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Climate Change (Emissions Reduction Targets)(Scotland) Bill

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This briefing summarises the background to, and content of, the Climate Change (Emissions Reduction Targets)(Scotland) Bill as introduced to the Scottish Parliament on 5 September 2024.

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Summary

This briefing considers the Climate Change (Emission Reductions Targets)(Scotland) Bill which was introduced in the Scottish Parliament on 5 September 2024. The Bill seeks to amend the Climate Change (Scotland) Act 2009 ('the 2009 Act') replacing the existing annual and interim targets with a system of five year carbon budgets. It also seeks to remove the requirement for a new Climate Change Plan to be laid by March 2025, replacing it with requirement for a Plan 'as soon as practicable' after the first regulations setting a Scottish carbon budget come into force.

In March 2024, the Climate Change Committee (CCC; independent advisors on climate change policy to the Scottish and UK Governments) advised that the achievement of Scotland's interim emissions reduction target for 2030 was no longer credible.

In April, the Cabinet Secretary for Wellbeing Economy, Net Zero and Energy announced the intention to introduce 'expedited legislation' to reflect a revised timetable for achieving net zero by 2045, with a revised approach based on five-yearly carbon budgeting, alongside a climate change policy package.

The Bill is accompanied by the following key documents:

- [Explanatory Notes \(EN\)](#)
- [Policy Memorandum \(PM\)](#)
- [Financial Memorandum \(FM\)](#)
- [Delegated Powers Memorandum \(DPM\)](#)

Background

Climate change legislation 2009 - 18

The [Climate Change \(Scotland\) Act 2009](#) ¹ set out a statutory framework for greenhouse gas emission reductions in Scotland, and set the following targets (all reductions from a 1990 baseline):

- at least **42%** reduction by 2020
- at least **80%** reduction by 2050

Alongside these, the Act required Scottish Ministers to set annual targets for reductions via secondary legislation at least 12 years in advance. In October 2010, the Scottish Parliament [passed legislation](#) setting the first batch of annual targets, for the years 2010 – 2022. One year later, [the second batch of annual targets](#), for 2023 – 2027, were passed. Annual targets for 2028-32 were set via [legislation in 2016](#). A list of all the secondary legislation that resulted from the 2009 Act can be found on [this Scottish Government webpage](#).

The 2009 Act required that, as soon as ‘reasonably practicable’ after setting a batch of annual targets, ministers publish a report setting out proposals and policies (RPP) for meeting those targets. Section 35 set out the various conditions that the RPP had to adhere to:

“

- *(8)The report must, in particular, set out—*”
- *(a)the Scottish Ministers' proposals and policies for meeting the annual targets;”*
- *(b)how those proposals and policies are expected to contribute towards the achievement of the interim target, the 2050 target and, in each target year, the domestic effort target;”*
- *(c)the timescales over which those proposals and policies are expected to take effect.”*

(9)The report must also set out the Scottish Ministers' proposals and policies regarding the respective contributions towards meeting the annual targets that should be made by—

- *(a)energy efficiency;”*
- *(b)energy generation;”*
- *(c)land use;”*
- *(d)transport.”*

(10)The report must also explain how the proposals and policies set out in the report are expected to affect different sectors of the Scottish economy.”

The Climate Change Committee (CCC) is an independent, statutory body established under the UK Climate Change Act 2008. Their purpose is to advise the UK, Scottish and other devolved governments on emissions targets and to report to Parliament on progress made in reducing greenhouse gas emissions and preparing for and adapting to the impacts of climate change. The CCC have produced 'Reports to Parliament - Progress on reducing emission in Scotland' every year from 2012 – 2023. They have also published several reports on Scotland's climate change adaptation plans, with the latest 'Is Scotland climate ready?' published in 2022. The Scottish 2009 Climate Act permits Scottish Ministers to 'establish a body for the purpose of exercising the advisory functions', but the Scottish Government have chosen to seek the advice of the UK CCC. .

The first [Report on Policies and Proposals \(RPP1\)](#) ² was published in March 2011 and set out the approach to meeting the annual targets for 2010 – 2022. RPP2 ³ was [published in June 2013](#) and laid out how Scotland could deliver annual targets for reductions in emissions from 2013 – 2027. The [Climate Change Plan: third report on proposals and policies 2018-2032 \(RPP3\)](#) ⁴ was published in February 2018.

