



# Climate Change (Scotland) Act 2009

## 2009 asp 12

### PART 6

#### GENERAL AND MISCELLANEOUS

#### **91 Public engagement**

- (1) The Scottish Ministers must prepare and publish a strategy (a “public engagement strategy”) setting out the steps they intend to take to—
  - (a) inform persons in Scotland about the targets specified by virtue of this Act;
  - (b) encourage them to contribute to the achievement of those targets.
- (2) The public engagement strategy must, in particular, identify actions which persons in Scotland may take to contribute to the achievement of the targets referred to in subsection (1)(a).
- (3) The public engagement strategy must be published no later than 31 December 2010.
- (4) The Scottish Ministers—
  - (a) may, from time to time; and
  - (b) must, before the end of the period mentioned in subsection (5), review the strategy.
- (5) The period referred to in subsection (4)(b) is the period of 5 years beginning with the day on which—
  - (a) the strategy is first published; or
  - (b) the strategy was last reviewed under subsection (4).
- (6) Where, following a review under subsection (4), the Scottish Ministers vary the public engagement strategy, they must, as soon as reasonably practicable after so doing, publish the strategy as so varied.
- (7) A strategy published under subsection (6) must contain an assessment of the progress made towards implementing the steps set out in earlier strategies.
- (8) The public engagement strategy may be published in such manner as the Scottish Ministers consider appropriate.

- (9) The Scottish Ministers must lay the public engagement strategy before the Scottish Parliament as soon as reasonably practicable after it is published.

## **92 Sustainable development**

- (1) The persons mentioned in subsection (2) must, in exercising functions conferred on them by virtue of this Act, take into account the need to do so in a way that contributes to the achievement of sustainable development.
- (2) Those persons are—
- (a) the Scottish Ministers;
  - (b) the advisory body.

## **93 Equal opportunities**

- (1) The persons mentioned in subsection (2) must exercise their functions under this Act in a manner which encourages equal opportunities and in particular the observance of the equal opportunities requirements.
- (2) Those persons are—
- (a) the Scottish Ministers;
  - (b) the advisory body;
  - (c) public bodies (as defined in section 44(2)).
- (3) In this section, “equal opportunities” and the “equal opportunities requirements” have the same meanings as those expressions have in section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46).

## **94 Impact of budget proposals on emissions**

- (1) The Scottish Ministers must, at the same time as laying before the Scottish Parliament any document setting out draft proposals for the use of resources in any financial year, lay before the Scottish Parliament a document describing the direct and indirect impact on greenhouse gas emissions of the activities to be funded by virtue of the proposals.
- (2) In this section, “use of resources” has the meaning given in section 1(3) of the Public Finance and Accountability (Scotland) Act 2000 (asp 1).

## **95 Crown application**

- (1) This Act and any orders and regulations made under it bind the Crown.
- (2) No contravention by the Crown of any provision made by virtue of this Act makes the Crown criminally liable.
- (3) But the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Despite subsection (2), any provision made by virtue of this Act applies to persons in the public service of the Crown as it applies to other persons.

## **96 Subordinate legislation**

- (1) Any power conferred by this Act on the Scottish Ministers to make orders or regulations is exercisable by statutory instrument.
- (2) Any such power—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes;
  - (b) includes power to make such consequential, incidental, supplementary, transitory, transitional or saving provision as the Scottish Ministers consider appropriate.
- (3) An order or regulations under this Act may modify any enactment (including this Act).
- (4) Subject to subsections (5) to (8) and to section 97, no statutory instrument containing an order or regulations under this Act (other than an order under section 100(2)) may be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.
- (5) A statutory instrument containing an order mentioned in subsection (6) or regulations mentioned in subsection (7) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (6) Those orders are orders under—
  - (a) section 19(b);
  - (b) section 46(1);
  - (c) paragraph 2(2) of schedule 1.
- (7) Those regulations are—
  - (a) the second or subsequent regulations under section 13(5) (other than regulations which make provision altering the amount by which a carbon unit credited or debited to the net Scottish emissions account for a period reduces or, as the case may be, increases the net Scottish emissions account for that period);
  - (b) the second or subsequent regulations under section 20(1) (other than regulations which make provision specifying a carbon unit of a kind not previously specified in regulations under that section);
  - (c) regulations under section 84(1) which make provision about one or more of the following matters only—
    - (i) the deposits mentioned in section 84(7)(c);
    - (ii) the form and content of notices mentioned in section 84(7)(i);
    - (iii) setting the registration fees mentioned in section 84(7)(l);
  - (d) regulations under Chapter 5 of Part 5 which make provision about the matter mentioned in section 89(4) only.
- (8) Subsection (5) does not apply to an order or regulations which includes provision modifying an Act or an Act of the Scottish Parliament.

