

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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 – Reporting and planning duties**

##### **Reporting duties**

##### *Section 18 – Reports on emissions reduction targets*

94. Section 18 replaces section 33 (reports on annual targets) of the 2009 Act with a new section 33. The following paragraphs refer to the subsections of new section 33.
95. Subsection (1) requires that the Scottish Ministers must, following each target year, lay before the Scottish Parliament, a report in respect of that target year. Subsection (2) sets out what needs to be stated in each report.
96. Subsection (3)(a) provides that the Scottish Ministers must use target-relevant international carbon reporting practice (as defined in the new section 19(2) of the 2009 Act) when assessing and reporting on the matters mentioned in subsection (2). In doing so they must determine each figure and amount in a manner as would be consistent with the most up-to-date advice provided by the relevant body on the methods to be used for that purpose. Subsection (3)(b) requires Ministers to specify in the report the methods used for that purpose as well.
97. Subsection (4) provides that the report under this section must be laid before the Parliament as soon as reasonably practicable after the information to be contained in the report becomes available.

##### *Section 19 – Reports on emissions reduction targets: further content*

98. Section 19 replaces section 34 (reports on annual targets: content) of the 2009 Act with a new section 34. The following paragraphs refer to the subsections of new section 34.
99. Subsection (1) provides that a report under section 33 must state some additional matters, which are mentioned in the subsection.
100. Subsection (2) requires the Scottish Ministers to use current international carbon reporting practice for assessing and reporting on the matters mentioned in subsection (1).
101. Subsection (3) provides that if the methods used to determine net Scottish emissions change and this requires an adjustment of an amount for an earlier target year, the report under section 33 must specify the adjustment required and state the adjusted amount and also explain why the adjustment is required. Subsection (4) requires any such adjustment to be, in so far as is reasonably practicable, in accordance with current international carbon reporting practice.

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102. Subsection (5) gives the Scottish Ministers discretion to include in a report under section 33 any additional information as they consider appropriate.

***Section 20 – Report on proposals and policies where emissions reduction targets not met***

103. Section 20 amends section 36 of the 2009 Act (reports on proposals and policies where annual targets not met). Subsection (1) provides that section 36 applies if the Scottish Ministers lay a report under section 33 which states that an emissions reduction target has not been met. Subsection (2) provides that Scottish Ministers must lay a report before the Scottish Parliament as soon as reasonably practicable after the report referred to in subsection (1) setting out proposals and policies to compensate in future years for the excess emissions.

***Section 21 – Reports on emissions attributable to Scottish consumption of goods and services***

104. Section 21 amends section 37 (reports on emissions attributable to Scottish consumption of goods and services) of the 2009 Act. In particular, it adds a requirement that a report under section 37(1) of the 2009 Act must, in so far as reasonably practicable, set out the goods and services which contributed most significantly to Scottish consumption emissions. It also adds a requirement that a report under section 37(1) must be laid within 15 months of the date on which the previous report was laid.

***Section 22 – Reports on land use strategy***

105. Section 22 inserts a new section 37A (reports on land use strategy) into the 2009 Act. The following paragraphs refer to the subsections of new section 37A.
106. Subsection (1) requires the Scottish Ministers to lay a report on progress towards implementing the land use strategy (produced under section 57 of the 2009 Act), including how the strategy will contribute towards achieving the targets in the Act.
107. Subsection (2) requires each report prepared under subsection (1) to be published and laid before the Scottish Parliament, as soon as reasonably practicable after the end of each financial year. Subsection (3) gives the Scottish Ministers discretion to include in a report under subsection (1) any additional information as they consider appropriate.

***Section 23 – Provision of further information to the Scottish Parliament***

108. Section 23 amends section 42 (reports: provision of further information to the Scottish Parliament) of the 2009 Act. In particular, it updates references in section 42 to the report required under section 33 of the 2009 Act to account for changes made to that section by the Act. In addition, it inserts a new subsection (1A) to ensure that, if the emissions reduction target for the target year has not be met, the Ministerial statement made to the Parliament under subsection (1)(b) must explain why.
109. Subsection (3) of section 18 repeals section 42(2)(c) and (d) of the 2009 Act in consequence of the repeal, by the Act, of sections 40 and 41 of the 2009 Act.

***Section 24 – Climate change plan***

110. Section 24(1) substitutes previous section 35 (reports on proposals and policies for meeting annual targets) of the 2009 Act with the following:
- new section 35 (climate change plan),
  - new section 35A (climate change plan: further procedure),
  - new section 35B (climate change plan: annual progress reports), and