Table showing annual target orders and RPPs (2009-18):

Publication date	Annual target orders coverage	RPP coverage
October 2010	2010-22	
March 2011		2010-22
October 2011	2023-27	
June 2013		2013-27
October 2016	2028-32	
February 2018		2018-32

Each of the RPPs was subject to a 60-day period for Parliamentary scrutiny, with multiple committees involved in scrutiny. While 60 days was the minimum, there was a much longer period between the draft and final RPP3 (13 months). For RPP1 and RPP2, the period was around 5 months between the draft and the final report.

A complex mix of devolved and reserved policy levers are needed in order for Scotland to achieve its emissions reduction targets. The Climate Change Act 2008 was passed by the UK Parliament slightly before the first Scottish climate Act. It also contained an ambition for an 80% reduction in emissions (from a 1990 baseline) by 2050.

At this time, the UK was a member of the European Union which had its own emission reduction targets. In 2008, the EU set the target to cut emissions by 20% compared to 1990 levels by 2020 (which it achieved). After the Paris agreement in 2015, the EU committed to cutting GHG emissions by at least 40% below 1990 levels by 2030. In 2021, the target was changed to at least 55% reduction by 2030 and climate neutrality by 2050.

Climate change legislation 2018-23

The Climate Change (Emissions Reduction Targets) (Scotland) Bill was introduced to Parliament on 23 May 2018. The [Bill as introduced to Parliament](#) ⁵ included more

ambitious interim targets:

- (a) 2020 is at least 56% lower than the baseline,
- (b) 2030 is at least 66% lower than the baseline, and
- (c) 2040 is at least 78% lower than the baseline

It is also included a move from 80% to 90% reduction for 2050, and it required Scottish Ministers to set a year for a net zero target by secondary legislation.

The Bill and the increased ambition in emission reduction targets was essentially a response to [the 2015 Paris climate agreement](#) and the international commitment to 'pursue efforts' to limit global temperature rises to 1.5C, and to keep them 'well below' 2.0C above those recorded in pre-industrial times.

The Environment, Climate Change and Land Reform (ECCLR) Committee was designated as the lead Committee. During the Committee's Stage 1 scrutiny of the Bill, the Intergovernmental Panel on Climate Change (IPCC) published its [Special Report on Global Warming of 1.5°C](#)⁶. In light of this report, a joint letter from the Governments of the UK, Scotland and Wales was sent to the Climate Change Committee (CCC) requesting updated advice on long-term emissions targets, including the possibility of setting a new 'net-zero' target.

Publishing their [Net Zero Reports in May 2019](#)⁷, the CCC set out that net zero was 'necessary' to meet the UK's commitments as a signatory of the Paris agreement. They recommended a 2045 net zero date in Scotland 'reflecting Scotland's greater relative capacity to remove emissions than the UK as a whole'. The 2045 date was seen as 'tough, but achievable' and was recommended on the condition that UK-wide ambition was raised to net zero by 2050. An earlier date for Scotland compared to other parts of the UK, did 'not imply higher policy ambition or effort, but reflect the excellent opportunities to remove CO₂ from the atmosphere through afforestation and carbon capture and storage'.

The CCC report recommended interim targets of 70% for 2030 and 90% for 2040 for Scotland, more ambitious than those set out in the initial Bill. The Scottish Government responded to this advice by lodging a package of amendments to the Bill to implement the CCC's advice by setting a target date of 2045 for net-zero emissions of all greenhouse gases and increasing the levels of the 2030 and 2040 targets to 70% and 90%. In its [Stage 2 report on the Bill](#)⁸, the ECCLR Committee supported these changes (see paragraph 12).

At [Stage 3 of the Bill – Final amendments and vote](#), the Labour Party supported by the Liberal Democrats proposed an amendment to move the 2030 interim target from 70% to 75%. The Green Party proposed to amend the target to 80%. During the debate on the final amendments the Government agreed to the adoption of a 75% target for 2030.

In March 2021, the Scottish Government became [one of the first to pass legislation](#) formally establishing net zero targets.

