

Climate Change (Emissions Reduction Targets) (Scotland) Bill

[AS PASSED]

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Climate Change (Emissions Reduction Targets) (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to amend the Climate Change (Scotland) Act 2009 to make provision setting targets for the reduction of greenhouse gases emissions and to make provision about advice, plans and reports in relation to those targets, with the objective of Scotland contributing appropriately to the world's efforts to deliver on the Paris Agreement reached at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change.

PART 1

EMISSIONS REDUCTION TARGETS

The net-zero emissions target

1 The net-zero emissions target

Before section 1 of the 2009 Act (and the italic cross heading immediately preceding it), insert—

“The net-zero emissions target

A1 The net-zero emissions target

(1) The Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline (the target is known as the “net-zero emissions target”).

(2A) The “net-zero emissions target year” is 2045.

(2B) The Scottish Ministers may by regulations modify subsection (2A) so as to substitute for the year for the time being mentioned in that subsection—

(a) an earlier year, or

(b) a later year if—

(i) that later year is consistent with the most up-to-date advice they have received from the relevant body, and

(ii) that advice states that the later year is appropriate on the basis of either scientific knowledge about climate change or current international carbon reporting practice (or both).

(2C) In preparing a draft of regulations to be made under subsection (2B), the Scottish Ministers must have regard to—

- (a) the target-setting criteria, and
- (b) the most up-to-date advice they have received from the relevant body.

(3) As soon as reasonably practicable after laying for approval a draft of such regulations, the Scottish Ministers must publish a statement setting out—

- (a) their reasons for proposing to modify the net-zero emissions target year,
- (b) the extent to which the proposed net-zero emissions target year takes account of the target-setting criteria, and

(c) whether the proposed net-zero emissions target year is consistent with the most up-to-date advice they have received from the relevant body and, if it is not, the reasons why.

The 2050 and interim targets

2A The 2050 target

Section 1 of the 2009 Act and the italic cross heading immediately preceding it are repealed.

3 The interim targets

For section 2 of the 2009 Act, and the italic cross heading immediately preceding it, substitute—

“The interim targets

2 The interim targets

(1) The Scottish Ministers must ensure that the net Scottish emissions account for the year—

- (a) 2020 is at least 56% lower than the baseline,
- (b) 2030 is at least 75% lower than the baseline, and
- (c) 2040 is at least 90% lower than the baseline.

(2) In this Act, each target set out in subsection (1) is known as an “interim target”.

4 Modification of the interim targets

After section 2 of the 2009 Act, insert—

“2A Modification of the interim targets

(1) The Scottish Ministers may by regulations modify one or more of the percentage figures applying for the purposes of any of the interim targets, so as to substitute a higher or lower figure for the one for the time being mentioned in section 2(1)(a), (b) or (c).

(2) But regulations under subsection (1) may not substitute a lower percentage figure for an interim target if that figure is—

(a) inconsistent with the most up-to-date advice the Scottish Ministers have received from the relevant body,

(aa) not, in that advice, stated to be appropriate on the basis of either scientific knowledge about climate change or current international carbon reporting practice (or both),

(b) lower than any percentage figure applying, immediately after the regulations come into force, for an interim target for an earlier year, or

(c) lower than 100% for a year which is the same as, or later than, the net-zero emissions target year.

(3) In preparing a draft of regulations to be made under subsection (1), the Scottish Ministers must have regard to—

(a) the target-setting criteria, and

(b) the most up-to-date advice they have received from the relevant body.

(4) Subsection (5) applies if—

(a) the Scottish Ministers lay before the Scottish Parliament for approval a draft of regulations under section A1(2B) which modify the net-zero emissions target year to a year earlier than 2045, and

(b) any percentage figure applying for the purposes of any interim target for a year which is the same as or later than the proposed net-zero emissions target year, is lower than 100%.

(5) The Scottish Ministers must, at the same time as or as soon as reasonably practicable after laying the regulations mentioned in subsection (4)(a), lay before the Scottish Parliament for approval a draft of regulations under subsection (1) which modify to 100% a percentage figure mentioned in subsection (4)(b).

