



Climate Change (Scotland) Act 2009

2009 asp 12

PART 2

ADVISORY FUNCTIONS

Advisory body

24 Meaning of advisory body

- (1) The Scottish Ministers may, by order, designate—
 - (a) a body established under section 25(1); or
 - (b) such other public body as they consider appropriate,to exercise the functions mentioned in subsection (3) (the “advisory functions”).
- (2) In this Act, the body designated by virtue of subsection (1) is the “advisory body”.
- (3) The advisory functions are—
 - (a) the function of providing advice, analysis, information and other assistance to the Scottish Ministers in respect of Ministers' duty under section 2(1) and functions under sections 5, 7, 9 and 10(4);
 - (b) the functions conferred on the advisory body by sections 27 to 32 and 56; and
 - (c) such other functions relating to advice on climate change as the Scottish Ministers may confer by an order under subsection (1).
- (4) An order under subsection (1) may in particular provide—
 - (a) for the conferral of functions on the advisory body relating to advice on climate change;
 - (b) for the information that advice must contain;
 - (c) for the factors to which the body is to have regard in giving that advice;
 - (d) for the period within which the body must give that advice;
 - (e) as to whom that advice is to be given;
 - (f) for the form and manner in which that advice is to be published and laid before the Scottish Parliament.

Status: This is the original version (as it was originally enacted).

- (5) In subsection (1)(b), a “public body” means a person or body with functions of a public nature.

Scottish Committee on Climate Change

25 Scottish Committee on Climate Change

- (1) The Scottish Ministers may, by order, establish a body for the purpose of exercising the advisory functions.
- (2) The body established by virtue of subsection (1) is to be known as the Scottish Committee on Climate Change (the “Committee”).
- (3) Schedule 1 makes further provision about the Committee.
- (4) An order under subsection (1) may in particular provide—
- (a) for the conferral of functions on the Committee relating to advice on climate change;
 - (b) in relation to the status, constitution and proceedings of the Committee as the Scottish Ministers consider appropriate;
 - (c) for the information that the Committee’s advice must contain;
 - (d) for the factors to which the Committee is to have regard in giving that advice;
 - (e) for the period within which the Committee must give that advice;
 - (f) as to whom that advice is to be given;
 - (g) for the form and manner in which that advice is to be published and laid before the Scottish Parliament.

26 Application of sections 27 to 32 and 56

- (1) Sections 27 to 32 and 56 have effect only from—
- (a) the day when an order made by the Scottish Ministers under section 24(1) comes into force; or
 - (b) such later day or days as the Scottish Ministers may specify in an order under that section.
- (2) When an order under section 24(1)—
- (a) bringing section 29 into effect comes into force, subsection (3) of section 9 ceases to have effect;
 - (b) bringing section 56 into effect comes into force, subsection (4) of section 55 ceases to have effect.

27 Advice on annual targets etc.

- (1) When requested to do so by the Scottish Ministers, the advisory body must provide the Scottish Ministers with advice as regards—
- (a) annual targets Ministers propose to set under section 4;
 - (b) a modification Ministers propose to make under section 6.
- (2) When providing advice under subsection (1)(a), the advisory body must express a view—

- (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, as to what annual targets are appropriate by reference to the target-setting criteria.
- (3) When providing advice under subsection (1)(a), the advisory body must also express a view as to—
 - (a) the extent to which the annual targets should be met—
 - (i) by taking action to reduce net Scottish emissions;
 - (ii) 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;
 - (b) the respective contributions towards meeting the annual targets and the domestic effort target that should be made—
 - (i) by the traded sector of the Scottish economy;
 - (ii) by the other sectors of the Scottish economy;
 - (c) the respective contributions towards meeting the annual targets that should be made by—
 - (i) energy efficiency;
 - (ii) energy generation;
 - (iii) land use;
 - (iv) transport.
- (4) When providing advice under subsection (1)(a), the advisory body may also express a view as to any other matter that body considers appropriate including, in particular, as to any sectors of the Scottish economy in which there are particular opportunities for contributions to be made towards meeting annual targets through reductions in emissions of greenhouse gases.
- (5) When providing advice under subsection (1)(a), the advisory body must also express a view 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.
- (6) The advisory body must provide advice under this section within such period as the Scottish Ministers may reasonably request.
- (7) In subsection (3)(b)(i), “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.

28 Reporting on progress towards targets

- (1) The advisory body must, in each year beginning with the specified year, prepare a report setting out that body’s views on—
 - (a) progress towards achievement of—
 - (i) annual targets;

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- (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.
- (2) In subsection (1), the “specified year” means such year as the Scottish Ministers may, by order, specify.
- (3) A report prepared in a relevant year must also set out the advisory body’s views on the matters mentioned in subsection (6).
- (4) In subsection (3), the “relevant year” means such year as the Scottish Ministers may, by order, designate in accordance with subsection (5).
- (5) The year which may be designated under subsection (4) is the first year following a year for which an annual target has been set (a “target year”) or the second year following a target year.
- (6) The matters referred to in subsection (3) are—
- (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.
- (7) The advisory body must lay a report under this section before the Scottish Parliament no later than—
- (a) 31 January in the third year following the target year; or
 - (b) such other date as the Scottish Ministers may, by order, appoint.

29 Scottish Ministers' response to reports on progress

- (1) The Scottish Ministers must lay before the Scottish Parliament a response to a report laid by the advisory body before the Parliament under section 28.
- (2) The response to the advisory body’s report must be laid before the Parliament no later than—
- (a) 31 March in the third year following the year for which an annual target has been set; or
 - (b) such other date as the Scottish Ministers may, by order, appoint.

30 Duty of advisory body to provide advice or other assistance

When requested to do so by the Scottish Ministers, the advisory body must provide advice, analysis, information or assistance as regards—

- (a) the exercise of the Scottish Ministers' functions under this Act;
- (b) the exercise of Ministers' functions in relation to climate change other than under this Act;
- (c) other matters relating to climate change.

31 Guidance to advisory body

- (1) The advisory body must have regard to any guidance given by the Scottish Ministers to it in relation to the exercise of its functions under this Act.
- (2) The Scottish Ministers may not give the advisory body guidance as to the content of any advice or report.
- (3) The power to give guidance under subsection (1) includes power to vary or revoke the guidance.

32 Power to give directions to advisory body

- (1) The Scottish Ministers may, if they consider it appropriate to do so, give the advisory body directions as to the exercise of its functions under this Act.
- (2) The Scottish Ministers may not direct the advisory body as to the content of any advice or report.
- (3) The power to give directions under subsection (1) includes power to vary or revoke the directions.
- (4) The advisory body must comply with any directions given under subsection (1).