

# Climate Change (Emissions Reduction Targets) (Scotland) Bill

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## Policy Memorandum

### Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Climate Change (Emissions Reduction Targets) (Scotland) Bill ("the Bill") introduced in the Scottish Parliament on 23 May 2018.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 30-EN);
  - a Financial Memorandum (SP Bill 30-FM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP30-LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### Policy objectives of the Bill

4. The primary objective of the Bill is to raise the ambition of the greenhouse gas emissions reduction targets that are set out in the Climate Change (Scotland) Act 2009 ("the 2009 Act") and associated regulations. The 2009 Act established Scotland as a world leader in tackling climate change. In response to the United Nations Framework Convention on Climate Change Paris Agreement, the Bill reaffirms the Scottish Government's commitment to remain at the forefront of global ambition. This

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is achieved by increasing the ambition of the emissions reduction targets in line with an appropriate contribution to limiting global temperature rises to 1.5 degrees Celsius above pre-industrial levels, and incorporating provisions that will require the Scottish Ministers to regularly review whether the time is right to specify a net-zero target year.

5. Scottish Ministers have taken an evidence led approach in proposing the target levels included in the Bill, and in the requirements for regular review of a net-zero emissions target year. The Bill proposals are based on the independent expert advice of the UK Committee on Climate Change (CCC)<sup>1</sup>, taking account of public consultation, and aim to balance high ambition with credibility and responsibility.

6. The secondary objective of our proposals is to improve transparency, by:

- Measuring progress to targets without adjusting for the operation of emissions trading schemes;
- Specifying all targets as percentage reductions from the baseline;
- Aligning the levels of annual, interim and 2050 targets and ensuring they remain aligned (under the 2009 Act, there is both an interim and annual target for 2020, and they have diverged);
- Changing the default position on the use of international offset credits so that they cannot be used without laying secondary legislation, as opposed to the current situation where future use is reviewed every five years;
- Reducing the extent to which changes in emissions measurement science can influence whether a target is met or missed.

7. The strong foundations established by the 2009 Act mean that strengthening our approach in response to the increased global ambition represented by the Paris Agreement does not require a fundamental shift or change of direction. It does require the target levels to be increased, and

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<sup>1</sup> The Committee on Climate Change is currently the “relevant body” for the purposes of the 2009 Act. References to duties on the Scottish Ministers to seek and have regard to advice from the CCC in this Policy Memorandum are under their role as the relevant body under the 2009 Act.

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aspects of the target framework that have created confusion over the last decade to be rectified.

## Bill proposals

### Target levels

8. The Scottish Ministers are committed to achieving net-zero emissions as soon as possible, and to putting a target year into law as soon as there is sufficient evidence that doing so would be credible. To reflect this, the Bill provides for a net-zero emissions target and contains requirements for the Scottish Ministers to request regular independent advice from the CCC, taking account of the target-setting criteria in the Bill, on whether the net-zero target year is achievable, and if so, what the earliest achievable year is.

9. The Bill provides that the Scottish Ministers must publish the advice received. Should the CCC advise that a net-zero emissions target year is achievable and the Scottish Ministers do not lay draft regulations to specify that year within 12 months of receiving the advice, they must make a statement to the Parliament setting out their reasons.

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10. The Bill increases the target levels for 2020 and 2050, and introduces interim targets for 2030 and 2040. The interim and 2050 target levels proposed are as follows:<sup>2</sup>

- A 56% reduction by 2020;
- A 66% reduction by 2030;
- A 78% reduction by 2040;
- A 90% reduction by 2050.

11. These target levels are arguably the most ambitious legislative targets in the world given that they include international aviation and shipping and a default position that they must be achieved through domestic effort alone. The target levels proposed are those that the CCC set out as a high ambition scenario. The CCC advise that a 2050 target of 90% emissions reduction “would require actions that are currently at the very limit of feasibility”.<sup>3</sup> The Scottish Government accepted the CCC high ambition scenario as Scotland’s targets should be very challenging, and should reflect a fair contribution to maintaining global temperatures to well below 2 degrees above pre-industrial levels as set out in the Paris Agreement.

12. In order to improve transparency and achieve consistency between annual targets and the interim and 2050 targets, the Bill provides for:

- both interim and annual targets to be specified as percentage reductions, whereas in the 2009 Act the interim and 2050 targets are given as percentage reductions but the annual targets are given as a specific number of megatonnes of CO2 equivalent;

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<sup>2</sup> The basket of greenhouse gas emissions covered consists of carbon dioxide, methane, nitrous oxide, and the four F-gases (hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and nitrogen trifluoride). These gases are weighted by Global Warming Potential, so that total greenhouse gas emissions can be reported on a consistent basis. The Global Warming Potentials are based on international reporting standards, as set by the Intergovernmental Panel on Climate Change. The Baseline Period for reporting against Climate Change Targets is 1990 for carbon dioxide carbon dioxide, methane, nitrous oxide; and 1995 for the four F-gases.

