



# Environment (Wales) Act 2016

2016 anaw 3

## PART 2

### CLIMATE CHANGE

#### *Introduction*

#### **28 Purpose of this Part**

The purpose of this Part is to require the Welsh Ministers to meet targets for reducing emissions of greenhouse gases from Wales.

*Emissions targets and carbon budgets: main duties of the Welsh Ministers*

#### **29 The 2050 emissions target**

- (1) The Welsh Ministers must ensure that the net Welsh emissions account for the year 2050 is at least 80% lower than the baseline.
- (2) For the meaning of the “net Welsh emissions account” see section 33, and for the meaning of the “baseline” see section 38.
- (3) The Welsh Ministers may by regulations amend subsection (1) so that it specifies a percentage greater than 80%.
- (4) In this Part, the target in subsection (1) is referred to as the “2050 emissions target”.

#### **30 Interim emissions targets**

- (1) For each interim target year, the Welsh Ministers must by regulations set a maximum amount for the net Welsh emissions account, expressed as a percentage below the baseline (an “interim emissions target”).

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- (2) The Welsh Ministers must ensure that the net Welsh emissions account for each interim target year does not exceed the interim emissions target for that year.
- (3) The interim target years are 2020, 2030 and 2040.
- (4) The Welsh Ministers must set the interim emissions targets before the end of 2018.

### **31 Carbon budgets**

- (1) For each budgetary period, the Welsh Ministers must by regulations set a maximum total amount for the net Welsh emissions account (a “carbon budget”).
- (2) The Welsh Ministers must ensure that the net Welsh emissions account for each budgetary period does not exceed the carbon budget for that period.
- (3) The budgetary periods are—
  - (a) 2016 to 2020, and
  - (b) each succeeding period of five years, ending with 2046 to 2050.
- (4) The Welsh Ministers must—
  - (a) set the carbon budgets for the first two budgetary periods before the end of 2018, and
  - (b) set the carbon budget for the third and later budgetary periods at least five years before the start of the period in question.

### **32 Emissions targets and carbon budgets: principles**

- (1) The Welsh Ministers must—
  - (a) set each interim emissions target at a level that they are satisfied is consistent with meeting the 2050 emissions target, and
  - (b) set the carbon budget for each budgetary period at a level that they are satisfied is consistent with meeting—
    - (i) the 2050 emissions target, and
    - (ii) the interim emissions target for any interim target year that falls within or after that budgetary period.
- (2) The Welsh Ministers may not make regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met—
  - (a) they are satisfied that it is appropriate to make the change as a result of significant developments in—
    - (i) scientific knowledge about climate change, or
    - (ii) EU or international law or policy relating to climate change;
  - (b) the change has been recommended by the advisory body;
  - (c) the change is in connection with provision made under section 35(1) or 37(2).
- (3) When making regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, the Welsh Ministers must have regard to—
  - (a) the most recent report under section 8 on the state of natural resources in relation to Wales,

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- (b) the most recent future trends report under section 11 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2),
  - (c) the most recent report (if any) under section 23 of that Act (future generations report),
  - (d) scientific knowledge about climate change,
  - (e) technology relevant to climate change, and
  - (f) EU and international law and policy relating to climate change (including international agreements on measures designed to limit increases in global average temperatures).
- (4) Sections 49 and 50 make provision about advice that the Welsh Ministers must obtain from the advisory body and take into account before making regulations changing the 2050 emissions target or setting or changing an interim emissions target or a carbon budget.

*Targets and budgets: scope and main concepts*

### **33 The net Welsh emissions account**

- (1) The “net Welsh emissions account” for a period is the amount calculated as follows—
- (a) determine the amount of net Welsh emissions of greenhouse gases for the period in accordance with section 34;
  - (b) subtract the amount of carbon units credited to the net Welsh emissions account for the period;
  - (c) add the amount of carbon units debited from the net Welsh emissions account for the period.
- (2) The Welsh Ministers may by regulations make provision about—
- (a) the circumstances in which carbon units may be credited to the net Welsh emissions account for a period;
  - (b) the circumstances in which carbon units must be debited from the net Welsh emissions account for a period;
  - (c) how this is to be done.
- (3) The regulations must contain provision for ensuring that carbon units that are credited to the net Welsh emissions account for a period cease to be available to offset other greenhouse gas emissions.
- (4) The Welsh Ministers must by regulations set a limit on the net amount of carbon units by which the net Welsh emissions account for a period may be reduced as a result of applying subsection (1)(b) and (c).
- (5) The regulations may provide that carbon units of a description specified in the regulations do not count towards the limit.