The [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#)⁹ ('the 2019 Act', amended the 2009 Act, increasing the ambition of Scotland's emissions reduction targets (all reductions from a 1990 baseline):

- at least **56%** reduction by 2020
- at least **75%** reduction by 2030
- at least **90%** reduction by 2040
- **Net zero** emissions by 2045

Annual targets were set within the Act (as opposed to using secondary legislation). For example, with respect to 2021-29, Section 3(2) sets out:

“

- *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.’*”

Annual targets were now determined by drawing a straight-line between the interim targets. This contrasted to the previous approach to annual targets (set by secondary legislation) which allowed for faster or slower progress at different times.

Due to the more ambitious emission reduction targets, the Scottish Government committed to [update the 2018 Climate Change Plan \(RPP3\)](#)¹⁰ ‘in order to take account of these new targets’. This was published in draft form in December 2020. The 2019 Act increased the length of time that the Parliament had to scrutinise a draft CCP from 60 to 120 days (‘of which no fewer than 60 must be days on which the Parliament is not dissolved or in recess’) (2009 Act s 35A, added by 2019 Act s 24).

The Act (Section 2A) retained a regulation making power to allow the Scottish Ministers to modify the net-zero emission target year or interim targets but required that the change to be in line with the most up-to-date advice from the CCC. Regulations could not be used if a lower percentage figure for an interim target was being proposed unless it was consistent with the most up to date advice.

The 2019 Act introduced ‘just transition principles’ with future Climate Change Plans (renamed from RPP) having to have regard to these principles and to the ‘climate justice principle’. The [Just Transition Commission was founded](#) prior to the 2019 legislation, in September 2018, for a fixed two-year period. A new commission was established in 2021 and exists as an independent advisory body that provides scrutiny and advice on how to deliver a just transition to a low carbon economy in Scotland. The Commission provides scrutiny and advice on Scottish Government led just transition plans and monitoring and evaluation approaches, alongside engaging with those most likely to be impacted and other sources of expertise. The Commission provide an annual progress report.

The 2019 legislation also required the creation of a Citizens Assembly and a Scottish Nitrogen Balance Sheet. The Act updated arrangements for CCPs to meet the new targets and, [as the result of a Stage 2 amendment](#), required future CCPs to include the quantification of the costs and benefits of achieving emission reductions targets. The [CCP update](#) published in December 2020 did not adhere to this requirement as it was just an

update, and not [legally bound to incorporate the requirements](#) .

Parliamentary scrutiny for the CCP update involved [a joint approach from four Parliamentary Committees](#) - Environment, Climate Change and Land Reform (ECCLR), Economy, Energy and Fair Work, Local Government and Communities, and Rural Economy and Connectivity - from December 2020 – March 2021. The many recommendations of the four Committees that scrutinised the Plan were not taken up by the Government due to the '[urgent need to finalise the plan update \[before the recess\] so that we can focus on the implementation of its policies and deliver our targets](#)'.

According to Section 35 of the 2009 Act, (as amended by the 2019 Act), CCPs had to be laid no more than 5 years after the previous plan has been laid. The period that a CCP must cover was:

“

1. *15 years beginning with the year after the year in which the draft plan is laid before the Parliament, or*”
2. *(b) such other period of between 10 and 20 years beginning with that year as the Scottish Ministers may specify in the plan in order that the period ends in the same year as an interim target or the net-zero emissions target year.*”

In June 2022, the Scottish Government published [the Scottish Greenhouse Gas Statistics 2020](#)¹¹ which recorded that the first interim target, for 2020, had been achieved. The reduction of 58.7% was beyond the target of 56% that was set in the 2019 legislation. There was, however, a substantial 12% drop between 2019-2020 that resulted largely from the Covid-19 pandemic, and thus enabled the achievement of the target.

In 2023, following advice from the CCC, the Scottish Government updated their annual targets in 2023 to account for inventory methodology changes. The [Climate Change \(Scotland\) Act 2009 \(Interim Target\) Amendment Regulations 2023](#)¹² updated the 2020 target retrospectively to 48.5% . This modification has the effect of adjusting the annual target figures for 2021 to 2029.

In September 2023, Environmental Standards Scotland published a [Climate Change Plan Summary Report](#)¹³, that considered the effectiveness of the Scottish Government's Climate Change Plan. It concluded that:

“ ESS considers that there is clear evidence that the CCPu failed to meet the requirements of Section 35(5) of the 2009 Act to quantify the emission reductions associated with all individual proposals and policies. ESS expects the next Climate Change Plan to address this failure.”