<sup>3</sup> <https://www.theccc.org.uk/publication/advice-on-the-new-scottish-climate-change-bill/>

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- the interim and 2050 targets to replace annual targets in those years, unlike in the 2009 Act where for 2020 there is both an interim target (in percentage terms) and an annual target (in megatonnes); and
- a mechanism to calculate the levels of annual targets directly from those of the interim, 2050 targets and, if applicable, the net-zero emissions target.

13. Taken together, these provisions will avoid the current situation under the 2009 Act where the annual targets and interim and 2050 targets have become misaligned.

14. The Bill provides that the annual target levels are calculated as percentage figures equally spaced between the levels of whichever two of the 2020, 2030, 2040, 2050 targets are adjacent. If a net-zero emissions target year is specified, the percentage figures for the preceding annual targets are recalculated as percentage figures equally spaced between the net-zero emissions target year, and the preceding decadal target.

## Independent expert advice

15. The 2009 Act currently requires the Scottish Ministers to seek advice from the CCC when introducing secondary legislation to set batches of annual targets. The advice from the CCC must take into account the target-setting criteria as set out in section 4 of the 2009 Act and the Scottish Ministers must have regard to the same criteria when they propose annual target levels in draft regulations.

16. The Bill provides that the Scottish Ministers must seek regular advice from the CCC at least every five years. This is equivalent to the current requirements under the 2009 Act, but instead of the advice being about the next set of annual targets, the request for advice must seek the CCC's views on, among other things, whether the net-zero emissions target is achievable, and if so, what is the earliest achievable year, taking account of the target-setting criteria. The request must also seek advice on the continued appropriateness of the levels of the interim and 2050 targets. The advice must take into account the target-setting criteria. The Scottish Ministers must have regard to the most up-to-date advice they have received from the CCC in preparing any draft regulations to modify the target levels.

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The Scottish Ministers must publish the advice they receive as soon as reasonably practicable.

17. Should the CCC advise a net-zero emissions target is achievable and suggest an earliest achievable year, or they advise that an interim or 2050 target level is no longer appropriate, the Scottish Ministers must either lay secondary legislation that acts on the advice within 12 months of receipt of the advice, or publish a statement setting out their reasons for not doing so. The Scottish Ministers must have regard to the target-setting criteria in making their decision.

18. The Bill supplements the target-setting criteria in the 2009 Act by adding “current international carbon reporting practice”. It also modifies the existing criterion “European and international law and policy relating to climate change” to make it clear that it includes the United Nations Framework Convention on Climate Change and protocols to that Convention. Otherwise the target-setting criteria are unchanged from those set out previously in the 2009 Act. The Bill includes powers for the Scottish Ministers to modify the criteria through secondary legislation in the event that they need to be updated in the future.

## Amending target levels

19. The Bill gives powers to the Scottish Ministers to modify, by regulations subject to the affirmative procedure, interim and 2050 target levels, following receipt of advice from the CCC. This power can be used to adjust these target levels both up and down, but target levels can only be adjusted downwards if the CCC have advised this should occur.

20. The ability to modify target levels in both directions is critical to the operation of the target framework proposed by the CCC. In providing their advice on the target framework, the CCC explained the challenge that arises from the fact that updates to reflect the most recent scientific knowledge are made to the greenhouse gas inventory on an annual basis, and while improvements to scientific knowledge are welcome it does make it difficult to monitor Scotland’s progress against targets: “If the scientific basis on which emissions are estimated is changed, it is possible that the same level of effort will achieve a different relative emission reduction. A target can be missed not because of a lack of policy effort but because of changing methodologies.

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Alternatively, the change in methodology could lead to the targets being too easy to meet and potentially result in lesser action to reduce emissions.”<sup>4</sup>

21. The CCC go on to say that “The value of the targets is that they should be challenging but achievable with sustained policy effort, ensuring planning certainty for businesses, consumers and the public sector.”<sup>5</sup>

22. Were the measurement science methods in the greenhouse gas emissions inventory to change to such an extent that the CCC advised that the current targets were unachievable then the Scottish Ministers must have the ability to lower target levels to avoid a situation where they are held to account for changes in science, rather than failure of policy effort. A recent report on Quantifying Greenhouse Gas Emissions by the CCC<sup>6</sup> found that while there is high confidence over large parts of the inventory, uncertainty arises from sources of emissions not currently included in the inventory and from potential changes to Intergovernmental Panel on Climate Change (IPCC) guidelines.

