**, 32(2); S.S.I. 2020/66, reg. 2

*[<sup>F10</sup>Information about targets*

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#### **Textual Amendments**

- F10** S. 3C and cross-heading inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 13**, 32(2); S.S.I. 2020/66, reg. 2

### **3C Publication of targets**

- (1) The Scottish Ministers must keep and maintain a list of the following—
  - (a) the net-zero emissions target year,
  - (b) the percentage figure for each interim target,
  - (c) the percentage figure for each annual target (including any such figure recalculated and, where applicable, modified under this Part),
  - (d) the percentage figure for each of the years 2018 and 2019, as set out in section 11 of the [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#).

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- (2) The Scottish Ministers may remove from the list any entry in respect of a year in relation to which the Scottish Ministers have reported on under section 33.
- (3) The Scottish Ministers must lay a copy of the list before the Scottish Parliament—
  - (a) in the case of the first list, as soon as reasonably practicable after it has been compiled, and
  - (b) in any other case, as soon as reasonably practicable after the net-zero emissions target year or a percentage figure mentioned in subsection (1) has been modified.
- (4) The Scottish Ministers must publish, in such manner as they consider appropriate, the information contained in the list mentioned in subsection (1).]

**F114     Setting annual targets**

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**Textual Amendments**

**F11** Ss. 4-8 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 2**; S.S.I. 2020/66, reg. 2

**F115     Advice before setting annual targets**

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**Textual Amendments**

**F11** Ss. 4-8 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 2**; S.S.I. 2020/66, reg. 2

**F116     Modifying annual targets etc.**

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**Textual Amendments**

**F11** Ss. 4-8 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 2**; S.S.I. 2020/66, reg. 2

**F117     Advice before modifying annual targets etc.**

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**Textual Amendments**

**F11** Ss. 4-8 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 2**; S.S.I. 2020/66, reg. 2

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F11 ...

**F118 The domestic effort target**

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*[<sup>F12</sup>Nitrogen balance sheet*

**Textual Amendments**

**F12** S. 8A and cross-heading inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\), ss. 17, 32\(2\)](#); S.S.I. 2020/66, reg. 2

**8A Nitrogen balance sheet**

- (1) The Scottish Ministers must, no later than [<sup>F13</sup>24] months after this section comes into force, create a balance sheet to quantify all major nitrogen flows across all sectors and media in Scotland, including its coastal waters, the atmosphere and soil and flows across these boundaries, to be known as a “nitrogen balance sheet” for the purpose mentioned in subsection (2).
- (2) The purpose of the nitrogen balance sheet is to record how nitrogen use efficiency contributes to achieving the targets in this Act.
- (3) The Scottish Ministers must by regulations make provision for—
  - (a) a baseline figure for nitrogen use efficiency,
  - (b) how nitrogen use efficiency is to be calculated,
  - (c) the timescale in which the nitrogen balance sheet is to be reviewed,
  - (d) monitoring and reporting upon the nitrogen balance sheet,
  - (e) such other matters as they consider appropriate.
- (4) The Scottish Ministers must, before laying draft regulations under subsection (3) before the Scottish Parliament, consult such persons as they consider appropriate.
- (5) In this Act “nitrogen use efficiency” means the ratio of nitrogen removed from the environment compared to total nitrogen inputs.
- (6) For the purposes of assessing the ratio mentioned in subsection (5), account should be taken of sources of nitrogen pollution, including—
  - (a) food production and waste,
  - (b) energy, and
  - (c) transport.]

**Textual Amendments**

**F13** Word in s. 8A(1) substituted (27.5.2020) by [Coronavirus \(Scotland\) \(No.2\) Act 2020 \(asp 10\), s. 16\(1\), sch. 3 para. 1\(2\)](#) (with s. 9)