- ‘In addition, the next Climate Change Plan must:”
- ‘set out clear timelines for individual proposals and policies”
- ‘establish clear ownership and responsibility for individual proposals and policies”
- ‘incorporate all the new reporting requirements introduced in the 2019 Act”
- ‘address unresolved recommendations from previous parliamentary committee and CCC scrutiny of the CCPu”
- ‘allow sufficient time for scrutiny of the draft and incorporate feedback before finalisation”

The latest [Scottish GHG Statistics \(for 2022\)](#) ¹⁴ were released in June 2024. They recorded that emission were down 50% from the baseline, and that the revised 2022 target for 2022 of 53.8% had been missed. This was the ninth target to be missed out of 13 years of annual targets.

Events from November 2023 to present day

The current deadline for the publication of the final version of [the next CCP is 23 March 2025](#) . This Plan was intended to apply to the period of 2024-2040, and thus cover both the interim target dates of 2030 and 2040.

A draft CCP [had been expected in November 2023](#) , but in a [letter from the Cabinet Secretary Transport, Net Zero and Just Transition](#) to the NZET Committee on 7 November 2023 the Cabinet Secretary took the ‘difficult decision to delay the draft’. Within this letter the Cabinet Secretary cited:

“

- The **UK Government’s unprecedented and unexpected decision** to renege or roll back on their net zero commitments, including those already announced and accounted for by the Scottish Government, have repercussions in respect of our ability to produce a draft Climate Change Plan that is just and fair by the end of November”
- ‘This, tied with the **uncertain economic outlook** for the UK as a whole and **the constraints of devolution** placed upon us, make what is already a challenging task, ever more difficult.”

The then Chief Executive of the CCC [stated](#) that he was ‘very disappointed in this delay’ and that he was ‘not sure why the UK Prime Ministers September speech on Net Zero would require a delay by the Scottish Government’. There is [a SPICe blog](#) on these net zero policy changes from the UK Government.

The CCC published its [2023 Report to the Scottish Parliament](#) ¹⁵ on progress towards

Scotland's emissions reductions targets in March 2024. The CCC have produced Progress Reports for Scotland every year from 2012 – 2022. This, the 2023 report, had been delayed 'to allow for an assessment of a new Scottish CCP'. The key messages the CCC set out include—

“

- **Scotland's annual target was missed again.** Scottish emissions in 2021 increased by 2.4% from 2020 as the economy rebounded from the pandemic and were 49.2% below 1990 levels. Scotland missed its 2021 annual legal target. This is the eighth target in the past 12 years that has been missed.”
- **The acceleration required in emissions reduction to meet the 2030 target is now beyond what is credible.** The recent rate of emissions reduction outside the electricity supply, aviation and shipping sectors needs to increase by a factor of nine in the nine years from 2021 to 2030, compared to the preceding nine years, if Scotland is to achieve its 2030 target of a 75% reduction compared to 1990 levels. This rate of reduction is nearly two times higher than that in the CCC's ambitious pathway for Scotland, which we updated in 2022. Given the pace at which supply chains and investment would need to develop, this rate of reduction is not credible. However, the Scottish Government should build on its high ambition and implement policies that enable the 75% emissions reduction target to be achieved at the earliest date possible.”
- **Scotland is therefore lacking a comprehensive strategy that outlines the actions and polices required to achieve the 2030 target.** ”

In response to the CCC's Scotland report, there was a [Ministerial Statement to Parliament on 18 April](#). In this, the Cabinet Secretary for Wellbeing Economy, Net Zero and Energy (now Net Zero and Energy) announced the intention to introduce 'expedited legislation' to reflect a revised timetable for achieving net zero by 2045, with a revised approach based on five-yearly carbon budgeting, alongside a [climate change policy package](#), which includes 19 actions across policy areas including transport and land use. The Cabinet Secretary accepted 'the CCC's recent rearticulation that this Parliament's interim 2030 target is out of reach'.

SPICe [published a blog](#) on 19 April 2024, focused on the policy commitments made in the policy package, setting them in the context of previous Scottish Government actions and announcements.