23. As outlined above, the Bill proposes that annual target levels will be automatically calculated by reference to the interim targets, the 2050, and the net-zero emissions target (if the year has been specified). The Bill ensures that future annual targets are automatically recalculated to take account of any changes to the interim targets, the 2050 target or the net-zero emissions target year. This allows the Scottish Ministers to adjust their policies in order to try to meet any modified targets.

24. This situation described above applies in all cases apart from the situation where the CCC has advised that target levels should be amended solely due to a change in international reporting practice (an inventory change). Should this situation arise, then all targets that have not yet been reported upon will be adjusted to ensure that targets are not achieved, or

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<sup>4</sup><https://www.theccc.org.uk/publication/letter-lord-deben-roseanna-cunningham-msp-advising-scottish-climate-target-framework/>

<sup>5</sup> ibid

<sup>6</sup><https://www.theCommitteeonClimateChange.org.uk/publication/quantifying-greenhouse-gas-emissions/>

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missed, solely due to changes in the inventory. This is consistent with advice from the CCC.<sup>7</sup>

## Emissions accounting and international carbon reporting practice

25. The Bill removes the emissions accounting adjustments related to the operation of trading schemes such as the EU-Emissions Trading Scheme (EU-ETS). This proposal does not however affect the operation of trading schemes in Scotland: organisations that take part in the schemes will continue to be able to do so. The proposal only affects the way in which emissions are accounted for when assessing and reporting on progress to the targets.

26. The Bill imposes restrictions on the use of carbon units (“credits”) to offset domestic emissions for the purposes of assessing progress to targets. Under the 2009 Act the Scottish Ministers must make regulations every five years which set a limit on the use of such credits over a defined period. The Bill proposals set a default limit of zero for all future years, unless Ministers bring forward regulations subject to the affirmative procedure allowing for the possibility of credit use in specified future years.

27. The Bill provides that any proposed higher limit on the crediting of carbon units purchased by the Scottish Ministers for a year (to be set by regulations subject to the affirmative procedure) must not exceed 20% of the planned reduction in the net Scottish emissions account for that year. This replaces the “domestic effort target” in the 2009 Act which required that no more than 20% of the year on year reduction in the net Scottish emissions account is accounted for by the crediting of carbon units.

28. To improve transparency and accountability, and in line with advice from the CCC, the Bill alters elements of the emissions accounting arrangements under the 2009 Act. In particular, for the purposes of assessing and reporting under section 33 of the 2009 Act, it requires that target outcomes are assessed in line with the measurement science that was

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<sup>7</sup><https://www.theccc.org.uk/publication/letter-lord-deben-roseanna-cunningham-msp-advising-scottish-climate-target-framework/>

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current when advice on the targets was most recently received from the CCC.

29. Under the 2009 Act, target outcomes are assessed using emissions determined on the basis of the most up to date greenhouse gas inventory. The inventory is compiled in line with international guidance from the IPCC.<sup>8</sup> There have been technical revisions to the Scottish greenhouse gas inventory every year since 2009 and the CCC believes the inventory will continue to be variable in coming years.

30. The CCC proposes that the level of policy effort required to deliver targets should not be subject to significant fluctuations due to technical improvements in the greenhouse gas inventory. As such, the Bill requires that target outcomes are assessed using methods that are consistent with the inventory that was current when the targets were last reviewed.

31. Inventory revisions can have the effect of changing the level of policy effort needed to meet targets. This applies in both directions. Targets can be made easier or harder to meet. Assessing target compliance using methods that are consistent with the inventory that was current when the targets were last reviewed means that the decisions and actions of the Scottish Ministers can be assessed in an objective, consistent and transparent manner.

32. The Scottish Ministers have to request advice from the CCC on target levels at least every five years, and the Bill provides, through section 15 (international carbon reporting practice) that receipt of each set of advice will automatically update the set of inventory methods used for assessing target compliance to the most up to date methods at that time. The Bill requires that any calculations needed to determine if a target outcome has been achieved under the new approach must, so far as reasonably practicable, be undertaken in line with the methods set out by the CCC. Any calculations would take place at the time the target is being reported on. The CCC has set out a calculation method for this purpose in their advice.<sup>9</sup>

33. Only the emissions data needed to assess target compliance and shortfalls against targets will be reported on the new basis in reports required

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<sup>8</sup> <http://www.ipcc.ch/>

<sup>9</sup> <https://www.theccc.org.uk/publication/letter-lord-deben-roseanna-cunningham-msp-advising-scottish-climate-target-framework/>

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by the Bill. All other data, such as cumulative emissions and emissions for previous years, will continue to be reported using the most up-to-date inventory methods as currently happens under the 2009 Act.