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- new section 35C (just transition principles)
111. The following paragraphs (up to and including paragraph 125) refer to the subsections of new section 35.
  112. Subsection (1) imposes a duty on the Scottish Ministers to lay a climate change plan before the Scottish Parliament, in the case of the first plan, within a period of five years beginning with the day on which this section comes into force. In the case of a subsequent plan, this must be laid before the Parliament within a period of five years after the previous plan was laid.
  113. Subsection (2) sets out what, in particular, the plan must include. It requires the plan to be set out in chapters on each of the sectors mentioned in subsection (3) and such other sectors or topics as the Scottish Ministers consider appropriate for the plan. These chapters must contain proposals and policies for meeting the emissions reduction targets during the plan period and the timescales over which they are expected to take effect.
  114. Subsection (3) provides that the sectors mentioned for the purpose of the chapters to be included in each climate change plan are: energy supply; transport (including international aviation and shipping); business and industrial process; residential and public (in relation to buildings in those sectors); waste management; land use, land use change and forestry; and agriculture. These sectoral chapter headings follow the National Communication format used for international reporting of emissions under the United Framework Convention on Climate Change.
  115. Subsection (4) provides that a plan covers 15 years starting from the year after the year a draft plan is laid before Parliament or, should the Scottish Ministers specify in the plan, it could cover a period of between 10 to 20 years in order to end in the same year as an interim target or the net-zero emissions target year.
  116. Subsection (5) requires that the plan set out the respective contribution that the sectors listed in subsection (3) should make to meeting the emissions reduction targets.
  117. Subsections (6) to (17) require that the plan include the Scottish Ministers' proposals and policies regarding:
    - the establishment of any regional land use partnerships and the support to and resourcing of any regional land use partnerships to develop frameworks created by such a partnership,
    - the exploitation of fossil fuels including onshore unconventional oil and gas reserves,
    - the development of district heating for new developments, where feasible,
    - the public procurement of electric vehicles,
    - improved access to electric vehicle charging stations for those living in tenements within the meaning of section 26 of the Tenements (Scotland) Act 2004,
    - public procurement of ultra-low emission vehicles,
    - the establishment of a whole farm (which has the same combined meaning as “agriculture”, “agricultural land” and “agricultural unit” as in section 86 of the Agriculture (Scotland) Act 1948) approach to emissions accounting on Scottish farms and for the reduction of emissions through the use of, among other things, research, nutrient resource budgeting, circular economy initiatives and carbon sequestration,
    - the consideration of the potential for the capture and long-term storage of carbon when designating marine protected areas under section 67 of the Marine (Scotland) Act 2010,

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- the establishment of a fund, to be known as an Agricultural Modernisation Fund, to support investment in mitigation measures to reduce greenhouse gas emissions on Scottish farms, and
  - ensuring that emissions from housing are reduced such that the majority of housing in Scotland achieves an energy performance certificate rating of “C” or above, where practical.
118. Subsection (18) requires that the plan includes the Scottish Ministers’ proposals and policies for taking, or supporting, action to reduce emissions 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. This expression is used in reporting on such emissions under section 37 of the 2009 Act.
119. Subsection (19) requires that the plan includes the Scottish Ministers’ proposals and policies for supporting, including by the sharing of expertise and technology, action in developing countries to reduce emissions of greenhouse gases and adapt to the effects of climate change.
120. Subsection (20) requires that the plan sets out how the proposals and policies in the plan are expected impact on different sectors of the Scottish economy and different regions in Scotland. It also requires that the plan includes the Scottish Ministers’ proposals and policies for supporting the workforce, employers and communities in those sectors and regions.
121. Subsection (21) requires that the plan includes an estimate of the costs and benefits associated with the policies set out in the plan.
122. Subsection (22) requires that in preparing a plan, the Scottish Ministers must have regard to the just transition principles (as defined in new section 35C, further explanation below) and also the “climate justice principle”. The “climate justice principle”, as defined in subsection (23) is the importance of taking action to reduce global emissions of greenhouse gases and to adapt to the effects of climate change in ways which support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects, and help to address inequality. Subsection (24) requires that the plan must explain the extent to which it takes account of the just transition principles, and how the implementation of the plan is expected to contribute to the achievement of sustainable development, including the achievement of the United Nations sustainable development goals.
123. Subsections (25) and (26) require that the plan must contain an assessment of the progress towards implementing proposals and policies in earlier plans, including those that were laid under the arrangements prior to this Act.
124. Subsections (27) and (28) confer a power on the Scottish Ministers to modify the sectors referred to in subsection (3), provided that any modification is consistent with international carbon reporting practice.
125. New section 35A requires that the Scottish Ministers must, before laying a climate change plan under new section 35 before the Scottish Parliament, lay a draft of the plan before the Parliament for a period of 120 days, of which no fewer than 60 must be days on which the Parliament is not dissolved or in recess. The Scottish Ministers must also have regard to any representations, any views expressed by the relevant body (in a report made under section 9(1)(d) of the 2009 Act, the requirement for which to be requested by the Scottish Ministers is inserted by section 24(2) of the Act), resolutions passed by the Parliament, and reports published by a committee of the Parliament relating to the draft plan. They must also, when laying a climate change plan under new section 35, lay a statement before the Parliament setting out the details of any such representations, views, resolutions or reports, and the changes, if any, they have made to the plan in response.

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126. New section 35B requires that the Scottish Ministers must, in each relevant year, lay before the Scottish Parliament a report on each substantive chapter of the most recent plan laid under new section 35. Each report laid under new section 35B must contain an assessment of progress towards implementing the proposals and policies set out in that chapter. Each report must be laid by 31 May in each relevant year or, if this isn't possible because the information needed is not available, as soon as reasonably practicable after that date. "Relevant year" and "substantive chapter" are defined in subsection (4). Subsection (5) require reports to be laid under this new section in relation to the most recent report on proposals and policies laid under the previous section 35 of the 2009 Act, as the previous law in force, until such time as the first climate change plan is laid under the new substitute section 35.
127. New section 35C sets out the "just transition principles" that Scottish Ministers must take into account when preparing a climate change plan (in accordance with section 35(22)). The principles are the importance of taking action to reduce net Scottish emissions of greenhouse gases in a way which: supports environmentally and socially sustainable jobs; supports low-carbon investment and infrastructure; develops and maintains social consensus through engagement with workers, trade unions, communities, non-governmental organisations, representatives of the interests of business and industry and such other persons as the Scottish Ministers consider appropriate; creates decent, fair and high-value work in a way which does not negatively affect the current workforce and overall economy; and contributes to resource efficient and sustainable economic approaches which help address inequality and poverty. Subsection (2) confers a power on Scottish Ministers to modify the just transition principles.