On 23 April 2024, the [NZET Committee took evidence from the Climate Change Committee \(CCC\)](#) on its 2023 Report to the Scottish Parliament on progress towards Scotland's emissions reductions targets. In this meeting, the CCC made the following points on the planned changes to climate legislation:

“

- The Scottish Government is ‘due credit for acknowledging that the 2030 target cannot be met’ but ‘these are very dangerous moments. Scotland is the first part of the United Kingdom that has felt that it has had to withdraw targets under any of the climate change legislation that we have in place. My biggest worry is that we find ourselves in a position in which we have, in a sense, empty-vessel legislation’. The planned bill will ‘redraw Scottish climate change legislation fundamentally’.”
- policy matters more than targets, but incredible targets cannot be met. I am sure that that has been part of the problem ... we need to be realistic about the steps that the country can take to get to that goal by 2045.”
- the Lord Advocate would not allow the Scottish Government to publish a plan that was not legal. I think that, in this case, that is what has happened. In a sense, that probably means that that overambitious target has been holding up genuine action from policy makers. That is a good example of what happens when you have the wrong target.”

On 10 May 2024, the [Cabinet Secretary for Net Zero and Energy wrote to the NZET Committee](#). The letter stated that:

“

- As I set out in Parliament on 18 April, proposed amendments to climate change legislation are being developed to address a narrow range of revisions to the legislative framework, with the purpose of realigning our target pathway with Climate Change Committee advice, alongside moving to an approach based on 5-yearly carbon budgets.”
- ‘development of the next Climate Change Plan is now continuing in the context of forthcoming proposals for legislative change. My immediate priority is to address the points raised by the CCC in their latest progress report and introduce legislation to Parliament in due course.’

In response to a request for advice and perspectives on how to design and implement carbon budgets in Scotland, the [CCC wrote a letter to the Cabinet Secretary for Net Zero and Energy](#) on 14 May 2024. The letter includes the following key points—

- **Annual budgets** are ‘highly vulnerable to year-to-year fluctuations in emissions (e.g. due to variations in winter temperatures affecting heating demand), which can make it difficult to discern whether an individual target being achieved is reflective of effective policy or merely circumstance.’
- **Multi-year budgets:** ‘From experience in the UK and Wales, five-year carbon budgets are most appropriate. This provides a reasonable balance between being sufficiently long to provide a more reliable signal of sustained progress, while also being sufficiently short to retain the necessary sense of urgency and allow plans to be adjusted as more information becomes available.’
- **Alignment:** ‘There is value in the duration of budgets being consistent with the other nations of the UK. The Scottish Government should also consider aligning the start and end years for budgets with the UK carbon budgets, as policies developed in Scotland will need to contribute to delivering the emissions reductions required under both frameworks.’

On 11 July 2024, the NZET Committee received [a letter from the Cabinet Secretary for Net Zero and Energy](#) on matters relating to the upcoming Climate Change (Emissions Reduction Targets) (Scotland) Bill. This letter included the following key points:

- **‘the Bill itself will not seek to set carbon budgets.** Instead, it will enable budgets to be set through secondary legislation, which is expected to be used once the latest evidence and analysis on carbon budget levels has been received.’
- **No alignment with UK carbon budget periods:** ‘The Bill will require that secondary legislation is brought forward to set a carbon budget for 2026 to 2030 and each successive period of five years, up to and including the net zero target year in 2045.’ UK carbon budget periods run 2023-27, 2028-32 etc.
- **Plans and Budgets:** ‘The Bill will therefore require that the CCP is brought forward as soon as practicable after the carbon budget levels are set through secondary legislation’
- **Climate Change Plan content:** ‘the Bill will also seek to amend the relationship between the CCP and emissions reduction targets to more accurately reflect the limits of devolved competence and the powers of Scottish Ministers when delivering emissions reduction across our economy and society.’
- **Annual reporting:** ‘The Bill will maintain the current rhythm of annual reporting on greenhouse gas emissions and on the CCP’
- **Surplus of emission savings carried over:** ‘There will also be no provision to “carry over” emissions from one carbon budget to another.’