## Annual reporting cycle

34. By virtue of sections 16, 17 and 18, the Bill rationalises the annual report produced under sections 33 and 34 of the 2009 Act so that it contains only information directly related to the outcome of the emissions reduction target for the relevant year. It requires that a report is laid in the Parliament as soon as reasonably practicable, once the information required for the report is available. In practice this will occur when the annual Scottish Greenhouse Gas Emissions Statistics are published. This usually happens annually in June, however this publication date could vary in the future.<sup>10</sup>

35. Section 19 of the Bill requires that this high level emissions target reporting is supplemented later in the year by requiring the Scottish Ministers to lay reports in Parliament that contain an assessment of progress towards implementing the policies and proposals set out against the chapter headings in the most recently published Climate Change Plan. The Bill requires these reports to be laid annually by 31 October, or as soon as reasonably practicable thereafter.

36. This reporting approach requires the Scottish Ministers to respond quickly to the publication of the Scottish Greenhouse Gas Emissions Statistics, and to provide further detail on progress against Climate Change Plans later in the year based on indicators in the Climate Change Plan's monitoring framework. Whilst the annual greenhouse gas emissions statistics are the ultimate measure of progress in meeting our overarching aim to reduce emissions, the implementation and output indicators in the Climate Change Plan's monitoring framework will gauge how the implementation of policies is progressing and whether the Scottish Government is on track to achieve its policy outcomes. The laying of the

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<sup>10</sup> The publication date is agreed with the inventory compilers, the UK Government and other Devolved Administrations and in accordance with the Code of Practice for Official Statistics: <https://www.statisticsauthority.gov.uk/code-of-practice/the-code/trustworthiness/t3-orderly-release/>

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reports on the Climate Change Plan will provide the Parliament with the opportunity to scrutinise progress on policies and proposals in Climate Change Plans and decide on any additional scrutiny it may wish to undertake.

## Climate change plans

37. Climate Change Plans are strategic summaries of policies across all sectors of the economy that relate to decarbonisation.

38. The Bill replaces section 35 of the 2009 Act on the reporting of Minister's policies and procedures on meeting annual targets. It changes the name of "Reports on Policies and Procedures" to "Climate Change Plans" to reflect how these are referred to in practice. In direct response to calls from parliamentary committees that considered the most recent climate change plan, the Bill also extends the current time Parliament has to consider draft Climate Change Plans from 60 days to a period of 90 days, including 60 days when the Parliament is not dissolved or in recess. The Scottish Government believes this provides a good balance between the current arrangements and calls for the consideration period to be open-ended.

39. Section 19 of the Bill also requires, by virtue of inserting section 35(2)(a)(ii) into the 2009 Act, that Climate Change Plans set out the Scottish Ministers' proposals and policies for compensating, during the plan period, for any excess emissions reported in the most recent report laid under section 33 of the 2009 Act. This replaces the current section 36 (reports on proposals and policies where annual targets not met) in the 2009 Act with provision that reflects current practice under the 2009 Act where compensation for excess emissions has been included in the next climate change plan that has been produced.

40. The first Climate Change Plan under the Bill must be introduced within five years of section 19 of the Bill, as enacted, coming into force. Plans must be produced at least every five years, and they should cover a period of 15 years, although Ministers will have the ability to vary this timescale by a period of five years either way to align with significant milestones.

## Alternative approaches

41. As discussed in paragraph 5, the Scottish Government sought advice from the CCC on the appropriate level of targets, their form and measurement, and flexibility to update them.

42. In respect of target levels, the CCC noted that the current 80% target for 2050 is “already stretching. Setting more ambitious targets now to align to the aims of the Paris Agreement would require actions that are currently at the very limit of feasibility”. The CCC then provided two options:

- the first being to keep the target for a reduction in greenhouse gas emissions of at least 80% by 2050 with subsequent reviews to increase ambition;
- the second being to set a “stretch” target for a reduction in greenhouse gas emissions of 90% by 2050.

The CCC advised that setting a 90% target now would be consistent with the temperature limits of the Paris Agreement but “would require strong progress in every sector and is at the limit of the pathways currently identified to reduce Scottish emissions”.<sup>11</sup>

43. The Scottish Government believes that Scotland’s targets should be very challenging, and should reflect a fair contribution to maintaining global temperatures to well below 2 degrees above pre-industrial levels as set out in the Paris Agreement, and therefore rejected the option to maintain an 80% target level for 2050 for the time being.