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*Advice on progress*

**9 Progress towards targets**

- (1) The Scottish Ministers must in each year<sup>F14</sup>... request the relevant body to prepare a report setting out that body's views on—
- (a) progress towards achievement of [<sup>F15</sup>future emissions reduction targets,]—
    - <sup>F16</sup>(i) .....
    - <sup>F16</sup>(ii) .....
    - <sup>F16</sup>(iii) .....
  - (b) whether the [<sup>F17</sup>future emissions reduction targets] are likely to be achieved;
  - (c) any further effort which may be necessary to achieve [<sup>F18</sup>the future emissions reduction targets].
  - <sup>F19</sup>(d) any draft climate change plan laid before the Scottish Parliament under section 35A(1)(a) within the period of 12 months immediately preceding the making of the request.]
- (2) No later than the end of the second year following [<sup>F20</sup>each target year], the Scottish Ministers must request the relevant body to prepare a report setting out that body's views on—
- (a) whether the [<sup>F21</sup>emissions reduction] target for the target year was met;
  - <sup>F22</sup>(b) .....
  - (c) the ways in which those targets were or were not met;
  - (d) the action taken by the Scottish Ministers to reduce net Scottish emissions [<sup>F23</sup>of greenhouse gases] during that year.
- (3) The Scottish Ministers must lay a response to the relevant body's report under this section before the Scottish Parliament as soon as reasonably practicable after they receive that body's report.

**Textual Amendments**

- F14** Words in s. 9(1) repealed (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(a)(i)**; S.S.I. 2020/66, reg. 2
- F15** Words in s. 9(1)(a) inserted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(a)(ii)**; S.S.I. 2020/66, reg. 2
- F16** S. 9(1)(a)(i)-(iii) repealed (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(a)(iii)**; S.S.I. 2020/66, reg. 2
- F17** Words in s. 9(1)(b) substituted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(a)(iv)**; S.S.I. 2020/66, reg. 2
- F18** Words in s. 9(1)(c) substituted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(a)(v)**; S.S.I. 2020/66, reg. 2
- F19** S. 9(1)(d) inserted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), **ss. 24(2)**, 32(2); S.S.I. 2020/66, reg. 2
- F20** Words in s. 9(2) substituted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(b)(i)**; S.S.I. 2020/66, reg. 2
- F21** Words in s. 9(2)(a) substituted (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(b)(ii)**; S.S.I. 2020/66, reg. 2
- F22** S. 9(2)(b) repealed (23.3.2020) by Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15), s. 32(2), **sch. para. 3(b)(iii)**; S.S.I. 2020/66, reg. 2

*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

**F23** Words in s. 9(2)(d) inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), s. 32(2), [sch. para. 3\(b\)\(iv\)](#); S.S.I. 2020/66, reg. 2

#### Commencement Information

**I1** S. 9 in force at 31.10.2009 by [S.S.I. 2009/341](#), [art. 2\(2\)\(a\)](#)

### *Greenhouse gases*

## 10 Greenhouse gases

- (1) In this Act, a “greenhouse gas” means—
- carbon dioxide;
  - methane;
  - nitrous oxide;
  - hydrofluorocarbons;
  - perfluorocarbons;
  - sulphur hexafluoride.
  - <sup>F24</sup>nitrogen trifluoride.]
- (2) The Scottish Ministers may, if they consider it appropriate to do so, by order, modify subsection (1) so as to—
- add a gas;
  - modify the description of a gas.
- (3) The power in subsection (2)(a) may be exercised only if it appears to the Scottish Ministers that an agreement or arrangement at European or international level recognises that the gas to be added contributes to climate change.
- (4) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under subsection (2) before the Scottish Parliament, request advice from the relevant body.
- (5) If the order makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (6) A statement under subsection (5) may be published in such manner as the Scottish Ministers consider appropriate.

#### Textual Amendments

**F24** S. 10(1)(g) inserted (16.5.2015) by [The Climate Change \(Additional Greenhouse Gas\) \(Scotland\) Order 2015 \(S.S.I. 2015/197\)](#), arts. 1, 2

#### Commencement Information

**I2** S. 10 in force at 31.10.2009 by [S.S.I. 2009/341](#), [art. 2\(2\)\(a\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

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## *Baseline*

### 11 The baseline

- (1) In this Act, the “baseline” means the aggregate amount of—
  - (a) net Scottish emissions of carbon dioxide for 1990; and
  - (b) net Scottish emissions of each of the greenhouse gases other than carbon dioxide for the year that is the baseline year for that gas.
- (2) The baseline years for greenhouse gases other than carbon dioxide are—
  - (a) for methane, 1990;
  - (b) for nitrous oxide, 1990;
  - (c) for hydrofluorocarbons, 1995;
  - (d) for perfluorocarbons, 1995;
  - (e) for sulphur hexafluoride, 1995.
  - [<sup>F25</sup>(f) for nitrogen trifluoride, 1995.]