## **97 Subordinate legislation: pre-laying procedure**

- (1) This section applies where the Scottish Ministers propose to lay before the Scottish Parliament a draft of a statutory instrument containing the first regulations under

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section 84 or 88 (other than a draft containing regulations mentioned in section 96(7) (c) or (d) to which section 96(5) applies).

- (2) The Scottish Ministers must, before doing so, lay before the Parliament—
  - (a) a copy of the proposed regulations; and
  - (b) a statement setting out their reasons for proposing to make those regulations.
- (3) The Scottish Ministers must, when laying such a copy, specify a period (the “representation period”) during which representations on the proposed regulations may be made to them.
- (4) The representation period must be at least 90 days, of which no fewer than 30 must be days on which the Parliament is not dissolved or in recess.
- (5) The Scottish Ministers must, as soon as reasonably practicable after laying a copy of the proposed regulations, publicise them in such manner as they consider appropriate.
- (6) The Scottish Ministers must, before laying the proposed regulations before the Parliament, have regard to—
  - (a) any representations on the proposed regulations made to them;
  - (b) any resolution relating to those regulations passed by the Parliament; and
  - (c) any report relating to those regulations published by any committee of the Parliament for the time being appointed by virtue of standing orders,
 before the expiry of the representation period.
- (7) The Scottish Ministers must, when laying such proposed regulations, lay a statement setting out—
  - (a) details of any representations, resolutions or reports mentioned in subsection (6);
  - (b) the changes (if any) they have made to the proposed regulations in response to such representations, resolutions or reports and the reasons for those changes.
- (8) In this section, “proposed regulations” means a draft of a statutory instrument to which subsection (1) applies.

## **98 Interpretation**

In this Act—

“additional greenhouse gas” has the meaning given by section 12(2);

“advisory body” has the meaning given by section 24(2);

“advisory functions” has the meaning given by section 24(3);

“annual target” has the meaning given by section 3(3);

“authorised person” has the meaning given by section 80(5);

“baseline” has the meaning given by section 11(1);

“baseline year” means—

- (a) in relation to a greenhouse gas mentioned in subsection (2) of section 11, the year mentioned in paragraph (a), (b), (c), (d) or, as the case may be, (e) of that subsection;

- (b) in relation to an additional greenhouse gas, any year designated by virtue of section 12(3);

“carbon unit” has the meaning given by section 20(4);

“climate change duties” has the meaning given by section 44(4);

“Committee” means the Scottish Committee on Climate Change;  
“deposit and return scheme” means a scheme established by virtue of section 84(1);  
“domestic effort target” has the meaning given by section 8(2);  
“emissions” has the meaning given by section 17(1);  
“energy efficiency” has the meaning given by section 60(9);  
“greenhouse gas” has the meaning given by section 10(1);  
“interim target” has the meaning given by section 2(2);  
“international carbon reporting practice” has the meaning given by section 19;  
“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);  
“monitoring body” has the meaning given by section 47(2);  
“net Scottish emissions” has the meaning given by section 17(1);  
“net Scottish emissions account” has the meaning given by section 13(1);  
“packaging” has the meaning given by section 83(4);  
“public body” (except in Part 4 and section 93) has the meaning given by section 24(5);  
“relevant body” has the meaning given by section 5(7);  
“relevant public body” has the meaning given by section 44(5);  
“recycling” has the meaning given by section 78(4);  
“renewable sources” has the meaning given by section 60(9);  
“Scottish Committee on Climate Change” has the meaning given by section 25(2);  
“Scottish emissions” has the meaning given by section 17(1);  
“Scottish removals” has the meaning given by section 17(1);  
“SEPA” has the meaning given by section 79(6);  
“target year” means a year for which an annual target has been set;  
“target-setting criteria” means the matters mentioned in section 4(4)(b) to (j);  
“the 1990 Act” means the Environmental Protection Act 1990 (c. 43);  
“the 2008 Act” means the Climate Change Act 2008 (c. 27);  
“the 2050 target” has the meaning given by section 1(2);  
“UK Committee on Climate Change” has the meaning given by section 5(8);  
“waste” has the meaning given by section 78(4).

## **99 Minor and consequential modifications**

Schedule 2 makes minor modifications and modifications consequential on the provisions of this Act.

## **100 Short title and commencement**

- (1) This Act may be cited as the Climate Change (Scotland) Act 2009.
- (2) This Act (other than this section and sections 27 to 32, 56, 70 and 96) comes into force on such day (in the case of sections 44 to 52, being no later than 18 months after the day on which the Bill for this Act receives Royal Assent) as the Scottish Ministers may, by order, appoint.
- (3) Sections 27 to 32 and 56 come into force in accordance with section 26.

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- (4) Section 70 comes into force on the day after the Bill for this Act receives Royal Assent.
- (5) Different days may, under subsection (2), be appointed for different purposes.