44. In light of the high number of campaign responses to the consultation calling on the Scottish Government to set a net-zero target year now, the strong moral imperative to achieve net-zero emissions as soon as possible, and the Scottish Government’s clear aspiration to do so, the alternative approach of setting a net-zero target year in the Bill was given serious consideration.

45. Having reflected on the full range of consultation responses relating to net-zero the Scottish Government’s view is that the more responsible course of action is to set the 2050 statutory target at 90%. This is both ambitious

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<sup>11</sup><https://www.theccc.org.uk/publication/advice-on-the-new-scottish-climate-change-bill/>

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and credible. Achieving this target, and the annual targets that lead to it, will require challenging actions across all sectors of the Scottish economy to reduce emissions, while avoiding risking Scotland's credibility, economy and finances by putting a target into legislation without knowing how it can be achieved. In particular, the CCC stated in their advice that "a net-zero target for all greenhouse gases should not be set now, but the possibility to set one in the future should be allowed in the new Bill" as there is not currently "a sufficient understanding of how a net-zero target for all greenhouse gases could be met in Scotland."<sup>12</sup>

46. The Scottish Government's clear aspiration is to achieve net-zero emissions as soon as possible. The Bill provisions go beyond the proposals in the consultation that would have given a power to the Scottish Ministers to set a net-zero target in the later part of the century by requiring the Scottish Ministers to seek advice from the CCC at least every five years on the achievability of a net-zero emissions target, and to explain to the Parliament why they have not specified a year for the net-zero emissions target in the event that they receive advice from the CCC advise an achievable net-zero emissions target year.

## Consultation

47. In October 2016 the Scottish Government requested advice from the CCC on the appropriate level of targets, their form and measurement, and flexibility to update them. The CCC issued a call for evidence<sup>13</sup> in December 2016 to gather views from stakeholders, experts and individuals, and held an evidence session in Edinburgh on 20 January 2017.

48. In producing their advice,<sup>14</sup> the CCC considered the responses to the call for evidence<sup>15</sup> and views expressed at the evidence session, the most

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<sup>12</sup><https://www.theccc.org.uk/wp-content/uploads/2017/03/Advice-to-Scottish-Government-on-Scottish-Climate-Change-Bill-Committee-on-Climate-Change-March-2017.pdf>

<sup>13</sup><https://www.theccc.org.uk/2016/12/14/call-for-evidence-scottish-climate-change-bill/>

<sup>14</sup><https://www.theccc.org.uk/publication/advice-on-the-new-scottish-climate-change-bill/>

<sup>15</sup><https://www.theccc.org.uk/2017/03/09/responses-to-scottish-climate-change-bill-consultation/>

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up to date climate science, the implications of the Paris Agreement, and the feasibility and cost of long-term emission reductions in Scotland, together with their experience of the 2009 Act. The advice was published on 22 March 2017.

49. The CCC advised that a net-zero emissions target should not be set now as the evidence does not exist to determine a credible pathway, but that this should be kept in review in line with Paris Agreement mechanisms. They recommended the Scottish Government follow one of two options for the 2050 target level:

- Option 1 - keep the 2050 target at 80% for now, but introduce a statutory mechanism to review in line with Paris Agreement mechanisms and feasibility and cost criteria.
- Option 2 - increase the 2050 target to 90% noting that this would require actions that are currently at the very limit of feasibility.

50. They advised the following interim targets should be established under the Bill, the 2020 target should be updated to 56%, a 2030 target should be set at 66% and the Bill should allow for a 2040 target, which could be set at 78% if following Option 2 above. If following Option 1, the setting of a 2040 target should be kept in review until 2050 ambition is settled.

51. The CCC also recommended:

- that all targets in the Bill should be based on percentage reductions from baseline levels,
- that the levels of annual targets should be derived directly from the levels of interim and 2050 targets,
- removing the EU-Emissions Trading Scheme adjustment from the emissions accounting basis, to allow targets to be set and reported against on actual emissions,
- that a share of international aviation and shipping emissions should continue to be included in the emissions accounting basis,
- retaining the flexibility to make up small shortfalls to targets through the purchase of international credits,
- the cumulative emissions budget should be removed, and

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- a new mechanism devised so as to maintain the requirement that shortfalls from missed annual targets must be made up by outperforming future targets.

52. Phase 1 of the Scottish Government’s consultation on the Climate Change Bill began on 19 April 2017 with an “Opening Dialogue” event for key stakeholders, at which the CCC provided a presentation on their advice for the Bill, and stakeholders shared their views. This fed into the production of a consultation paper and associated impact assessments.