(6) As soon as reasonably practicable after laying for approval a draft of regulations to be made under subsection (1), the Scottish Ministers must publish a statement setting out in respect of each proposed modification of a percentage figure by the regulations—

(a) their reasons for proposing to modify the percentage figure,

(b) the extent to which the proposed modification takes account of the target-setting criteria, and

(c) whether the proposed modification is consistent with the most up-to-date advice they have received from the relevant body.”.

The target-setting criteria

5 The target-setting criteria

After section 2A of the 2009 Act (inserted by section 4 of this Act), insert—

“The target-setting criteria

2B The target-setting criteria

(1) In this Act, the “target-setting criteria” are—

-
- (a) the objective of not exceeding the fair and safe Scottish emissions budget,
- (b) European and international law and policy relating to climate change (including the United Nations Framework Convention on Climate Change and protocols to that Convention),
- (c) scientific knowledge about climate change,
- (d) technology relevant to climate change,
- (e) 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,
- (f) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing,
- (g) social circumstances, in particular the likely impact of the target on those living in poorer or deprived communities,
- (ga) the likely impact of the target on public health,
- (h) the likely impact of the target on those living in remote rural communities and island communities,
- (i) 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,
- (j) environmental considerations and, in particular, the likely impact of the target on biodiversity,
- (ja) the likely impact of the target on the achievement of sustainable development, including the achievement of the United Nations sustainable development goals,
- (k) current international carbon reporting practice.
- (2) In this Act, the “fair and safe Scottish emissions budget” is the aggregate amount of net Scottish emissions of greenhouse gases for the period 2010 to 2050 as recommended by the relevant body as being consistent with Scotland, in line with the principles set out in article 3 of the United Nations Framework Convention on Climate Change, contributing appropriately to the holding of the increase in global average temperature to well below 2°C above pre-industrial levels, and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.
- (3) The Scottish Ministers may by regulations modify subsection (1) and (2) so as to add, remove or vary the description of a target-setting criterion.”.

Advice about targets

6 Duty to seek advice from the relevant body

After section 2B of the 2009 Act (inserted by section 5 of this Act), insert—

“Advice about targets

2C Duty to seek advice from the relevant body

- (1) The Scottish Ministers must request advice from the relevant body at least once before the expiry of each relevant 5 year period.
- (2) A “relevant 5 year period” means a period of 5 years which begins with—
 - (a) in the case of the first period, the date on which this section comes into force, and
 - (b) in the case of a subsequent period, the date on which the previous request for advice was, or is treated as having been, made under subsection (1).
- (3) A request for advice under subsection (1) must request the relevant body’s views as to—
 - (a) whether the net-zero emissions target is achievable and, if so, what is the earliest achievable net-zero emissions target year (with views on both matters taking account of the target-setting criteria),
 - (b) whether the percentage figure applying for the purposes of each interim target not yet reported on under section 33 is appropriate by reference to the target-setting criteria (and if not, advice as to any alternative percentage figure that would be appropriate),
 - (ba) whether the fair and safe Scottish emissions budget is appropriate, and request that, if not, the body makes a fresh recommendation for the purpose of the budget,
 - (bb) the estimated contribution of the net-zero emissions target and the interim targets towards global efforts to limit the global average temperature increase to 1.5°C above pre-industrial levels,
 - (c) the extent to which each relevant target should be met by—
 - (i) taking action to reduce net Scottish emissions of greenhouse gases, and
 - (ii) the crediting of carbon units to the net Scottish emissions account in accordance with regulations under section 13(5),
 - (d) the respective contributions towards meeting each relevant target that should be made by—
 - (i) the sectors of the Scottish economy which are covered by trading schemes within the meaning of section 44 of the 2008 Act, and
 - (ii) the other sectors of the Scottish economy,
 - (e) the respective contributions towards meeting each relevant target that should be made by each of the sectors mentioned in section 35(2A),

(f) whether the multiplier to reflect the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation which applies for each greenhouse gas by virtue of section 16(3) is appropriate (and if not, advice as to any alternative multiplier that would be appropriate).

(4) A “relevant target” is—

(a) an annual target for a year within the period of 15 years beginning with the year immediately following the year in which a request is made under subsection (1),

(b) an interim target for a year within that 15 year period, and

(d) the net-zero emissions target, if the net-zero emissions target year is within that 15 year period.

