



# Climate Change (Scotland) Act 2009

## 2009 asp 12

### PART 1

#### EMISSIONS REDUCTION TARGETS

##### *The 2050 target*

#### **1 The 2050 target**

- (1) The Scottish Ministers must ensure that the net Scottish emissions account for the year 2050 is at least 80% lower than the baseline.
- (2) In this Act, the target set out in subsection (1) is known as the “2050 target”.

##### *The interim target*

#### **2 The interim target**

- (1) The Scottish Ministers must ensure that the net Scottish emissions account for the year 2020 is at least 42% lower than the baseline.
- (2) In this Act, the target set out in subsection (1) is known as the “interim target”.
- (3) The Scottish Ministers may, by order, modify the percentage figure mentioned in subsection (1) so as to substitute—
  - (a) a figure provided by the relevant body by virtue of subsection (4)(b); or
  - (b) a higher figure,for the one for the time being mentioned there.
- (4) The Scottish Ministers must, as soon as reasonably practicable after the Bill for this Act receives Royal Assent, request advice from the relevant body as to (having regard to the criteria set out in subsection (5))—
  - (a) whether the percentage figure for the time being mentioned in subsection (1) is the highest achievable interim target; and
  - (b) if not, what the highest achievable interim target is.

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- (5) The criteria referred to in subsection (4) are—
- (a) scientific knowledge about climate change;
  - (b) technology relevant to climate change;
  - (c) economic circumstances, in particular the likely impact of the target on—
    - (i) the Scottish economy;
    - (ii) the competitiveness of particular sectors of the Scottish economy;
    - (iii) small and medium-sized enterprises;
    - (iv) jobs and employment opportunities;
  - (d) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing;
  - (e) social circumstances, in particular the likely impact of the target on those living in poorer or deprived communities;
  - (f) the likely impact of the target on those living in remote rural communities and island communities;
  - (g) energy policy, in particular the likely impact of the target on energy supplies, the renewable energy sector and the carbon and energy intensity of the Scottish economy;
  - (h) environmental considerations and, in particular, the likely impact of the targets on biodiversity;
  - (i) European and international law and policy relating to climate change.
- (6) The Scottish Ministers must publish the advice requested under subsection (4) no later than 31 December 2009 (or, if the advice is not published by that date, as soon as reasonably practicable afterwards).
- (7) Where the relevant body has provided advice of the kind mentioned in subsection (4) (b), the Scottish Ministers must, as soon as reasonably practicable after that advice is published under subsection (6), comply with either of the duties set out in subsection (8).
- (8) The duties are—
- (a) to lay before the Scottish Parliament a draft of a statutory instrument containing an order under subsection (3) substituting for the percentage figure for the time being mentioned in subsection (1) the figure provided by the relevant body by virtue of subsection (4)(b); or
  - (b) to make a statement to the Scottish Parliament setting out the reasons why no such order has been laid.
- (9) If an appropriate Community instrument comes into force, the Scottish Ministers must, before the expiry of the appropriate period, lay a draft of a statutory instrument containing an appropriate order before the Scottish Parliament.
- (10) An “appropriate order” means an order under subsection (3) modifying the percentage figure mentioned in subsection (1) so as to substitute a figure of at least 42%.
- (11) An “appropriate Community instrument” means a Community instrument—
- (a) which contains a commitment to reduce greenhouse gas emissions by at least 30% compared to 1990 levels by 2020; and
  - (b) which amends Decision [406/2009/EC](#) of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission

reduction commitments up to 2020 in the manner envisaged in Article 8(2) of the Decision.

- (12) The “appropriate period” means the period of 3 months beginning with the day on which the appropriate Community instrument comes into force.
- (13) If a draft of an appropriate order is not laid before the expiry of the appropriate period, the Scottish Ministers must lay the draft as soon as reasonably practicable afterwards.
- (14) Subsections (9) to (13) cease to apply if a figure higher than 42% is, by virtue of a draft of a statutory instrument of the kind mentioned in subsection (8)(a) having been approved by the Scottish Parliament, the percentage figure for the time being mentioned in subsection (1).