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#### Textual Amendments

**F25** S. 11(2)(f) inserted (16.5.2015) by [The Climate Change \(Additional Greenhouse Gas\) \(Scotland\) Order 2015 \(S.S.I. 2015/197\)](#), arts. 1, 3

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#### Commencement Information

**I3** S. 11 in force at 31.10.2009 by [S.S.I. 2009/341](#), art. 2(2)(a)

### 12 Baselines for additional greenhouses gases

- (1) This section applies where the Scottish Ministers have made an order under section 10(2)(a) adding a greenhouse gas.
- (2) In this section, such a gas is referred to as an “additional greenhouse gas”.
- (3) The Scottish Ministers may, by order, make provision as to the manner of determining, in the case of an additional greenhouse gas, the amount of net Scottish emissions for the baseline year.
- (4) An order under subsection (3) may in particular—
  - (a) designate a year as the baseline year for the additional greenhouse gas;
  - (b) provide for the amount of net Scottish emissions of the gas for that year to be treated for the purposes of this Act as the amount of net Scottish emissions of that gas for that baseline year.

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#### Commencement Information

**I4** S. 12 in force at 31.10.2009 by [S.S.I. 2009/341](#), art. 2(2)(a)

### Supplementary

## 13 The net Scottish emissions account

- (1) The net Scottish emissions account means the aggregate amount of net Scottish emissions of greenhouse gases—
- (a) reduced by the amount of carbon units credited to the net Scottish emissions account for the period in accordance with regulations under subsection (5);
  - (b) increased by the amount of carbon units that, in accordance with such regulations, are to be debited from the net Scottish emissions account for the period.

<sup>F26</sup>(2) .....

<sup>F26</sup>(3) .....

<sup>F26</sup>(4) .....

- (5) The Scottish Ministers may, by regulations, make provision about—
- (a) the circumstances in which carbon units may [<sup>F27</sup>or may not] be credited to the net Scottish emissions account for a period;
  - (b) the circumstances in which such units may [<sup>F28</sup>or may not] be debited from that account for a period;
  - (c) the manner in which this is to be done.

[<sup>F29</sup>(5A) But the amount of carbon units purchased by the Scottish Ministers that may, by virtue of regulations under subsection (5), be credited to the net Scottish emissions account for a period is zero, unless regulations under section 13A specify a higher limit in relation to that period.]

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

#### Textual Amendments

- F26** S. 13(2)-(4) repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 14(1)(a)**, 32(2) (with s. 14(3)(4)); S.S.I. 2020/66, reg. 2
- F27** Words in s. 13(5)(a) inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 14(1)(b)(i)**, 32(2) (with s. 14(3)(4)); S.S.I. 2020/66, reg. 2
- F28** Words in s. 13(5)(b) inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 14(1)(b)(ii)**, 32(2) (with s. 14(3)(4)); S.S.I. 2020/66, reg. 2
- F29** S. 13(5A) inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 14(1)(c)**, 32(2) (with s. 14(3)(4)); S.S.I. 2020/66, reg. 2

#### Commencement Information

- I5** S. 13 in force at 31.10.2009 by [S.S.I. 2009/341](#), **art. 2(2)(a)**

## [<sup>F30</sup>13A Permitted use of carbon units purchased by the Scottish Ministers

- (1) The Scottish Ministers may by regulations set a limit representing the maximum amount of carbon units purchased by them that may be credited to the net Scottish emissions account for a year.

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*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

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- (2) A limit set in regulations under subsection (1) for a target year must not exceed an amount which represents 20% of the planned reduction in the net Scottish emissions account for that year.
- (3) The planned reduction in the net Scottish emissions account for a target year is the difference between the following amounts, both being calculated immediately before the regulations under subsection (1) are made—
- (a) the minimum amount by which the emissions reduction target for the target year requires the net Scottish emissions account to be lower than the baseline, and
  - (b) the minimum amount by which the emissions reduction target for the immediately preceding year requires the net Scottish emissions account to be lower than the baseline.
- (4) Regulations under subsection (1) may set a limit only for a year—
- (a) in respect of which the Scottish Ministers have not yet reported on under section 33, and
  - (b) which ends no more than 10 years after the year in which the regulations come into force.]