### **34 Net Welsh emissions**

- (1) In this Part, the “net Welsh emissions” of a greenhouse gas for a period means the amount of Welsh emissions of that gas for the period, reduced by the amount of Welsh removals of that gas for the period.
- (2) “Welsh emissions” of a greenhouse gas are—

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- (a) emissions of that gas from sources in Wales, and
  - (b) emissions of that gas from international aviation or international shipping that count as Welsh emissions by virtue of regulations under section 35.
- (3) “Welsh removals” of a greenhouse gas are removals of that gas from the atmosphere due to land use in Wales, land-use change in Wales or forestry activities in Wales.
- (4) The amounts of Welsh emissions and Welsh removals of a greenhouse gas for a period must, so far as reasonably practicable, be determined consistently with international carbon reporting practice.

### **35 Welsh emissions from international aviation and shipping**

- (1) The Welsh Ministers may by regulations make provision for emissions of a greenhouse gas from international aviation and international shipping to count as Welsh emissions of the gas.
- (2) The regulations may—
- (a) specify activities which are to be regarded as international aviation or international shipping;
  - (b) specify the circumstances in which, and the extent to which, emissions of a greenhouse gas from international aviation or international shipping are to count as Welsh emissions of that gas;
  - (c) specify the period (whether past or future) from which emissions of a greenhouse gas from international aviation or international shipping are to count as Welsh emissions of that gas;
  - (d) make provision about how emissions of a greenhouse gas from international aviation or international shipping are to be taken into account in determining Welsh emissions of that gas for the baseline year for that gas;
  - (e) make different provision for different greenhouse gases and different periods.

### **36 Carbon units**

- (1) In this Part, a “carbon unit” means a unit of a kind specified in regulations made by the Welsh Ministers and representing—
- (a) a reduction in an amount of greenhouse gas emissions,
  - (b) the removal of an amount of greenhouse gas from the atmosphere, or
  - (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.
- (2) The Welsh Ministers may by regulations make provision for a scheme—
- (a) for registering or otherwise keeping track of carbon units, or
  - (b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Welsh Ministers.
- (3) The regulations may, in particular, provide for an existing scheme to be adapted for these purposes (including by amending any enactment relating to the existing scheme).
- (4) The regulations may make provision—
- (a) appointing a person (an “administrator”) to administer the scheme;
  - (b) conferring or imposing functions on the administrator for that purpose (including by amending any enactment relating to the administrator);

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- (c) conferring power on the Welsh Ministers to give guidance or directions to the administrator;
- (d) conferring power on the Welsh Ministers to delegate the performance of any of the functions conferred or imposed on the Welsh Ministers by the regulations;
- (e) requiring the payment by persons using the scheme of charges (of an amount determined by or under the regulations) towards the cost of operating it.

### **37 Greenhouse gases**

- (1) For the purposes of this Part, each of the following is a “greenhouse gas”—
  - (a) carbon dioxide;
  - (b) methane;
  - (c) nitrous oxide;
  - (d) hydrofluorocarbons;
  - (e) perfluorocarbons;
  - (f) sulphur hexafluoride;
  - (g) nitrogen trifluoride.
- (2) The Welsh Ministers may by regulations amend subsection (1) to add a gas or modify a description of a gas.

### **38 The baseline**

- (1) In this Part, the “baseline” means the aggregate amount of net Welsh emissions of greenhouse gases for the baseline years.
- (2) The baseline year for each greenhouse gas is—
  - (a) carbon dioxide: 1990;
  - (b) methane: 1990;
  - (c) nitrous oxide: 1990;
  - (d) hydrofluorocarbons: 1995;
  - (e) perfluorocarbons: 1995;
  - (f) sulphur hexafluoride: 1995;
  - (g) nitrogen trifluoride: 1995.
- (3) The Welsh Ministers may by regulations amend subsection (2) to—
  - (a) specify the baseline year for a greenhouse gas added by regulations under section 37(2);
  - (b) modify the baseline year for a greenhouse gas.
- (4) The Welsh Ministers may make provision under subsection (3)(b) only if they are satisfied that it is appropriate to do so as a result of significant developments in EU or international law or policy relating to climate change.