#### *Annual targets*

### **3 Annual targets**

- (1) The Scottish Ministers must—
  - (a) for each year in the period 2010–2050, set a target for the maximum amount of the net Scottish emissions account;
  - (b) ensure that the net Scottish emissions account for each year in that period does not exceed the target set for that year.
- (2) The target—
  - (a) for 2010, must be set at an amount that is less than the estimated net Scottish emissions account for 2009;
  - (b) for each year in the period 2011–2019, must be set at an amount that is consistent with a reduction over that period of net Scottish emissions accounts which would allow the interim target and the 2050 target to be met;
  - (c) for each year in the period 2020–2050, must be set at an amount that is—
    - (i) consistent with a reduction over that period of net Scottish emissions accounts which would allow the 2050 target to be met; and
    - (ii) at least 3% less than the target for the preceding year.
- (3) In this Act—
  - (a) an “annual target” for any year means the target for the maximum amount of the net Scottish emissions account set for that year in accordance with this section and section 4;
  - (b) references to an annual target being met are references to the net Scottish emissions account for a year not exceeding the annual target for that year (and cognate expressions are to be construed accordingly).

### **4 Setting annual targets**

- (1) The Scottish Ministers must, by order, set the annual targets for each year in the periods mentioned in paragraphs (a) to (g) of subsection (2).
- (2) The Scottish Ministers must set the annual targets for each year—
  - (a) in the period 2010–2022, no later than 1 June 2010;
  - (b) in the period 2023–2027, no later than 31 October 2011;
  - (c) in the period 2028–2032, no later than 31 October 2016;

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- (d) in the period 2033–2037, no later than 31 October 2021;
  - (e) in the period 2038–2042, no later than 31 October 2026;
  - (f) in the period 2043–2047, no later than 31 October 2031;
  - (g) in the period 2048–2050, no later than 31 October 2036.
- (3) The Scottish Ministers must, when setting annual targets, have regard to any advice they receive from the relevant body as to the cumulative amount of net Scottish emissions for the period 2010–2050 that is consistent with a reduction over that period of net Scottish emissions accounts which would allow the 2050 target to be met.
- (4) The Scottish Ministers must, when setting annual targets, also have regard to the following matters (the “target-setting criteria”)—
- (a) the objective of not exceeding the fair and safe Scottish emissions budget;
  - (b) scientific knowledge about climate change;
  - (c) technology relevant to climate change;
  - (d) economic circumstances, in particular the likely impact of the target on—
    - (i) the Scottish economy;
    - (ii) the competitiveness of particular sectors of the Scottish economy;
    - (iii) small and medium-sized enterprises;
    - (iv) jobs and employment opportunities;
  - (e) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing;
  - (f) social circumstances, in particular the likely impact of the target on those living in poorer or deprived communities;
  - (g) the likely impact of the target on those living in remote rural communities and island communities;
  - (h) energy policy, in particular the likely impact of the target on energy supplies, the renewable energy sector and the carbon and energy intensity of the Scottish economy;
  - (i) environmental considerations and, in particular, the likely impact of the targets on biodiversity;
  - (j) European and international law and policy relating to climate change.
- (5) If annual targets for a period are not set by the corresponding date mentioned in paragraphs (a) to (g) of subsection (2), the Scottish Ministers must set the annual targets as soon as reasonably practicable afterwards.
- (6) In this Act, the “fair and safe Scottish emissions budget” is the aggregate amount of net Scottish emissions for the period 2010–2050 recommended by the relevant body as being consistent with Scotland contributing appropriately to stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

## **5 Advice before setting annual targets**

- (1) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under section 4(1) before the Scottish Parliament, request advice from the relevant body.
- (2) The request for advice must include requests for the relevant body’s views—