(5) A request for advice under subsection (1) may request the relevant body’s views as to any other matter which the Scottish Ministers consider relevant for the purposes of this Part.”.

7 Power to seek additional advice

After section 2C of the 2009 Act (inserted by section 6 of this Act), insert—

“2D Power to seek additional advice

(1) The Scottish Ministers may request advice from the relevant body at any time on—

(a) a matter mentioned in section 2C(3),

(b) any other matter which they consider relevant for the purposes of this Part.

(2) But any request for advice under subsection (1) on all of the matters mentioned in section 2C(3) is to be treated as having been made under section 2C(1).”.

8 Ministerial duties following request for advice

After section 2D of the 2009 Act (inserted by section 7 of this Act), insert—

“2E Ministerial duties following request for advice

(1) The Scottish Ministers must publish any advice received in response to a request under section 2C(1) or 2D(1) as soon as reasonably practicable after they receive it.

(2) Subsection (3) applies if—

(a) the relevant body’s advice states that a particular year is the earliest achievable year for the net-zero emissions target, and

(b) that year is not already the net-zero emissions target year.

(3) The Scottish Ministers must—

(a) within 3 months of receiving that advice publish a statement setting out how they intend to respond to that advice, and

(b) if they do not, within 12 months of receiving that advice, lay for approval a draft of regulations under section A1(2B) which modify the net-zero emissions target year to that year, make a statement to the Scottish Parliament setting out the reasons for not doing so.

5 (4) Subsection (5) applies if the relevant body’s advice states that a percentage figure for an interim target applying when the request is made is not appropriate and that another figure would be appropriate.

(5) The Scottish Ministers must—

10 (a) within 3 months of receiving that advice publish a statement setting out how they intend to respond to that advice, and

(b) if they do not, within 12 months of receiving that advice, lay for approval a draft of regulations under section 2A(1) to make the advised modification to that percentage figure, make a statement to the Scottish Parliament setting out the reasons for not doing so.

15 (6) Subsection (7) applies if—

20 (a) the relevant body’s advice states that, for a greenhouse gas, the multiplier figure reflecting the direct and indirect non-carbon dioxide climate change impacts of emissions at altitude from international aviation applying when the request is made is not appropriate and that another figure would be appropriate, and

(b) the Scottish Ministers do not, within 12 months of receiving that advice, lay for approval a draft order under section 16(1) amending the multiplier to that figure.

25 (7) The Scottish Ministers must publish a statement setting out the reasons for not laying for approval a draft order under section 16(1) making the advised modification to that multiplier figure.”.

Citizens assembly

8A Citizens assembly

After section 32 of the 2009 Act insert—

30

“PART 2A

CITIZENS ASSEMBLY

32A Citizens assembly

(1) The Scottish Ministers must establish a panel to be known as a “citizens assembly” to exercise the functions mentioned in subsection (5).

35 (2) The citizens assembly is a panel made up of such persons as the Scottish Ministers consider to be representative of the general populace of Scotland.

(3) The citizens assembly is to have two conveners who are independent of the Scottish Ministers and the Scottish Parliament.

(4) There is to be a gender balance between the conveners.

40 (5) The functions conferred on the citizens assembly are to—

(a) consider how to prevent or minimise, or remedy or mitigate the effects of, climate change,

(b) make recommendations on measures proposed to achieve the emissions reduction targets,

(c) make recommendations about such other matters in relation to climate change as the Scottish Ministers may, in accordance with subsection (6), refer to the assembly.

(6) The Scottish Ministers may refer matters to the citizens assembly under subsection (5)(c) only if those matters have been approved by resolution of the Scottish Parliament.

(7) The Scottish Ministers must, before the first meeting of the citizens assembly, lay before the Scottish Parliament a report on the arrangements for the administration and operation of the assembly.

(8) The citizens assembly is to—

(a) set out its recommendations in a report,

(b) lay the report before the Scottish Parliament, and

(c) send a copy of the report to the Scottish Ministers.

(9) The Scottish Ministers must, within 6 months of receiving a copy of the report, publish a statement setting out how they intend to respond to the recommendations made in it.