*Compliance with carbon budgets: reports and statements by the Welsh Ministers*

### **39 Proposals and policies for meeting carbon budget**

- (1) The Welsh Ministers must prepare and publish a report for each budgetary period setting out their proposals and policies for meeting the carbon budget for that period.

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- (2) The report must set out proposals and policies covering the areas of responsibility of each of the Welsh Ministers.
- (3) The Welsh Ministers must—
  - (a) publish the report for the first budgetary period as soon as reasonably practicable after setting the carbon budget for that period;
  - (b) publish the report for the second and later budgetary periods before the end of the first year of the period in question.

#### **40 Carrying amounts from one budgetary period to another**

- (1) The Welsh Ministers may decide to carry part of the carbon budget for a budgetary period back to the preceding budgetary period.
- (2) The carbon budget for the later period is reduced, and that for the earlier period is increased, by the amount carried back.
- (3) The amount carried back must not exceed 1% of the carbon budget for the later period.
- (4) The Welsh Ministers may decide to carry any unused part of the carbon budget for a budgetary period forward to the next budgetary period.
- (5) The carbon budget for the later period is increased, and that for the earlier period is reduced, by the amount carried forward.
- (6) The carbon budget for a period is “unused” to the extent that it exceeds the net Welsh emissions account for the period.
- (7) Before deciding to carry an amount back or forward under this section, the Welsh Ministers must consult the advisory body.

#### **41 Final statement for budgetary period**

- (1) The Welsh Ministers must—
  - (a) prepare a final statement for each budgetary period in accordance with this section, and
  - (b) lay the statement before the National Assembly for Wales before the end of the second year after the period to which it relates.
- (2) A final statement under this section must state, in respect of each greenhouse gas, the total amount of Welsh emissions, Welsh removals and net Welsh emissions for the budgetary period to which the statement relates.
- (3) It must—
  - (a) state the total amount of carbon units that have been credited to or debited from the net Welsh emissions account for the period, and
  - (b) give details of the number and type of those units.
- (4) It must state the final amount of the net Welsh emissions account for the period.
- (5) It must state whether the Welsh Ministers have decided to carry an amount back or forward under section 40 so as to increase or reduce the carbon budget for the period, and if so must state the amount carried back or forward.
- (6) It must state the final amount of the carbon budget for the period.

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- (7) Whether the carbon budget for the period has been met is to be determined by reference to the information in the statement.
- (8) The statement must explain what the Welsh Ministers consider to be the reasons why the carbon budget for the period has, or has not, been met.
- (9) In particular, it must include the Welsh Ministers' assessment of the extent to which their proposals and policies for meeting the carbon budget for the period—
  - (a) have been carried out, and
  - (b) have contributed to the carbon budget for the period being met (or not being met).
- (10) The assessment must cover the areas of responsibility of each of the Welsh Ministers.
- (11) A statement under this section must also include—
  - (a) an estimate of the total amount of Welsh consumer emissions for the budgetary period to which the statement relates, and
  - (b) an explanation of how the Welsh Ministers have calculated the estimate.
- (12) The “Welsh consumer emissions” for a period are the emissions of greenhouse gases, whether in Wales or elsewhere, that may reasonably be attributed to the consumption and use of goods and services in Wales during the period.

#### **42 Proposals and policies where carbon budget not met**

- (1) This section applies if the Welsh Ministers have laid a final statement before the National Assembly for Wales in respect of a budgetary period for which the net Welsh emissions account exceeds the carbon budget.
- (2) No later than three months after laying the statement, the Welsh Ministers must lay before the National Assembly for Wales a report setting out proposals and policies to compensate for the excess emissions in later budgetary periods.

*Compliance with emissions targets: statements by the Welsh Ministers*

#### **43 Statements for interim target years and 2050**

- (1) The Welsh Ministers must—
  - (a) prepare a statement for each interim target year and for the year 2050 in accordance with this section, and
  - (b) lay each statement before the National Assembly for Wales before the end of the second year after the year to which it relates.
- (2) A statement under this section must state, in respect of each greenhouse gas, the total amount of Welsh emissions, Welsh removals and net Welsh emissions for the year to which the statement relates.
- (3) It must—
  - (a) state the total amount of carbon units that have been credited to or debited from the net Welsh emissions account for the year, and
  - (b) give details of the number and type of those units.
- (4) It must state the amount of the net Welsh emissions account for the year.