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- (a) in the case of annual targets proposed for years in the period 2010–2020, as to whether those targets are consistent with a reduction over that period of net Scottish emissions accounts which would allow the interim target and the 2050 target to be met;
  - (b) in the case of annual targets proposed for years in the period 2021–2050, as to whether those targets are consistent with a reduction over that period of net Scottish emissions accounts which would allow the 2050 target to be met;
  - (c) in any case—
    - (i) as to what annual targets are appropriate by reference to the target-setting criteria;
    - (ii) as to the extent to which the annual targets should be met—
      - (A) by taking action to reduce net Scottish emissions;
      - (B) by the use of carbon units that in accordance with section 13(2) and regulations under section 13(5) may be credited to the net Scottish emissions account;
    - (iii) as to the respective contributions towards meeting the annual targets and the domestic effort target that should be made—
      - (A) by the traded sector of the Scottish economy;
      - (B) by the other sectors of the Scottish economy;
    - (iv) as to the respective contributions towards meeting the annual targets and the domestic effort target that should be made by—
      - (A) energy efficiency;
      - (B) energy generation;
      - (C) land use;
      - (D) transport.
- (3) The Scottish Ministers must publish the advice requested under subsection (1) as soon as reasonably practicable after they receive it.
- (4) As soon as reasonably practicable after laying such a draft, the Scottish Ministers must publish a statement setting out in respect of the annual targets set by the order—
  - (a) the reasons for setting those annual targets at those levels;
  - (b) the extent to which those targets take account of the target-setting criteria.
- (5) If the order under section 4(1) makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (6) Advice requested under subsection (1) or a statement under subsection (4) or (5) may be published in such manner as the Scottish Ministers consider appropriate.
- (7) In this Part, the “relevant body” means—
  - (a) where no order has been made under section 24(1) designating a person or body as the advisory body, the UK Committee on Climate Change; or
  - (b) where such an order has been made, the advisory body.
- (8) In subsection (7)(a), the “UK Committee on Climate Change” means the Committee on Climate Change established under section 32 of the Climate Change Act 2008 (c. 27) (the “2008 Act”).
- (9) In this section, “traded sector” means the sectors of the Scottish economy which are covered by trading schemes within the meaning of section 44 of the 2008 Act.

## **6 Modifying annual targets etc.**

- (1) The Scottish Ministers may, by order, modify—
  - (a) the percentage figure mentioned in section 3(2)(c)(ii);
  - (b) an annual target set by virtue of section 4(1);
  - (c) any date mentioned in paragraphs (a) to (g) of section 4(2);
  - (d) the target-setting criteria in section 4(4).
- (2) The Scottish Ministers must, at the same time as laying a draft of a statutory instrument containing an order under subsection (1)(a) before the Scottish Parliament, lay before the Parliament a report explaining why the modification is being proposed.
- (3) The Scottish Ministers must, as soon as reasonably practicable after laying a report before the Scottish Parliament under subsection (2), and in so far as reasonably practicable, make a statement to the Parliament relating to the report.
- (4) The Scottish Ministers may make an order under subsection (1)(a) only if they consider that it is no longer necessary for annual targets to be set by reference to that percentage figure.
- (5) The Scottish Ministers may make an order under subsection (1)(b) only if they consider that it is appropriate to do so as a result of—
  - (a) a modification of the interim target; or
  - (b) another significant change to the basis on which the annual target was set.
- (6) The Scottish Ministers may make an order under subsection (1)(c) or (d) only if they consider it appropriate to do so.
- (7) The power in subsection (1)(a) may not be exercised so as to substitute a percentage of less than zero.
- (8) The power in subsection (1)(b)—
  - (a) may be exercised only before the beginning of the year to which the target relates;
  - (b) may not be exercised if the effect of doing so would be that the target for the year would be greater than the target for the preceding year.

## **7 Advice before modifying annual targets etc.**

- (1) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under section 6(1) before the Scottish Parliament, request advice from the relevant body.
- (2) If the order under section 6(1) makes provision different from that recommended by the relevant body, the Scottish Ministers must lay before the Scottish Parliament a report setting out the reasons why.
- (3) The Scottish Ministers must, as soon as reasonably practicable after laying a report before the Scottish Parliament under subsection (2), and in so far as reasonably practicable, make a statement to the Parliament relating to the report.

### *The domestic effort target*

## **8 The domestic effort target**

- (1) The Scottish Ministers must ensure that reductions in net Scottish emissions of greenhouse gases account for at least 80% of the reduction in the net Scottish emissions account in any target year.
- (2) In this Act, the target set out in subsection (1) is known as the “domestic effort target”.
- (3) For the purposes of ascertaining whether the domestic effort target has been met, any reduction to the net Scottish emissions account as a result of the crediting to that account of a net amount of European carbon units mentioned in subsection (4) is to be treated as though it is a reduction in net Scottish emissions.
- (4) In subsection (3), “European carbon units” means carbon units which are surrendered by participants in—
  - (a) the European Union Emissions Trading Scheme (“EU ETS”); or
  - (b) such other trading scheme making provision equivalent to the EU ETS as the Scottish Ministers may, by order, specify.
- (5) In subsection (4)(b), “trading scheme” means a trading scheme within the meaning of section 44 of the 2008 Act.
- (6) The Scottish Ministers may, by order, modify the percentage figure mentioned in subsection (1) so as to substitute a higher figure for the one for the time being mentioned there.
- (7) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under subsection (6) before the Scottish Parliament, request advice from the relevant body.
- (8) If the order under subsection (6) makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (9) A statement under subsection (8) may be published in such manner as the Scottish Ministers consider appropriate.