(10) The citizens assembly is to—

(a) lay its report before the Scottish Parliament under subsection (8)(b) by 28 February 2021,

(b) complete its consideration of the matters mentioned in subsection (5)(a) by that date.”.

Annual targets

9 Annual targets: 2021 to year before net-zero year

For section 3 of the 2009 Act, substitute—

“3 Annual targets: 2021 to year before net-zero year

(1) The Scottish Ministers must ensure that the net Scottish emissions account is at least the relevant target figure lower than the baseline for each year in the period—

(a) beginning with 2021 and ending with 2029 (the “2021-2029 period”),

(b) beginning with 2031 and ending with 2039 (the “2031-2039 period”), and

(c) beginning with 2041 and ending with the year which immediately precedes any net-zero emissions target year after 2041 (the “final annual target period”).

(2) The relevant target figure for each year in the 2021-2029 period is a percentage figure calculated by—

(a) taking the difference between the percentage figures applying for the purposes of the interim targets for 2020 and 2030, and

(b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2020 and ending with 2030.

5 (3) The relevant target figure for each year in the 2031-2039 period is a percentage figure calculated by—

(a) taking the difference between the percentage figures applying for the purposes of the interim targets for 2030 and 2040, and

10 (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2030 and ending with 2040.

(4) The relevant target figure for each year in the final annual target period is a percentage figure calculated by—

15 (a) taking the difference between the percentage figure applying for the purposes of the interim target for 2040 and 100%, and

20 (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with 2040 and ending with the net-zero emissions target year.

(5) In calculating or recalculating a relevant percentage figure by virtue of this section or section 3A or 3B, the figure must be rounded to one decimal place, with numbers at the midpoint or greater being rounded up and other numbers being rounded down.

25 (6) In this Act, each target set by virtue of this section (or recalculated in accordance with section 3A or 3B) is known as an “annual target”.

3A Annual targets: recalculation if net-zero emissions target year is in certain periods

30 (1) Subsection (2) applies where regulations made under section A1(2B) modify the net-zero emissions target year to a year which is in either—

(a) the 2021-2029 period, or

(b) the 2031-2039 period.

(2) The relevant target figure applying by virtue of section 3 for a year which is—

35 (a) in the same period as the net-zero emissions target year but before the net-zero emissions target year, is modified in accordance with subsection (3),

(b) the same as, or after, the net-zero emissions target year, is modified to become 100%.

40 (2A) Where regulations made under section A1(2B) modify the net-zero emissions target year to a year which is after 2041, the relevant target figure applying by virtue of section 3 for a year which is before the net-zero emissions target year (as set by those regulations) is modified in accordance with subsection (3).

- (3) Where this subsection applies to a relevant target figure, that figure is modified to become a percentage figure calculated by—
- (a) taking the difference between—
 - (i) the target figure applying for the interim target which immediately precedes the net-zero emissions target year, and
 - (ii) 100%, and
 - (b) apportioning that difference in a way which results in there being an equal percentage point change between the percentage figure for each consecutive year in the period beginning with the year of the interim target which immediately precedes the net-zero emissions target year and ending with the net-zero emissions target year.
- (4) Any modification under this section does not apply to a year which is the same as, or earlier than, the year in which the regulations under section A1(2B) come into force.

3B Annual targets: further rules on recalculation

- (1) This section applies where the Scottish Ministers make regulations under either of the following—
- (a) section A1(2B),
 - (b) section 2A(1) modifying one or more of the percentage figures applying for the purposes of any interim target.
- (2) An annual target in relation to a year which is subsequent to the year in which the regulations mentioned in subsection (1) come into force is to be recalculated under section 3 and, where applicable, modified under section 3A in accordance with the figures applying immediately after those regulations come into force.
- (3) But an annual target in relation to a year which is the same as, or earlier than, the year in which the regulations mentioned in subsection (1) come into force is not to be recalculated or modified, except where subsection (4) applies.
- (4) This subsection applies where, at the same time as or as soon as reasonably practicable after laying for approval a draft of regulations mentioned in subsection (1), the Scottish Ministers publish a statement that the regulations are in response to, and consistent with, the most up-to-date advice they have received from the relevant body advising that targets should be modified for the sole reason of a change in international carbon reporting practice.
- (5) Where subsection (4) applies, an annual target in respect of a year for which the Scottish Ministers have not yet reported on under section 33 is also to be recalculated in accordance with subsection (2) for the purposes of assessing and reporting in accordance with section 33.”.

