

CLIMATE CHANGE (EMISSIONS REDUCTION TARGETS) (SCOTLAND) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Emissions Reduction Targets

Annual targets

Section 10 – Annual targets: 2021 to 2049

52. Section 10 substitutes section 3 (annual targets) of the 2009 Act with the following:
- new section 3 (annual targets: 2021 to year before net-zero year),
 - new section 3A (annual targets: recalculation if net-zero emissions target year is in certain periods), and
 - new section 3B (annual targets: further rules on recalculation).
53. New section 3(1) imposes a duty on the Scottish Ministers to ensure that the net Scottish emissions account is at least the “relevant target figure” lower than the baseline for each year in:
- the period 2021-2029,
 - the period 2031-2039, and
 - the period beginning 2041 and ending with the year which immediately precedes any net-zero emissions target year after 2041. This is to be known as the “final annual target period”.
54. Subsections (2) to (5) of this new section make provision about the rules for calculating the relevant percentage figure applying for the purposes of each annual target. These subsections require, in effect, that for each period a straight line is drawn between the percentage figures applying for the purposes of the target year which precedes the period and the target year which follows it. The figures for each target year in the intervening period must then correlate with that line.
55. For example, if the percentage figure applying for the purposes of the 2020 target remains at 56%, and the corresponding figure for the 2030 target at 75%, the difference is 19%. This 19% difference must be apportioned so that there is an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2020 and ending with 2030. There are 10 pairs of consecutive years in this period, namely: 2020 and 2021, 2021 and 2022, and so on. To apportion the 19% difference so that there is an equal percentage point change, this 19% difference must first be divided by 10 (the number of consecutive pairs in the period). The percentage point change between each consecutive pair must therefore be 1.9%. This change is applied so that the percentage figure for 2021 is 1.9% higher than the figure for 2020,

and the figure for 2022 is 1.9% higher than the figure for 2021, and so on. Accordingly, in this example, the relevant percentage figures would be 57.9% for the annual target for 2021, 59.8% for the annual target for 2022, 61.7% for 2023, 63.6% for 2024, 65.5% for 2025, 67.4% for 2026, 69.3% for 2027, 71.2% for 2028 and 73.1% for 2029.

56. New section 3A(1) provides that this new section applies where regulations made under section A1(3) of the 2009 Act modify the net-zero emissions target year which is in either the period 2021-2029, or the period 2031-2039. In this event, subsections (2)(a) and (4) of this new section modify the relevant target figure which would otherwise apply by virtue of new section 3 for a year which is in the same period as, but before, the net-zero emissions target year. These subsections require, in effect, that, for the period containing the net-zero emissions target, a straight line is drawn between the percentage figure applying for the purposes of the interim target year which precedes this period and the 100% percentage figure applying for the purpose of the net-zero emissions target. Subsection (3) provides that subsection (4) applies for the purposes of calculating annual targets where regulations are made to modify the net-zero emissions target year to a year which is after 2041. Where such regulations are made, the annual targets are to be calculated by drawing a straight line between the percentage figure applying for the purposes of the interim target year which immediately precedes the net-zero emissions target year and the 100% percentage figure for the net-zero emissions target year. The method for calculating the relevant target figure for the years between the target year and the net-zero emission target is otherwise broadly equivalent to the approach set out in section 3.
57. Subsection (5) of new section 3A provides that any modification of an annual target 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) of the 2009 Act come into force.
58. New section 3B(1) provides that this new section applies where either:
- the Scottish Ministers make regulations under section A1(3) of the 2009 Act to modify the net-zero emissions target year, or
 - they make regulations under section 2A(1) of the 2009 Act which modify a percentage figure applying for the purposes of any interim target.
59. Subsection (2) of new section 3B provides that an annual target in relation to a year which is subsequent to the year in which the regulations mentioned in section 3B(1) come into force (i.e. a prospective annual target) 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.
60. Subsection (3) of new section 3B provides that an annual target in relation to a year which is the same as, or earlier than, the year in which those regulations come into force, is not to be recalculated or modified except where subsection (4) applies. Subsection (4) applies where the Scottish Ministers publish a statement at the same time, or soon after the draft regulations are laid for approval under affirmative procedure. The statement must confirm 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. Where subsection (4) applies, subsection (5) then provides that an annual target in respect of a year for which the Scottish Ministers has not yet reported on under section 33, is also to be recalculated in accordance with subsection (2) of new subsection 3B for the purposes of assessing and reporting in accordance with section 33.

Section 11 – Annual targets: 2018 and 2019

61. Section 11(1) provides that, for the purposes of assessing and reporting in accordance with section 33 of the 2009 Act, the annual target for 2018 and 2019 are to be taken as a target of, respectively, at least 54.0% and 55.0% lower than the baseline.

These notes relate to the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (asp 15) which received Royal Assent on 31 October 2019

62. Subsection (2) confers a power on the Scottish Ministers to, by regulations, modify one or more of the percentage figures applying for the purposes of a year mentioned in subsection (1). The regulations are subject to the affirmative procedure.
63. But subsection (3) provides that a draft of regulations to be laid under subsection (2) may only propose the modification of a percentage figure only if:
- the Scottish Ministers have, at the same time as or before laying the draft of regulations under subsection (2), laid a draft of regulations under section 2A(1) of the 2009 Act proposing to modify the percentage figure applying for the purposes of the interim target for 2020,
 - the figure proposed to be modified is in respect of a year in relation to which the Scottish Ministers have not yet reported on under section 33 of the 2009 Act, and
 - the Scottish Ministers have, before laying a draft of the regulations, had regard to the most up-to-date advice they have received from the relevant body about the figure proposed to be modified.

Section 12 – Revocation of previous annual targets

64. Section 12 revokes three Orders made under the 2009 Act that set annual targets for the years 2018 to 2032. Those targets are superseded by the new interim targets set by virtue of new section 2 of the 2009 Act (inserted by section 3 of the Act) and the new annual targets which apply by virtue of new sections 3, 3A and 3B of the 2009 Act (inserted by section 10 of the Act).