On the 28th August 2024, the Committee received [a response from the Acting Cabinet Secretary for Net Zero and Energy to a letter](#) on the policy intentions of the Climate Change (Emissions Reduction Targets) (Scotland) Bill, that the Committee had sent on the 23 August. This letter included the following key points:

- ‘we have conclusive advice from the Climate Change Committee (CCC) that our 2030 target is out of reach. To maintain these targets in legislation would leave the Government in a position where we have targets that we cannot ensure can be met. The CCC have advised that carbon budgets present the best route forward in realigning out target framework. **The provisions of this Bill are limited to those needed to address only these issues**, with amendments being strictly limited to amending the CCP deadline and responding to the CCC’s advice regarding our target framework.’
- ‘the Bill itself will not seek to set carbon budget levels, and instead makes provision for these **levels to be set by regulations subject to the affirmative procedure**, at which point further scrutiny by the lead committee and Parliament more widely can take place’
- **Time periods for carbon budgets:** ‘While we have considered aligning carbon budgets with the UK carbon budget periods, the proposed time periods for carbon budgets will align with the time periods for Climate Change Plans and with the 5-year terms of the Scottish Parliament
- **Devolved competence and the CCP:** ‘While matters related to the relationship between the CCP and emissions reduction targets were considered during the

development of this Bill, Ministers concluded that addressing such matters would be out with the intentionally limited scope for this Bill.’

Related UK Government climate legislation developments

At the UK level, there has been a system of 5 yearly carbon budgets since the [2008 Climate Change Act](#) ¹⁶. In July 2022, a [legal challenge brought by Friends of the Earth](#) found that the Net Zero Strategy brought forward by the UK Government in October 2021 was insufficient to meet the Sixth Carbon Budget:

“

- The Net Zero Strategy of 19 October 2021 failed to comply with the obligation in section 14(1) of the Climate Change Act 2008 to set out proposals and policies for meeting the carbon budgets for the current and future budgetary periods”
- ‘there are significant delivery risks and little or no headroom particularly for later carbon budgets”

The UK Government was required to lay before the UK Parliament a report which was compliant with the Act. On 31 March 2023, the Carbon Budget Delivery Plan (CBDP) was laid. In May 2024, the [High Court again ruled](#) that this, the UK Government’s new climate strategy, was not fit-for-purpose, and therefore breached the UK Climate Change Act. The [High Court Judgement stated](#) ¹⁷:

“

- Whereas previously it had been possible for the CCC to give certain plans and proposals in the Net Zero Strategy the benefit of the doubt, this could not be done for the CBDP. The greater detail of the CBDP had removed possibilities that more general language had included.”

In May 2024, the UK Government [published the final statement](#) ¹⁸ for its third carbon budget, which ran from 2018 to 2022, and was set in 2009. This statement confirmed that the UK had over-delivered on the target for this period by 15%, but that it would not be carrying-forward this surplus to future budgets.

The CCC [supported this position](#), pointing out that the surplus was largely achieved as a result of circumstantial events (the covid pandemic and lower than modelled economic growth) rather than the effectiveness of policy.

Also at the UK level, in February 2024, [the House of Commons Environmental Audit Committee \(EAC\) wrote](#) to the then Secretary of State for Energy Security and Net Zero recommending greater parliamentary scrutiny of carbon budgets:

- The EAC has recommended that Parliamentary committees are given the opportunity to scrutinise recommendations made by the Climate Change Committee to Government and Parliament, and proposals made by the Government in a draft delivery plan.
- The letter highlighted the then Prime Minister’s observation that the Carbon Budget

Order 2021 had been approved by Parliament “with barely any consideration of the hard choices needed to fulfil it”.

The proposals would mean that a draft plan would be published at the same time as a proposed budget, with both subject to parliamentary scrutiny before any budget was placed into legislation.

There are UK-wide carbon budgets/targets including [the fifth carbon budget 2028-32](#) and the UK’s commitment under the Paris Agreement to deliver a [Nationally Determined Contribution \(NDC\) for 2030](#)¹⁹ of at least 68% reduction. An NDC is a nationally specific climate action plan to cut emissions and adapt to climate impacts.

The Bill as introduced

Section 1: Scottish carbon budgets and budgetary periods

The Explanatory Notes set out that sections 1 and 2 'replace the system of annual and interim emissions reduction targets... with a system of periodic carbon budgets that are focussed on emissions over a number of years'. Section 1 specifically, establishes the concept of a Scottish carbon budget, and the associated concept of a Scottish carbon budget target.