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- (5) Whether an interim emissions target or the 2050 emissions target has been met is to be determined by reference to the information in the statement for the year to which the target relates.
- (6) The statement must explain what the Welsh Ministers consider to be the reasons why the target has, or has not, been met.
- (7) A statement A under this section for a year may be combined with the statement under section 41 for the budgetary period that includes that year.

*Functions of advisory body: reports and advice*

#### **44 Advisory body**

- (1) The Welsh Ministers may by regulations—
  - (a) establish a body corporate to exercise the functions of the advisory body under this Part, or
  - (b) designate a person to be the advisory body for the purposes of this Part.
- (2) The regulations may designate a person only if the person exercises functions of a public nature.
- (3) If no regulations under subsection (1) are in force, the advisory body is the Committee on Climate Change established under section 32 of the Climate Change Act 2008 (c. 27).
- (4) Regulations under subsection (1)(a) may, in particular, include provision about—
  - (a) the status and membership of the body established by the regulations;
  - (b) the employment of staff by the body;
  - (c) remuneration, allowances and pensions for members and staff;
  - (d) the organisation and procedure of the body;
  - (e) reports and accounts (including audit).
- (5) Regulations under subsection (1)(a) may enable the Welsh Ministers to give directions to the body in relation to the matters mentioned in subsection (4).
- (6) Regulations under subsection (1) may make incidental, supplementary, consequential, transitional or saving provision, which may include provision amending, repealing or revoking an enactment.

#### **45 Progress reports**

- (1) Before the end of the first budgetary period, the advisory body must send a report to the Welsh Ministers setting out the body's views on—
  - (a) the progress that has been made towards meeting—
    - (i) the carbon budgets that have been set under this Part,
    - (ii) the interim emissions targets, and
    - (iii) the 2050 emissions target,
  - (b) whether those budgets and targets are likely to be met, and
  - (c) any further measures that are needed to meet those budgets and targets.



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- (2) No later than six months after the Welsh Ministers lay the final statement for a budgetary period before the National Assembly for Wales under section 41, the advisory body must send a report to the Welsh Ministers setting out the body's views on—
  - (a) the way in which the carbon budget for the period was or was not met,
  - (b) the action taken by the Welsh Ministers to reduce net Welsh emissions of greenhouse gases during the period, and
  - (c) the matters set out in subsection (1).
- (3) No later than six months after the Welsh Ministers lay the statement under section 43 relating to 2030 before the National Assembly for Wales, the advisory body must send a report to the Welsh Ministers setting out the body's views on—
  - (a) whether the interim emissions target for 2040 and the 2050 emissions target are the highest achievable targets, and
  - (b) if either of them is not the highest achievable target, what is the highest achievable target.
- (4) No later than six months after the Welsh Ministers lay the statement under section 43 relating to 2040 before the National Assembly for Wales, the advisory body must send a report to the Welsh Ministers setting out the body's views on—
  - (a) whether the 2050 emissions target is the highest achievable target, and
  - (b) if not, what is the highest achievable target.
- (5) A report under subsection (3) or (4) may be combined with a report under subsection (2).
- (6) The Welsh Ministers must lay a copy of each report they receive under this section before the National Assembly for Wales.
- (7) The Welsh Ministers must lay a response to the points raised by the report before the National Assembly for Wales no later than six months after receiving the report.

#### **46 Duty of advisory body to provide advice and assistance**

If requested to do so by the Welsh Ministers, the advisory body must provide the Welsh Ministers with advice, analysis, information or other assistance that is relevant to—

- (a) the exercise of the Welsh Ministers' functions under this Part, or
- (b) any other matters relating to climate change.

#### **47 Guidance to advisory body**

- (1) In exercising its functions under this Part, the advisory body must have regard to any guidance given to it by the Welsh Ministers.
- (2) The Welsh Ministers may not give the advisory body guidance as to the content of any advice or report.

*Regulations: procedure and advice*

#### **48 Regulations: procedure**

- (1) A power to make regulations under this Part is to be exercised by statutory instrument.