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**Textual Amendments**

**F30** S. 13A inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), **ss. 15(1)**, 32(2); S.S.I. 2020/66, reg. 2

**F31** **14**     **Restriction on use in 2010–2017 of carbon units purchased by Scottish Ministers**

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**Textual Amendments**

**F31** S. 14 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 4**; S.S.I. 2020/66, reg. 2

**15**     **Attribution of emissions to Scotland**

For the purposes of section 17(1), emissions of a greenhouse gas are attributable to Scotland if—

- (a) they are emitted from sources in Scotland;
- (b) they are attributed to Scotland by virtue of an order under section 16(1).

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**Commencement Information**

**I6** S. 15 in force at 31.10.2009 by [S.S.I. 2009/341](#), **art. 2(2)(a)**



## **16 Scottish share of emissions from international aviation and international shipping**

- (1) The Scottish Ministers may, by order, make provision regarding the emissions of greenhouse gases from international aviation and international shipping that are attributable to Scotland.
- (2) An order under subsection (1)—
  - (a) must make provision for emissions from international aviation and international shipping of—
    - (i) in the case of the first order under that subsection, each greenhouse gas; and
    - (ii) in the case of any subsequent order under subsection (1), any gas added to the list of greenhouse gases in section 10(1) since the last such order was made,  
to be taken into account as Scottish emissions of each such gas in the period starting with the 1 January following the order being approved by the Scottish Parliament and ending on 31 December 2050;
  - (b) may make provision as to any past period in which emissions of a greenhouse gas are to be taken into account as Scottish emissions of that gas;
  - (c) may not, once emissions from international aviation and international shipping of a greenhouse gas are, by virtue of a previous order under subsection (1), being taken into account as Scottish emissions of that gas, provide for such emissions to cease to be taken into account as Scottish emissions of that gas;
  - (d) must, subject to subsection (3), make provision as to the manner in which emissions from international aviation and international shipping of each greenhouse gas are to be taken into account in determining Scottish emissions of that gas—
    - (i) for the year that is the baseline year for that gas; and
    - (ii) in the period during which such emissions of that gas are to be taken into account as Scottish emissions of that gas.
- (3) Provision made by virtue of subsection (2)(d) must include the use, for each greenhouse gas, of a multiplier which reflects the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation.
- (4) A draft of a statutory instrument containing the first order under subsection (1) must be laid before the Scottish Parliament no later than 1 June 2010.
- (5) If a draft of the first order is not laid by the date mentioned in subsection (4), the Scottish Ministers must lay the draft as soon as reasonably practicable afterwards.
- (6) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under subsection (1) before the Scottish Parliament, request advice from the relevant body (including advice as to an appropriate multiplier for each greenhouse gas for the purposes of subsection (3)).
- (7) If the order makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (8) A statement under subsection (7) may be published in such manner as the Scottish Ministers consider appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

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**Commencement Information**

**I7** S. 16 in force at 31.10.2009 by [S.S.I. 2009/341](#), [art. 2\(2\)\(a\)](#)

**17 Scottish emissions and removals**

(1) In this Act—

“emissions”, in relation to a greenhouse gas, means emissions of that gas into the atmosphere that are attributable to human activity;

“Scottish emissions”, in relation to a greenhouse gas, means emissions of that gas which are attributable to Scotland;

“Scottish removals”, in relation to a greenhouse gas, means removals of that gas from the atmosphere due to land use, land-use change or forestry activities in Scotland;

“the net Scottish emissions” for a period, in relation to a greenhouse gas, means the amount of Scottish emissions of that gas for the period reduced by the amount of Scottish removals of that gas for the period.

(2) The Scottish Ministers may, if they consider it appropriate to do so, by order, modify the definition of Scottish removals in subsection (1).

[<sup>F32</sup>(3) The amount of Scottish emissions and Scottish removals of a greenhouse gas for a period must be determined, in so far as reasonably practicable, consistently with current international carbon reporting practice or, for the purposes of assessing and reporting in accordance with section 33, target-relevant international carbon reporting practice.]

**Textual Amendments**

**F32** S. 17(3) substituted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), [ss. 16\(1\)](#), [32\(2\)](#); [S.S.I. 2020/66](#), reg. 2

**Commencement Information**

**I8** S. 17 in force at 31.10.2009 by [S.S.I. 2009/341](#), [art. 2\(2\)\(a\)](#)

**18 Measurement of emissions etc.**

(1) For the purposes of this Act, greenhouse gas emissions, reductions of such emissions and removals of greenhouse gases from the atmosphere are measured or calculated in tonnes of carbon dioxide equivalent.

