

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Emissions Reduction Targets

Advice about targets

Section 6 – Duty to seek advice from the relevant body

28. Section 6 inserts new section 2C (duty to seek advice from the relevant body) into the 2009 Act. The following paragraphs refer to the subsections of new section 2C.
29. Subsection (1), read with subsection (2), imposes a duty on the Scottish Ministers to request advice from the relevant body at least once before the expiry of each relevant five year period. The first request must be made within five years of section 2C coming into force. Subsequent requests must be made within five years of each previous request under subsection (1).
30. Subsection (3), read with subsection (4), provides that each request under subsection (1) must request the relevant body's view as to the matters mentioned in paragraphs (a) to (h) of subsection (3). In particular, each request must seek the relevant body's views as to whether the net-zero emissions target is achievable and, if so, what is the earliest achievable year for that target (with views on these matters taking account of the target-setting criteria).
31. Each request must also seek the body's views as to whether the percentage figure applying for the purposes of each interim target (not yet reported under section 33 of the 2009 Act) is appropriate by reference to the target-setting criteria, and if not, advice as to any alternative percentage figure that would be appropriate. The body's views must also be requested on whether the fair and safe Scottish emissions budget, which forms part of the target-setting criteria, is appropriate and, if not, request the body makes a fresh recommendation for the purpose of the budget. The body's views must also be sought on the estimated contribution of the net-zero emissions target and the interim targets towards global efforts to limit the global average temperature increase to 1.5°C above pre-industrial levels.
32. Each request must also seek the body's views on certain matters relating to meeting emissions reduction targets for the next 15 years. These matters consider the balance between action to reduce net Scottish emissions and the use of carbon credits purchased by Scottish Ministers, and the respective contribution that different sectors of the Scottish economy should make to reductions in net Scottish emissions of greenhouse gases.
33. Each request must also seek the body's views as to whether the multiplier to reflect the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation (which applies by virtue of section 16(3) of the 2009 Act)

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is appropriate and, if not, request advice as to any alternative multiplier that would be appropriate.

34. Subsection (5) provides that the Scottish Ministers may request the relevant body's views as to any other matter which they consider relevant for the purposes of Part 1 of the 2009 Act.

Section 7 – Power to seek additional advice

35. Section 7 inserts a new section 2D (power to seek additional advice) into the 2009 Act. The following paragraphs refer to the subsections of new section 2D.
36. Subsection (1) confers a power on the Scottish Ministers to request advice from the relevant body at any time (and in addition to any request required to be made under section 2C of the 2009 Act) on any matter they consider relevant for the purposes of Part 1 of the 2009 Act.
37. By virtue of subsection (2), a request for advice under subsection (1) on all of the matters mentioned in section 2C(3) of the 2009 Act is treated as having been made under section 2C(1) of that Act. Accordingly, where this subsection applies, the request under subsection (1) would become the most recent request to have been made under section 2C(1) and (2) of the 2009 Act.

Section 8 – Ministerial duties following receipt of advice

38. Section 8 inserts a new section 2E (ministerial duties following request for advice) into the 2009 Act. The following paragraphs refer to the subsections of new section 2E.
39. Subsection (1) imposes a duty on the Scottish Ministers to publish any advice received in response to a request under section 2C(1) or 2D(1) of the 2009 Act as soon as reasonably practicable after they receive it.
40. Subsection (2) provides that the duty in subsection (3) applies in the event that:
- the relevant body's advice states that a particular year is the earliest achievable year for the net-zero emissions target, and
 - that year is not already the net-zero emissions target year.
41. In this event, subsection (3) imposes a duty on the Scottish Ministers to publish a statement within 3 months setting out how they intend to respond to that advice. It also requires that in the event that the Scottish Ministers do not, within 12 months of receiving that advice, lay draft regulations under section A1(3) of the 2009 Act to modify the net-zero emissions target year to the particular year referred to in subsection (2)(a), the Scottish Ministers must make a statement to the Scottish Parliament setting out the reasons for not doing so.
42. Subsection (4) provides that the duty in subsection (5) applies in the event that the relevant body's advice states that a percentage figure for an interim target applying when the request is made is not appropriate and that another figure would be appropriate. In this event, subsection (5) imposes a duty on the Scottish Ministers to publish a statement within 3 months setting out how they intend to respond to that advice. It also requires that in the event that Scottish Ministers do not, within 12 months of receiving that advice, lay draft regulations under section 2A(1) of the 2009 Act to make the advised modification to that percentage figure, they must make a statement to the Scottish Parliament setting out the reasons for not doing so.
43. Subsection (6) provides that the duty in subsection (7) applies in the event that:
- the relevant body's advice states that, for a greenhouse gas, the multiplier figure reflecting the direct and indirect non-carbon dioxide climate change impacts of

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emissions at altitude from international aviation applying when the request is made is not appropriate and that another figure would be appropriate, and

- the Scottish Ministers do not, within 12 months of receiving that advice, lay for approval a draft order under section 16(1) of the 2009 Act making the advised modification to that multiplier figure.
44. In this event, subsection (7) imposes a duty on the Scottish Ministers to publish a statement setting out the reasons for not laying for approval a draft order under section 16(1) of the 2009 Act making the advised modification to that multiplier figure.