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- (2) A statutory instrument is subject to annulment in pursuance of a resolution of the National Assembly for Wales if it contains only—
  - (a) regulations under section 44(1)(b) which do not make provision amending or repealing an enactment contained in an Act of Parliament or a Measure or Act of the National Assembly for Wales;
  - (b) regulations under section 52.
- (3) Any other statutory instrument containing regulations under this Part may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

#### **49 Requirement to obtain advice about proposals to make regulations**

- (1) Before laying draft regulations before the National Assembly for Wales in accordance with section 48, the Welsh Ministers must—
  - (a) request advice from the advisory body about the proposal to make the regulations, and
  - (b) take the advisory body's advice into account.
- (2) When the Welsh Ministers request advice from the advisory body under this section, they must specify a reasonable period within which the advice must be provided.
- (3) The advisory body must provide the advice within that period.
- (4) The advisory body's advice must set out the reasons for the advice.
- (5) The Welsh Ministers must publish the advisory body's advice as soon as reasonably practicable after receiving it.
- (6) If the draft regulations laid before the National Assembly for Wales make different provision from that recommended by the advisory body, the Welsh Ministers must also lay before the National Assembly a statement setting out the reasons why.
- (7) This section does not apply to regulations under section 44.

#### **50 Advice about proposed regulations relating to targets and budgets**

- (1) When the advisory body provides the Welsh Ministers with advice about a proposal to make regulations under section 29 changing the 2050 emissions target or regulations under section 30 setting or changing an interim emissions target, the advice must include the advisory body's opinion as to—
  - (a) whether the target proposed by the Welsh Ministers is the highest achievable target, and
  - (b) if not, what is the highest achievable target.
- (2) When the advisory body provides the Welsh Ministers with advice about a proposal to make regulations under section 31 setting or changing a carbon budget for a budgetary period, the advice must include the advisory body's opinion as to—
  - (a) the appropriate level of the carbon budget for the period;
  - (b) the extent to which the carbon budget for the period should be met—
    - (i) by reducing the amount of net Welsh emissions of greenhouse gases,
    - or

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- (ii) by the use of carbon units that in accordance with regulations under sections 33 and 36 may be credited to the net Welsh emissions account for the period;
  - (c) the respective contributions towards meeting the carbon budget for the period that should be made—
    - (i) by the sectors of the Welsh economy covered by trading schemes (taken as a whole);
    - (ii) by the sectors of the Welsh economy not so covered (taken as a whole);
  - (d) the sectors of the Welsh economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of greenhouse gases.
- (3) When advising the Welsh Ministers about a proposal to make regulations changing the 2050 emissions target, or setting or changing an interim emissions target or a carbon budget, the advisory body must have regard to the matters mentioned in section 32(3).
- (4) In subsection (2), “trading scheme” has the meaning given by section 44 of the Climate Change Act 2008 (c. 27).

#### *Measurement and interpretation*

### **51 Measurement of emissions**

- (1) For the purposes of this Part, each of the following must be measured or calculated in tonnes of carbon dioxide equivalent—
  - (a) emissions of greenhouse gases;
  - (b) reductions in greenhouse gas emissions;
  - (c) removals of greenhouse gases from the atmosphere.
- (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 (calculated consistently with international carbon reporting practice).

### **52 International carbon reporting practice**

In this Part, “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, or
- (b) such other international agreements or arrangements, or obligations under EU law, as the Welsh Ministers may specify by regulations.

### **53 General interpretation of this Part**

In this Part—

“2050 emissions target” (“*targed allyriadau 2050*”) has the meaning given by section 29;

“advisory body” (“*corff cyngtori*”) is to be interpreted in accordance with section 44;

“baseline” (“*gwaelodlin*”) has the meaning given by section 38;

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“budgetary period” (“*cyfnod cyllidebol*”) has the meaning given by section 31(3);

“carbon budget” (“*cyllideb garbon*”) has the meaning given by section 31(1);

“carbon unit” (“*uned garbon*”) has the meaning given by section 36(1);

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

“EU law” (“*cyfreithiau'r UE*”) means—

- (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the EU Treaties, and
- (b) all the remedies and procedures from time to time provided for by or under the EU Treaties;

“greenhouse gas” (“*nwy tŷ gwydr*”) has the meaning given by section 37;

“interim emissions target” (“*targed allyriadau interim*”) has the meaning given by section 30(1);

“interim target year” (“*blwyddyn darged interim*”) has the meaning given by section 30(3);

“international carbon reporting practice” (“*arferion rhyngwladol adrodd ar garbon*”) has the meaning given by section 52;

“net Welsh emissions” (“*allyriadau net Cymru*”) has the meaning given by section 34(1);

“net Welsh emissions account” (“*cyfrif allyriadau net Cymru*”) has the meaning given by section 33;

“Welsh emissions” (“*allyriadau Cymru*”) has the meaning given by section 34(2);

“Welsh removals” (“*echdyniadau Cymru*”) has the meaning given by section 34(3).

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