### *Advice on progress*

## **9 Progress towards targets**

- (1) The Scottish Ministers must in each year, beginning with the year 2011, request the relevant body to prepare a report setting out that body’s views on—
  - (a) progress towards achievement of—
    - (i) annual targets;
    - (ii) the interim target;
    - (iii) the 2050 target;
  - (b) whether the annual targets, the interim target or the 2050 target are likely to be achieved;
  - (c) any further effort which may be necessary to achieve annual targets, the interim target or the 2050 target.

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- (2) No later than the end of the second year following a year for which an annual target has been set (a “target year”), the Scottish Ministers must request the relevant body to prepare a report setting out that body’s views on—
  - (a) whether the annual target for the target year was met;
  - (b) whether the domestic effort target was met in that target year;
  - (c) the ways in which those targets were or were not met;
  - (d) the action taken by the Scottish Ministers to reduce net Scottish emissions during that year.
- (3) The Scottish Ministers must lay a response to the relevant body’s report under this section before the Scottish Parliament as soon as reasonably practicable after they receive that body’s report.

### *Greenhouse gases*

## **10 Greenhouse gases**

- (1) In this Act, a “greenhouse gas” means—
  - (a) carbon dioxide;
  - (b) methane;
  - (c) nitrous oxide;
  - (d) hydrofluorocarbons;
  - (e) perfluorocarbons;
  - (f) sulphur hexafluoride.
- (2) The Scottish Ministers may, if they consider it appropriate to do so, by order, modify subsection (1) so as to—
  - (a) add a gas;
  - (b) modify the description of a gas.
- (3) The power in subsection (2)(a) may be exercised only if it appears to the Scottish Ministers that an agreement or arrangement at European or international level recognises that the gas to be added contributes to climate change.
- (4) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under subsection (2) before the Scottish Parliament, request advice from the relevant body.
- (5) If the order makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (6) A statement under subsection (5) may be published in such manner as the Scottish Ministers consider appropriate.

### *Baseline*

## **11 The baseline**

- (1) In this Act, the “baseline” means the aggregate amount of—
  - (a) net Scottish emissions of carbon dioxide for 1990; and



- (b) net Scottish emissions of each of the greenhouse gases other than carbon dioxide for the year that is the baseline year for that gas.
- (2) The baseline years for greenhouse gases other than carbon dioxide are—
- (a) for methane, 1990;
  - (b) for nitrous oxide, 1990;
  - (c) for hydrofluorocarbons, 1995;
  - (d) for perfluorocarbons, 1995;
  - (e) for sulphur hexafluoride, 1995.

## **12 Baselines for additional greenhouses gases**

- (1) This section applies where the Scottish Ministers have made an order under section 10(2)(a) adding a greenhouse gas.
- (2) In this section, such a gas is referred to as an “additional greenhouse gas”.
- (3) The Scottish Ministers may, by order, make provision as to the manner of determining, in the case of an additional greenhouse gas, the amount of net Scottish emissions for the baseline year.
- (4) An order under subsection (3) may in particular—
- (a) designate a year as the baseline year for the additional greenhouse gas;
  - (b) provide for the amount of net Scottish emissions of the gas for that year to be treated for the purposes of this Act as the amount of net Scottish emissions of that gas for that baseline year.

### *Supplementary*

## **13 The net Scottish emissions account**

- (1) The net Scottish emissions account means the aggregate amount of net Scottish emissions of greenhouse gases—
- (a) reduced by the amount of carbon units credited to the net Scottish emissions account for the period in accordance with regulations under subsection (5);
  - (b) increased by the amount of carbon units that, in accordance with such regulations, are to be debited from the net Scottish emissions account for the period.
- (2) The net amount of carbon units credited to the net Scottish emissions account for a year for which an annual target has been set (a “target year”) must not exceed the allowable amount.
- (3) The “allowable amount” is—
- (a) the amount equal to the limit, set by virtue of section 21(1), on the net amount of carbon units that may be credited to net Scottish emissions accounts during the period which includes the target year; or
  - (b) where a net amount of carbon units has been credited to the net Scottish emissions account for any other target year in that period, the balance (if any) remaining of the amount referred to in paragraph (a).