10 Annual targets: 2018 and 2019

- (1) For the purposes of assessing and reporting in accordance with section 33 of the 2009 Act, each of 2018 and 2019 is to be taken as a target year with a target of the Scottish Ministers ensuring that the net Scottish emissions account—
- (b) for 2018, is at least 54.0% lower than the baseline, and

(c) for 2019, is at least 55.0% lower than the baseline.

(2) The Scottish Ministers may by regulations subject to the affirmative procedure modify one or more of the percentage figures applying for the purposes of a year mentioned in subsection (1).

5 (3) But a draft of regulations to be laid for approval under subsection (2) may propose the modification of a percentage figure only if—

(a) the Scottish Ministers have, at the same time as or before laying for approval the draft of those regulations, laid before the Scottish Parliament for approval a draft of regulations under section 2A(1) of the 2009 Act proposing to modify the percentage figure applying for the purposes of the interim target for 2020,

10 (b) the figure proposed to be modified is in respect of a year in relation to which the Scottish Ministers have not yet reported on under section 33 of the 2009 Act, and

(c) the Scottish Ministers have, before laying for approval a draft of the regulations, had regard to the most up-to-date advice they have received from the relevant body about the figure proposed to be modified.

11 Revocation of previous annual targets

The following Orders are revoked—

(a) the Climate Change (Annual Targets) (Scotland) Order 2010 (S.S.I. 2010/359),

(b) the Climate Change (Annual Targets) (Scotland) Order 2011 (S.S.I. 2011/353),

20 (c) the Climate Change (Annual Targets) (Scotland) Order 2016 (S.S.I. 2016/328).

Publication of targets

12 Publication of targets

After section 3B of the 2009 Act (inserted by section 9 of this Act), insert—

“Information about targets

3C Publication of targets

(1) The Scottish Ministers must keep and maintain a list of the following—

(a) the net-zero emissions target year,

(c) the percentage figure for each interim target,

(d) the percentage figure for each annual target (including any such figure recalculated and, where applicable, modified under this Part),

30 (e) the percentage figure for each of the years 2018 and 2019, as set out in section 10 of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

(2) The Scottish Ministers may remove from the list any entry in respect of a year in relation to which the Scottish Ministers have reported on under section 33.

(3) The Scottish Ministers must lay a copy of the list before the Scottish Parliament—

35 (a) in the case of the first list, as soon as reasonably practicable after it has been compiled, and

(b) in any other case, as soon as reasonably practicable after the net-zero emissions target year or a percentage figure mentioned in subsection (1) has been modified.

(4) The Scottish Ministers must publish, in such manner as they consider appropriate, the information contained in the list mentioned in subsection (1).”.

PART 2

EMISSIONS ACCOUNTING

13 Net Scottish emissions account: restriction on use of carbon units

(1) In section 13 of the 2009 Act—

(a) subsections (2) to (4) are repealed,

(b) in subsection (5)—

(i) in paragraph (a), after “may”, insert “or may not”, and

(ii) in paragraph (b), after “may”, insert “or may not”, and

(c) after subsection (5), insert—

“(5A) But the amount of carbon units purchased by the Scottish Ministers that may, by virtue of regulations under subsection (5), be credited to the net Scottish emissions account for a period is zero, unless regulations under section 13A specify a higher limit in relation to that period.”.

(2) In section 96(7) of the 2009 Act, paragraph (a) is repealed.

(3) Except to the extent that subsection (4) applies, carbon units which are surrendered as a result of the operation of a trading scheme (within the meaning of section 44 of the 2008 Act) may not be credited to or debited from the net Scottish emissions account for any period after 2017.

(4) This subsection applies to the extent that regulations made under section 13(5) of the 2009 Act make provision about the circumstances in which carbon units referred to in subsection (3) may be credited to or debited from the net Scottish emissions account.

(5) In this section, “the 2008 Act”, “carbon units” and “net Scottish emissions account” have the same meanings as in the 2009 Act.