[<sup>F33</sup>(2) A “tonne of carbon dioxide equivalent” means one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (determined, in so far as reasonably practicable, consistently with current international carbon reporting practice or, for the purposes of assessing and reporting in accordance with section 33, target-relevant international carbon reporting practice).]

*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

#### Textual Amendments

**F33** S. 18(2) substituted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 16(2)**, 32(2); S.S.I. 2020/66, reg. 2

#### Commencement Information

**I9** S. 18 in force at 31.10.2009 by [S.S.I. 2009/341](#), **art. 2(2)(a)**

## 19 International carbon reporting practice

[<sup>F34</sup>(1) In this Act, “international carbon reporting practice” means accepted practice in relation to reporting for the purposes of—

- (a) the protocols to the United Nations Framework Convention on Climate Change;
- (b) such other agreements or arrangements at European or international level as the Scottish Ministers may, by order, specify.]

[<sup>F35</sup>(2) The following definitions also apply for the purposes of this Act—

“current international carbon reporting practice” means the most up-to-date international carbon reporting practice,

“target-relevant international carbon reporting practice” means a practice which produces results which are consistent with those which would have been produced by using the international carbon reporting practice which was current at the later of—

- (a) 30 June 2018, or
- (b) the date on which Scottish Ministers last received advice from the relevant body following a request under section 2C.]

#### Textual Amendments

**F34** S. 19 renumbered as s. 19(1) (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 16(3)(a)**, 32(2); S.S.I. 2020/66, reg. 2

**F35** S. 19(2) inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019 \(asp 15\)](#), **ss. 16(3)(b)**, 32(2); S.S.I. 2020/66, reg. 2

#### Commencement Information

**I10** S. 19 in force at 31.10.2009 by [S.S.I. 2009/341](#), **art. 2(2)(a)**

## 20 Carbon units and carbon accounting

- (1) The Scottish Ministers may, by regulations, make provision for a scheme—
  - (a) for registering or otherwise keeping track of carbon units;
  - (b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Scottish Ministers.
- (2) Regulations under subsection (1) may, in particular, provide for an existing scheme to be adapted for these purposes.
- (3) The regulations may also include provision—
  - (a) designating a person or body to administer the scheme;

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*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

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- (b) establishing a person or body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise of the person or body as the Scottish Ministers consider appropriate;
  - (c) conferring power on the Scottish Ministers to give guidance or directions to the person or body administering the scheme;
  - (d) conferring power on the Scottish Ministers to delegate the performance of any of the functions conferred on them by the regulations;
  - (e) requiring the payment by persons using the scheme of such charges as are reasonably required to cover the reasonable costs incurred in operating the scheme.
- (4) In this Act, a “carbon unit” means a unit of a kind specified in regulations made under subsection (1) and which represents—
- (a) a reduction in an amount of greenhouse gas emissions;
  - (b) the removal of an amount of greenhouse gas from the atmosphere;
  - (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.

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**Commencement Information**

**I11** S. 20 in force at 31.10.2009 by [S.S.I. 2009/341](#), [art. 2\(2\)\(a\)](#)

**[<sup>F36</sup>20A The relevant body**

- (1) In this Part, the “relevant body” means—
- (a) where no order has been made under section 24(1) designating a person or body as the advisory body, the UK Committee on Climate Change, or
  - (b) where such an order has been made, the advisory body.
- (2) In subsection (1)(a), the “UK Committee on Climate Change” means the Committee on Climate Change established under section 32 of the 2008 Act.]

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**Textual Amendments**

**F36** S. 20A inserted (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), [sch. para. 5](#); S.S.I. 2020/66, reg. 2

**[<sup>F37</sup>21 Limits on use of carbon units**

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**Textual Amendments**

**F37** S. 21 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), [sch. para. 4](#); S.S.I. 2020/66, reg. 2

**[<sup>F38</sup>22 Modifying limits on use of carbon units etc.**

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*Changes to legislation: There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1. (See end of Document for details)*

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**Textual Amendments**

**F38** S. 22 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 4**; S.S.I. 2020/66, reg. 2

<sup>F39</sup>**23** **Advice before setting or modifying limits on use of carbon units etc.**

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**Textual Amendments**

**F39** S. 23 repealed (23.3.2020) by [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) (asp 15), s. 32(2), **sch. para. 4**; S.S.I. 2020/66, reg. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Climate Change (Scotland) Act 2009, Part 1.