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- (4) In subsections (2) and (3), the “net amount of carbon units” has the meaning given by section 21(3).
- (5) The Scottish Ministers may, by regulations, make provision about—
  - (a) the circumstances in which carbon units may be credited to the net Scottish emissions account for a period;
  - (b) the circumstances in which such units may be debited from that account for a period;
  - (c) the manner in which this is to be done.
- (6) The regulations must contain provision for ensuring that carbon units that are credited to the net Scottish emissions account for a period cease to be available to offset other greenhouse gas emissions.

#### **14 Restriction on use in 2010–2017 of carbon units purchased by Scottish Ministers**

- (1) The Scottish Ministers may not, where subsection (2) applies, credit to the net Scottish emissions account for a year in the period 2010–2012 any carbon units purchased by them.
- (2) This subsection applies provided the percentage figure mentioned in section 13 is 34%.
- (3) The Scottish Ministers may only credit to the net Scottish emissions account for a year in the period 2013–2017 any carbon units purchased by them up to a limit of 20% of the reduction in the amount of the net Scottish emissions account planned for that year.

#### **15 Attribution of emissions to Scotland**

For the purposes of section 17(1), emissions of a greenhouse gas are attributable to Scotland if—

- (a) they are emitted from sources in Scotland;
- (b) they are attributed to Scotland by virtue of an order under section 16(1).

#### **16 Scottish share of emissions from international aviation and international shipping**

- (1) The Scottish Ministers may, by order, make provision regarding the emissions of greenhouse gases from international aviation and international shipping that are attributable to Scotland.
- (2) An order under subsection (1)—
  - (a) must make provision for emissions from international aviation and international shipping of—
    - (i) in the case of the first order under that subsection, each greenhouse gas; and
    - (ii) in the case of any subsequent order under subsection (1), any gas added to the list of greenhouse gases in section 10(1) since the last such order was made,

to be taken into account as Scottish emissions of each such gas in the period starting with the 1 January following the order being approved by the Scottish Parliament and ending on 31 December 2050;

- (b) may make provision as to any past period in which emissions of a greenhouse gas are to be taken into account as Scottish emissions of that gas;
  - (c) may not, once emissions from international aviation and international shipping of a greenhouse gas are, by virtue of a previous order under subsection (1), being taken into account as Scottish emissions of that gas, provide for such emissions to cease to be taken into account as Scottish emissions of that gas;
  - (d) must, subject to subsection (3), make provision as to the manner in which emissions from international aviation and international shipping of each greenhouse gas are to be taken into account in determining Scottish emissions of that gas—
    - (i) for the year that is the baseline year for that gas; and
    - (ii) in the period during which such emissions of that gas are to be taken into account as Scottish emissions of that gas.
- (3) Provision made by virtue of subsection (2)(d) must include the use, for each greenhouse gas, of a multiplier which reflects the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation.
- (4) A draft of a statutory instrument containing the first order under subsection (1) must be laid before the Scottish Parliament no later than 1 June 2010.
- (5) If a draft of the first order is not laid by the date mentioned in subsection (4), the Scottish Ministers must lay the draft as soon as reasonably practicable afterwards.
- (6) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under subsection (1) before the Scottish Parliament, request advice from the relevant body (including advice as to an appropriate multiplier for each greenhouse gas for the purposes of subsection (3)).
- (7) If the order makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (8) A statement under subsection (7) may be published in such manner as the Scottish Ministers consider appropriate.

## **17 Scottish emissions and removals**

- (1) In this Act—
- “emissions”, in relation to a greenhouse gas, means emissions of that gas into the atmosphere that are attributable to human activity;
  - “Scottish emissions”, in relation to a greenhouse gas, means emissions of that gas which are attributable to Scotland;
  - “Scottish removals”, in relation to a greenhouse gas, means removals of that gas from the atmosphere due to land use, land-use change or forestry activities in Scotland;
  - “the net Scottish emissions” for a period, in relation to a greenhouse gas, means the amount of Scottish emissions of that gas for the period reduced by the amount of Scottish removals of that gas for the period.
- (2) The Scottish Ministers may, if they consider it appropriate to do so, by order, modify the definition of Scottish removals in subsection (1).