14 Permitted use of carbon units purchased by the Scottish Ministers

(1) After section 13 of the 2009 Act, insert—

“13A Permitted use of carbon units purchased by the Scottish Ministers

(1) The Scottish Ministers may by regulations set a limit representing the maximum amount of carbon units purchased by them that may be credited to the net Scottish emissions account for a year.

(2) A limit set in regulations under subsection (1) for a target year must not exceed an amount which represents 20% of the planned reduction in the net Scottish emissions account for that year.

(3) The planned reduction in the net Scottish emissions account for a target year is the difference between the following amounts, both being calculated immediately before the regulations under subsection (1) are made—

(a) the minimum amount by which the emissions reduction target for the target year requires the net Scottish emissions account to be lower than the baseline, and

(b) the minimum amount by which the emissions reduction target for the immediately preceding year requires the net Scottish emissions account to be lower than the baseline.

(4) Regulations under subsection (1) may set a limit only for a year—

(a) in respect of which the Scottish Ministers have not yet reported on under section 33, and

(b) which ends no more than 10 years after the year in which the regulations come into force.

(2) In section 96(7) of the 2009 Act, after paragraph (a) insert—

“(aa) regulations under section 13A(1) that do not propose an increase to any limit on the maximum amount of carbon units that may be credited to the net Scottish emissions account for a year.”.

(2A) In section 97 of the 2009 Act—

(a) in subsection (1)—

(i) the words from “the first” to the end become paragraph (a),

(ii) after that paragraph insert “; or

(b) regulations under section 13A(1) that propose an increase to any limit on the maximum amount of carbon units that may be credited to the net Scottish emissions account for a year.”,

(b) in subsection (2)—

(i) the word “and” after paragraph (a) is repealed,

(ii) after paragraph (b) insert “; and

(c) in the case of regulations mentioned in subsection (1)(b), a statement setting out whether the proposed limit is consistent with the most up-to-date advice they have received from the relevant body.”,

(c) in subsection (7), after paragraph (b) insert “; and

(c) in the case of regulations mentioned in subsection (1)(b), whether the proposed limit is consistent with the most up-to-date advice they have received from the relevant body.”.

(3) The following Orders are revoked—

(a) the Climate Change (Limit on Carbon Units) (Scotland) Order 2010 (S.S.I. 2010/217),

(b) the Climate Change (Limit on Carbon Units) (Scotland) Order 2011 (S.S.I. 2011/440),

(c) the Climate Change (Limit on Use of Carbon Units) (Scotland) Order 2016 (S.S.I. 2016/330).

15 International carbon reporting practice

- (1) In section 17 of the 2009 Act, for subsection (3) substitute—

“(3) The amount of Scottish emissions and Scottish removals of a greenhouse gas for a period must be determined, in so far as reasonably practicable, consistently with current international carbon reporting practice or, for the purposes of assessing and reporting in accordance with section 33, target-relevant international carbon reporting practice.”.

- (2) In section 18 of the 2009 Act, for subsection (2) substitute—

“(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 (determined, in so far as reasonably practicable, consistently with current international carbon reporting practice or, for the purposes of assessing and reporting in accordance with section 33, target-relevant international carbon reporting practice).”.

- (3) In section 19 of the 2009 Act—

- (a) the existing words become subsection (1), and
- (b) after that subsection, insert—

“(2) The following definitions also apply for the purposes of this Act—

“current international carbon reporting practice” means the most up-to-date international carbon reporting practice, and

“target-relevant international carbon reporting practice” means a practice which produces results which are consistent with those which would have been produced by using the international carbon reporting practice which was current at the later of—

- (a) 30 June 2018, or
- (b) the date on which Scottish Ministers last received advice from the relevant body following a request under section 2C.”.