53. Publication of the consultation paper and impact assessments represented the start of Phase 2 on 30 June 2017. The documents were made available on the Citizen Space website (the Environmental Report was added 12 July 2017) and responses were encouraged by 22 September 2017.

54. During this period, the Scottish Communities Climate Action Network (SCCAN) held 6 community engagement events, involving 124 people across Scotland, to encourage input into the consultation.

55. In parallel, Scotland’s 2020 Climate Group directly engaged with 20 businesses of different sizes, and 10 other organisations (including charities and trade organisations) to generate open discussion and gather feedback specifically on the challenges and benefits to businesses, as well as the wider impact of the proposed 2050 target to reduce net emissions by 90% from baseline.

56. Scottish Government officials also held a technical workshop with stakeholders on 16 August 2017 to discuss aspects of the Bill relating to the frequency of climate change plans and similar technical matters.<sup>16</sup> Following the workshop, in light of the complexity of the issues discussed, a Technical Discussion Group made up of stakeholder representatives was established. The group met five times between 13 October 2017 and 1 February 2018 to discuss the following technical issues:

- Annual reports and statements
- Target-setting criteria:

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<sup>16</sup> <http://www.gov.scot/Resource/0052/00529374.pdf>

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- What they should be
- Status of individual criteria
- Use of criteria
- Climate change plans:
  - How plans relate to the target-setting criteria
  - Timing of climate change plans and alignment with Paris stocktake process
  - Scrutiny of draft Climate Change Plans
  - Scrutiny of progress against Climate Change Plans
  - Definitions of policy outcomes and sectors within Climate Change Plans
- Updated advice from the CCC on the target reporting framework (received on 20 December 2017):
  - Ability to revise targets
  - Future targets
  - Impact on issues previously discussed.

57. Notes of the meetings are available on the Scottish Government website.<sup>17</sup>

58. At the end of Phase 2, Scottish Government had reports from SCCAN<sup>18</sup> and the Scotland's 2020 Group;<sup>19</sup> the outputs from the technical workshop, and technical discussion group meetings; and 273 substantive responses, and 19,092 campaign responses to the consultation paper. Those substantive responses to the consultation which respondents

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<sup>17</sup><http://www.gov.scot/Topics/Environment/climatechange/Newclimatechangebill/techdiscussiongroup>

<sup>18</sup> <http://www.gov.scot/Resource/0052/00529373.pdf>

<sup>19</sup> <http://www.gov.scot/Resource/0052/00529372.pdf>

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consented to being made public are available on the Citizen Space website.<sup>20</sup>

59. An independent contractor was appointed to analyze the consultation responses. Their report was published on the Scottish Government website on 18 December 2017.<sup>21</sup> The key findings of the report are outlined in the table below.

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<sup>20</sup>[https://consult.gov.scot/energy-and-climate-change-directorate/climate-change-bill/consultation/published\\_select\\_respondent](https://consult.gov.scot/energy-and-climate-change-directorate/climate-change-bill/consultation/published_select_respondent)