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- (3) The amount of Scottish emissions and Scottish removals of a greenhouse gas for a period must, in so far as reasonably practicable, be determined consistently with international carbon reporting practice.

## **18 Measurement of emissions etc.**

- (1) For the purposes of this Act, greenhouse gas emissions, reductions of such emissions and removals of greenhouse gases from the atmosphere are measured or calculated in tonnes of carbon dioxide equivalent.
- (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).

## **19 International carbon reporting practice**

In this Act, “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;
- (b) such other agreements or arrangements at European or international level as the Scottish Ministers may, by order, specify.

## **20 Carbon units and carbon accounting**

- (1) The Scottish Ministers may, by regulations, make provision for a scheme—
- (a) for registering or otherwise keeping track of carbon units;
  - (b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Scottish Ministers.
- (2) Regulations under subsection (1) may, in particular, provide for an existing scheme to be adapted for these purposes.
- (3) The regulations may also include provision—
- (a) designating a person or body to administer the scheme;
  - (b) establishing a person or body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise of the person or body as the Scottish Ministers consider appropriate;
  - (c) conferring power on the Scottish Ministers to give guidance or directions to the person or body administering the scheme;
  - (d) conferring power on the Scottish Ministers to delegate the performance of any of the functions conferred on them by the regulations;
  - (e) requiring the payment by persons using the scheme of such charges as are reasonably required to cover the reasonable costs incurred in operating the scheme.
- (4) In this Act, a “carbon unit” means a unit of a kind specified in regulations made under subsection (1) and which represents—
- (a) a reduction in an amount of greenhouse gas emissions;
  - (b) the removal of an amount of greenhouse gas from the atmosphere;
  - (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.

## **21 Limits on use of carbon units**

- (1) The Scottish Ministers must, by order, set a limit on the net amount of carbon units that may be credited to net Scottish emissions accounts during the periods mentioned in paragraphs (a) to (i) of subsection (2).
- (2) The Scottish Ministers must set the limit—
  - (a) for the period 2010–2012, no later than 1 June 2010;
  - (b) for the period 2013–2017, no later than 31 December 2011;
  - (c) for the period 2018–2022, no later than 31 December 2016;
  - (d) for the period 2023–2027, no later than 31 December 2021;
  - (e) for the period 2028–2032, no later than 31 December 2026;
  - (f) for the period 2033–2037, no later than 31 December 2031;
  - (g) for the period 2038–2042, no later than 31 December 2036;
  - (h) for the period 2043–2047, no later than 31 December 2041;
  - (i) for the period 2048–2050, no later than 31 December 2046.
- (3) The “net amount of carbon units” means C minus D, where—
  - “C” is the amount of carbon units credited to net Scottish emissions accounts during the period in accordance with regulations under section 13(5);
  - “D” is the amount of carbon units debited from net Scottish emissions accounts during the period in accordance with such regulations.
- (4) An order under subsection (1) may provide that carbon units of a description specified in the order do not count towards the limit.
- (5) If the limit for a period is not set by the corresponding date mentioned in paragraphs (a) to (i) of subsection (2), the Scottish Ministers must set the limit as soon as reasonably practicable afterwards.

## **22 Modifying limits on use of carbon units etc.**

- (1) The Scottish Ministers may, by order, modify—
  - (a) a limit on the use of carbon units set by virtue of section 21(1);
  - (b) any date mentioned in paragraphs (a) to (i) of section 21(2).
- (2) The Scottish Ministers may make an order under subsection (1)(a) only if they consider that it is appropriate to do so as a result of—
  - (a) a modification of the interim target; or
  - (b) another significant change to the basis on which the limit on the use of carbon units was set.
- (3) The Scottish Ministers may make an order under subsection (1)(b) only if they consider it appropriate to do so.
- (4) An order under subsection (1)(a) may provide that carbon units of a description specified in the order do not count towards the limit.

## **23 Advice before setting or modifying limits on use of carbon units etc.**

- (1) The Scottish Ministers must, before laying a draft of a statutory instrument containing an order under section 21(1) or 22(1) before the Scottish Parliament, request advice from the relevant body.

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- (2) If the order under section 21(1) or 22(1) makes provision different from that recommended by the relevant body, the Scottish Ministers must publish a statement setting out the reasons why.
- (3) A statement under subsection (2) may be published in such manner as the Scottish Ministers consider appropriate.