In the 18 April announcement, it was set out that the legislation will introduce a system of 5-year carbon budgets. The CCC letter to the Scottish Government on 14 May, stated that they 'should consider aligning' with the UK carbon budget periods.

Section A3 sets out that:

“ The Scottish Ministers must ensure that each Scottish carbon budget target is met.”

Section A4 of the Bill proposes that:

“

1. *The Scottish Ministers must, by regulations, set Scottish carbon budgets so that every year between 2026 and the net-zero emissions target year is covered by a budget. ”*
2. *The period covered by a Scottish carbon budget— ”*
 - *(a) is to be 5 years (for example 2026 to 2030), but ”*
 - *(b) may be shorter in the case of the budget for the period that ends with the net-zero emissions target year. ”*

The Explanatory Notes state that regulations inserted under section A4 will be subject to parliamentary scrutiny under the affirmative procedure. In Part 2 of the Bill (Final Provisions - Section 5 (3)) it states

“ (3) Regulations under this section— (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but (b) otherwise, are subject to the negative procedure ”

Section A5 allows for the alteration of budget periods but only:

“ if it appears to the Scottish Ministers necessary to do so in order to keep the periods covered by Scottish carbon budgets in line with similar periods under any international agreement to which the United Kingdom is a party. ”

In their 11 July letter to the NZET Committee, the Cabinet Secretary for Net Zero and Energy set out that Scottish carbon budgets would not align with the 5-year periods in the UK, with 'a carbon budget set for 2026-30 and each successive period of five years'. While these periods do not align with UK budget periods, they do align with [those used by the](#)

[Welsh Government](#). The Bill itself does not stipulate precisely what periods will be covered by the different 5-year budgets, only that every year between 2026 and 2045 is covered.

The proposals in the Bill differ from the previous framework in terms of how the level of ambition for emissions reduction is set. The 2019 Act set the level of ambition via the interim targets, with annual targets then set via a ‘straight-line’ approach between the interim dates. The 2024 Bill proposes that the level of ambition, (set via carbon budgets) is now to be set by secondary legislation.

It is worth noting that the introduction of a 5-yearly carbon budget approach will allow for faster or slower progress at different times. This contrasts with the straight-line approach between the interim targets that was set up in the 2019 Act.

Section 2: Replacement of annual and interim targets with budget targets

The Explanatory Notes set out that Section 2 of the Bill modifies the 2009 Act so as to remove the concepts of interim and annual targets and replace references to them with references to Scottish carbon budget targets.

Section 2 of the Bill proposes to modify the 2009 Act by repealing:

- Section 2: The interim targets, and
- Section 2A: Modification of the interim targets

The remaining interim targets under Section 2 of the 2009 Act are for 2030 (at 75% lower than the baseline) and, 2040 (at least 90% lower than the baseline). There was also an interim target for the year 2020.

Section 2A of the existing legislation states that regulations (secondary legislation):

“ 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,’
- (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.”

Section 2(4) of the Bill modifies section 2C of the 2009 Act. This is the duty on the Scottish Ministers to request advice from the relevant body in relation to various matters. The modification is however, limited to the replacement of requirements on interim targets, with those for Scottish carbon budgets.

Section 2(15) of the Bill modifies section 33 of the 2009 Act. That section requires the Scottish Ministers to lay a report before the Scottish Parliament following each “target year. Section 33 reports are the Scottish Greenhouse Gas Statistics reports released annually that report the level of emissions from two years previously and whether the annual target for that year was achieved or not. Once the Bill has replaced annual targets with Scottish carbon budget targets, emissions reduction targets will be concerned with emissions levels over a number of years rather than in respect of a single year.

Section 2(16) of the Bill modifies section 34 of the 2009 Act. Section 34 elaborates on the contents of a report under section 33. The modifications made to it by section 2(16) of the Bill are made to reflect the fact that section 33 reports will in future be concerned with emissions levels over a number of years rather than in respect of only one target year.

This is modifying the 2009 Act so that reports under section 33 on delivery against targets will cease to be annual because there will not be annual targets against which to report.