<sup>21</sup><https://beta.gov.scot/publications/climate-change-bill-consultation-summary-report/>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p>Target ambition and complete set of interim targets:</p> <ul style="list-style-type: none"> <li>• Making the 2020 target a 56% reduction of net emissions from baselines;</li> <li>• introducing targets of 66% and 78% reductions for 2030 and 2040 respectively;</li> <li>• increasing the 2050 target from 80% to 90% reduction.</li> </ul>	<p>The vast majority of respondents support increasing the ambition of climate change targets for 2020, 2030, 2040 and 2050 to the levels proposed in the consultation paper, although many of the comments note that they see this as the minimum change required and would support higher targets than those set out.</p> <p><b>Campaign responses:</b> All campaigns asked for greater ambition than that proposed, including a net-zero target for either 2040 or 2050.</p>	<p>Scottish Ministers are committed to achieving net-zero emissions as soon as possible, and to putting a target year into legislation as soon as there is sufficient evidence that doing so would be credible. To reflect this, the Bill provides for a regulation-making power to set a net-zero emissions target year and contains requirements for the Scottish Ministers to request regular independent advice from the CCC, taking account of the target-setting criteria in the Bill, on whether the net-zero target year is achievable, and if so, what the earliest achievable year is.</p>
<p><b>Net-zero:</b> including provisions to allow Ministers to set a net-zero emissions target in the second half of the century.</p>	<p>A majority indicated support for the proposal. Many who supported the proposal also indicated their desire for setting a net-zero target sooner than was proposed in the consultation. The report cites feasibility as a reason given for not supporting the net-zero target.</p>	<p>request regular independent advice from the CCC, taking account of the target-setting criteria in the Bill, on whether the net-zero target year is achievable, and if so, what the earliest achievable year is.</p>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p><b>Consistent annual targets:</b> setting all of the emission reduction targets in the Bill as percentage reductions from the baseline and calculating annual targets directly from interim / 2050 /net-zero targets.</p>	<p>Many respondents who discussed this proposed change felt that percentages are the best way to present the annual greenhouse gas emission reduction targets, however there were also calls for the Scottish Government to publish figures for absolute emissions alongside percentage reductions.</p>	<p>The Bill makes provision for all targets to be set as percentage reductions from the baseline.</p> <p>Absolute emissions figures will be reported alongside percentage reductions.</p>
<p><b>Removal of EU-Emissions Trading System (EU-ETS) adjustment:</b> allowing target reporting to be based on actual emissions, rather than adjusting for the operation of the EU-ETS.</p>	<p>The vast majority of respondents were supportive of removing the ETS adjustment for reporting purposes.</p>	<p>The Bill provides that target reporting is based on actual emissions and does not adjust for the operation of trading schemes.</p>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p><b>Design of target framework:</b> including the ability to amend interim and 2050 targets via secondary legislation taking into account advice from the CCC.</p>	<p>Many respondents support the principle to allow for updating targets but caveat their support for the proposal. They welcome the necessity to adapt to unforeseen changes in the future, such as in scientific understanding, available technology, or performance against targets. However, many respondents do not support aspects of the current proposal as they prefer to only allow targets to be revised upwards.</p>	<p>The Bill provides for target levels to be adjusted in either direction. Noting concerns regarding the ability of Scottish Ministers to revise targets downwards, the Bill only allows this to happen if it is consistent with advice from the CCC and with the agreement of the Parliament.</p>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p><b>Reviewing targets:</b> seeking views on target-setting criteria.</p>	<p>There were a wide range of views in responses to this section with suggestions for giving some criteria more prominence and criticising others. Some respondents expressed clear opposition to the proposal to remove fair and safe emissions budget from the target-setting criteria and called for the concept of a fair and safe budget to not only be retained, but strengthened through a clear definition also being given.</p>	<p>In response to the strength of feeling regarding the fair and safe emissions budget, it has been retained in the target criteria. A regulation making power has also been proposed should a requirement for changes to the target-setting criteria be identified in the future.</p>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p><b>Climate Change Plans (CCPs)</b> – seeking views on:</p> <ul style="list-style-type: none"> <li>- extending the length of time for Parliamentary scrutiny of CCPs;</li> <li>- aligning CCPs with Paris stocktakes; and</li> <li>- using CCPs to make up for shortfalls from any missed targets.</li> </ul>	<p>Many agreed that the Parliamentary scrutiny period for climate change plans should be extended, but a range of options was proposed. There was no consensus on the question of aligning CCPs with the five yearly stocktake of the Paris Agreement.</p> <p>Many respondents who expressed a clear position on the proposal to make up any shortfall against targets through subsequent CCPs, supported it. A few respondents comment that this is essential to avoid future targets also being missed. However, some respondents object to this proposal. The most common objection made is the perception that, if CCPs are made every five years, this proposal will create too much of a time lag between the shortfall taking place and the action to make up for it.</p>	<p>The Bill extends the time available for the Parliament to consider draft Climate Change Plans.</p> <p>It provides that the policies and proposals in Climate Change Plans must compensate for shortfalls against previous targets, formalising what has occurred under the 2009 Act.</p>

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<b>Proposal in the consultation paper</b>	<b>Respondents' views</b>	<b>Scottish Government response</b>
<p><b>Impact assessments:</b> Draft impact assessments were attached to the consultation paper, including a draft Children's Rights and Wellbeing Impact Assessment, a draft Business and Regulatory Impact Assessment and an Environmental Report as part of the Strategic Environment Assessment. The consultation asked for views on these documents and the impact of the proposals on people, businesses and the environment.</p>	<p>The report suggests a wide range of views on possible impacts on people and business, mostly positive. However, there was an acknowledgement that most of the impact will be found in the delivery measures for meeting the targets which are not part of the Bill proposals.</p> <p>Of those who expressed a view, most agreed with the predicted environmental effects that the Environment Report set out and its conclusions and recommendations.</p>	<p>The impact assessments have been updated to take account of feedback. As noted by respondents the delivery measures for meeting the targets will drive specific impacts on people and businesses.</p>
<p><b>Other views:</b> The consultation asked for views on other issues relating to the Bill.</p>	<p>Amongst a wide range of comments in this section, a number of respondents, and campaign responses made calls for delivery measures to be included in the Bill and many questioned the territorial basis for calculating emissions.</p>	<p>The Bill is focussed on increasing target levels and improving the operation of the 2009 Act. The Scottish Ministers believe that delivery measures should be taken forward through Climate Change Plans.</p>

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60. Following information coming to light regarding forthcoming changes to measurement science, the Cabinet Secretary for Environment, Climate Change and Land Reform wrote to the CCC on 12 October 2017<sup>22</sup> to request updated advice on the target framework. Phase 3 of the consultation was a stakeholder event held on 16 January 2018 to discuss the updated advice. A note of the event is available on the Scottish Government website.<sup>23</sup> Following this event, the Technical Discussion Group met once more.

## **Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.**

### **Equal opportunities**

61. The scoping stage findings of the Equality Impact Assessment (EQIA) process for the Bill concluded that robust identification of differential impacts across any of the statutory protected characteristics was unlikely to be possible given the Bill is a framework Bill and does not set out how progress towards targets will be delivered. The Scottish Government consulted on a draft Child Rights and Wellbeing Impact Assessment (CRWIA) during the written consultation process on the Bill and set out the Government's intention to produce a high-level combined EQIA, CRWIA and socio-economic impact analysis. The consultation responses generally agreed with findings of the scoping stage, with possible impacts being identified in relation to specific delivery measures which are not included in the Bill proposals.

62. The Scottish Government's plans for decarbonisation of our economy, as set out in the policies set out in the Climate Change Plans that are required under the Act, will be assessed for a range of impacts as they are developed.

### **Human rights**

63. Climate change directly and indirectly affects a range of human rights both in Scotland and globally, for example the rights to life, health, food,

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<sup>22</sup> <http://www.gov.scot/Resource/0052/00529375.pdf>

<sup>23</sup> <http://www.gov.scot/Resource/0053/00535444.pdf>

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water and housing. However, as this is a framework Bill and does not set out how progress towards the targets will be delivered it is not possible to identify direct effects on human rights from the Bill proposals.

64. The Scottish Government's plans for decarbonisation of our economy, as set out in the policies set out in the Climate Change Plans that are required under the Act, will be assessed for a range of impacts as they are developed.

65. The Bill is considered to be fully compatible with the European Convention on Human Rights (ECHR).

## **Island communities**

66. As this is a framework Bill and does not set out how progress towards the targets will be delivered it is not possible to identify any direct differential effects on island communities from the Bill proposals, however climate change is a particular threat to island communities worldwide so islands will benefit from more ambitious action under the Paris Agreement. Examples of this threat set out in the UK Climate Change Risk Assessment 2017 Evidence Report – Summary for Scotland include the disruption to supply chains and distribution if ferries are disrupted by high tides or stormy seas and possible risks to coastal communities in areas such as the Hebrides from increased storminess and wave overtopping.<sup>24</sup>

67. The Scottish Government's plans for decarbonisation of our economy, as set out in the policies set out in the Climate Change Plans that are required under the Act, will be assessed for a range of impacts as they are developed.

## **Local government**

68. As this is a framework Bill and does not set out how the targets will be delivered it is not possible to identify any direct effects on local authorities from the Bill proposals.

69. The Scottish Government's plans for decarbonisation of our economy, as set out in the policies set out in the Climate Change Plans that are

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<sup>24</sup> <https://www.theccc.org.uk/wp-content/uploads/2016/07/UK-CCRA-2017-Scotland-National-Summary.pdf>

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required under the Act, will be assessed for a range of impacts as they are developed.

## **Sustainable development**

70. Sustainable development is integral to the Scottish Government's efforts to tackle climate change. A low carbon economy, which sustainably utilises natural resources to increase the wellbeing of people while acting against the threat of climate change, is a resilient economy better adapted to handle a changing climate and any disruption in global energy markets.

71. The Strategic Environmental Assessment carried out on the Bill consultation proposals found that raising the ambition of Scotland's targets for reducing greenhouse gas emissions will enhance Scotland's efforts at tackling climate change, with likely benefits to climatic factors. In addition, positive secondary effects are expected for air quality, population and human health, and material assets, due in large part to the further decarbonisation of energy generation and transport.

72. The Scottish Government's plans for decarbonisation of our economy, as set out in our Climate Change Plan, will strengthen Scotland's position as an international destination for investment and innovation. We will work to deliver an inclusive, socially just transition to a low carbon economy, based on equal opportunity, a fair and inclusive jobs market, regional cohesion and safe and secure communities.

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# Climate Change (Emissions Reduction Targets) (Scotland) Bill

## Policy Memorandum

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