Section 2(17) of the Bill inserts a new section 34A into the 2009 Act. The inserted section 34A will create a new annual reporting duty for the Scottish Ministers. Like a report under section 33, a report under section 34A will need to include the information set out in section 34. It will differ from a report under section 33 principally in not having to address performance against a Scottish carbon budget target; the point of having a report under section 34A rather than under section 33 is that in a system of multi-year targets performance against the target cannot be addressed until the end of the period for which the target is set.

Section 3: Next Climate Change Plan

The Explanatory Notes set out that Section 3 adjusts when the Scottish Government next has to produce a climate change plan so that that next plan reflects the new system of carbon budgets.

The final version of the next Climate Change Plan (CCP) is currently legally required to be published by 23 March 2025. As the Scottish Government no longer think that it is credible to publish a CCP that achieves the 2030 interim target, one of the primary objectives of this Bill is to amend existing legislation to remove the obligation to publish in early 2025. The existing legislation required a CCP to be published within five years of the previous plan, with the first plan published in March 2011. The deadline of March 2025, was five years from the commencement of the 2019 Act.

The Bill modifies the 2009 Act as follows (Section 3(2)):

“ In section 35(1), in paragraph (a), for the words from “before” to the end of the paragraph substitute “as soon as practicable after the first regulations setting a Scottish carbon budget come into force”. ”

The Bill, therefore, proposes that the next CCP be published ‘as soon as practicable’ after the first Scottish carbon budget is set.

As set out in the Explanatory Notes:

“ Section 35 of the 2009 Act requires that a climate change plan set out the Scottish Ministers’ proposals and policies for meeting the emissions reduction targets. Once section 2 of the Bill comes into force, the “emissions reduction targets” will include Scottish carbon budget targets and will no longer include interim and annual targets. A climate change plan produced shortly before section 2 comes into force would therefore not address the targets that apply shortly afterwards, and it will not be possible to produce a climate change plan in the period between section 2 coming into force and the first Scottish carbon budgets being set because proposals and policies for keeping emissions within those budgets cannot be described when the budgets are yet to be set.’ - 'Accordingly, section 3 of the Bill amends section 35 of the 2009 Act to postpone the deadline for laying the first climate change plan before the Parliament so that that need not happen until the first Scottish carbon budgets have been set. Once those budgets have been set, the Scottish Ministers will be duty bound under the amended section 35 to lay the first climate change plan before the Parliament as soon afterwards as is practicable. The duty in section 35 to produce subsequent plans within 5 years of the preceding plan being produced is unaffected.”

The period that a CCP had to cover was also previously defined as either 15 years or 10-20 years (as long as it ended on an interim target date). The Policy Memorandum sets out that that future CCPs will now have 5-year terms so as to align with the carbon budget periods. It is not clear whether the Scottish Government intend to publish multiple 5-year term CCPs at one time.

Annual reporting

As set out in the Policy Memorandum, the Bill will maintain the current rhythm of annual reporting on greenhouse gas emissions and on the CCP. Reports on the CCP will remain unchanged, with Ministers required each year to lay before the Scottish Parliament a report on each substantive chapter of the most recent CCP (as per section 35B of the 2009 Act).

Ministers will also still be required to lay in Parliament an annual report on emissions reduction. This will indicate the percentage by which Scottish emissions are lower than the baseline. At the end of each carbon budget period, there will be an 'expanded report' assessing whether a carbon budget has been met being required at the end of each budget period.

Other

As outlined earlier in this Briefing, at the UK level some carbon budget periods have ended with less emissions produced than had been budgeted for i.e. greater emissions savings. The third carbon budget ended with a surplus in emission savings, but the Government decided not to carry this over, a position supported by the CCC.

The Scottish Government set out, in their letter from the 11 July 2024 and in the Policy Memorandum that ‘carrying over’ surplus emission savings between carbon budgets will not be permitted in the proposed Scottish carbon budget framework.

Carbon budget targets will continue to include emissions from international aviation and

shipping.

Section 4 : Further provision about setting first budget

There is a Section 4 in the Bill, with the Explanatory Notes stating that this 'does not amend the 2009 Act, but is closely connected to the amendments to that Act made by sections 1 and 2. Specifically, section 4 makes provision about the first exercise of the regulation-making power to set Scottish carbon budgets that section 1 inserts into the 2009 Act.

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