15A Nitrogen balance sheet

After section 8 of the 2009 Act, insert—

“Nitrogen balance sheet

8A Nitrogen balance sheet

- (1) The Scottish Ministers must, no later than 18 months after this section comes into force, create a balance sheet to quantify all major nitrogen flows across all sectors and media in Scotland, including its coastal waters, the atmosphere and soil and flows across these boundaries, to be known as a “nitrogen balance sheet” for the purpose mentioned in subsection (2).
- (2) The purpose of the nitrogen balance sheet is to record how nitrogen use efficiency contributes to achieving the targets in this Act.
- (3) The Scottish Ministers must by regulations make provision for—
 - (a) a baseline figure for nitrogen use efficiency,
 - (b) how nitrogen use efficiency is to be calculated,

- (c) the timescale in which the nitrogen balance sheet is to be reviewed,
 - (d) monitoring and reporting upon the nitrogen balance sheet,
 - (e) such other matters as they consider appropriate.
- (4) The Scottish Ministers must, before laying draft regulations under subsection (3) before the Scottish Parliament, consult such persons as they consider appropriate.
- (5) In this Act “nitrogen use efficiency” means the ratio of nitrogen removed from the environment compared to total nitrogen inputs.
- (6) For the purposes of assessing the ratio mentioned in subsection (5), account should be taken of sources of nitrogen pollution, including—
- (a) food production and waste,
 - (b) energy, and
 - (c) transport.”.

PART 3

REPORTING AND PLANNING DUTIES

Reporting duties

16 Reports on emissions reduction targets

For section 33 of the 2009 Act, substitute—

“Reporting

33 Reports on emissions reduction targets

- (1) The Scottish Ministers must, following each target year, lay before the Scottish Parliament a report in respect of that target year.
- (2) The report must state—
 - (a) the emissions reduction target for the target year,
 - (b) whether the emissions reduction target for the target year has been met,
 - (c) the percentage by which the net Scottish emissions account for the target year is lower than the baseline,
 - (d) the amount by which the net Scottish emissions account for the target year is lower or higher than the emissions reduction target for that year, and
 - (e) the cumulative amount by which the net Scottish emissions accounts are lower or higher than the corresponding emissions reduction targets, calculated by adding each amount by which an account is lower or higher than the corresponding target for each year in the period beginning with 2018 and ending with the target year.

- (3) The Scottish Ministers must—
- (a) use target-relevant international carbon reporting practice for the purposes of assessing and reporting on the matters mentioned in subsection (2) and, in doing so, determine each figure and amount in a manner as would be consistent with the most up-to-date advice provided by the relevant body on the methods to be used for that purpose, and
 - (b) specify in the report the methods used to determine each figure and amount in accordance with paragraph (a).
- (4) The report under this section must be laid before the Parliament as soon as reasonably practicable after the information to be contained in the report becomes available.”.

17 Reports on emissions reduction targets: further content

For section 34 of the 2009 Act, substitute—

“34 Reports on emissions reduction targets: further content

- (1) A report under section 33 must, in addition to the matters required under that section, state—
- (a) in relation to net Scottish emissions of greenhouse gases—
 - (i) the baseline,
 - (ii) the aggregate amount of net Scottish emissions of greenhouse gases for the year covered by the report,
 - (iii) the percentage by which the aggregate amount of net Scottish emissions of greenhouse gases for the year covered by the report is lower than the baseline,
 - (iv) the percentage by which the aggregate amount of net Scottish emissions of greenhouse gases for the year covered by the report is lower or higher than the equivalent amount for the immediately preceding year, and
 - (v) the methods used to determine the aggregate amount of net Scottish emissions of greenhouse gases, together with details of any changes to those methods,
 - (b) in relation to the net Scottish emissions account—
 - (i) its amount for the year covered by the report,
 - (ii) the percentage by which the account for the year covered by the report is lower than the baseline,
 - (iii) the percentage by which the account for the year covered by the report is lower or higher than the equivalent account for the immediately preceding year, and
 - (iv) the percentage of any reduction in the account for the year covered by the report, relative to the equivalent account for the immediately preceding year, which is accounted for by reductions in net Scottish emissions of greenhouse gases,

- (c) the total amount of carbon units that were—
- (i) credited to or debited from the net Scottish emissions account for the year covered by the report,
 - (ii) purchased by the Scottish Ministers in the year covered by the report, and
 - (iii) held by the Scottish Ministers immediately after the end of the year covered by the report and which remained available to offset greenhouse gas emissions for other target years,
- (d) for each target year preceding the year covered by the report—
- (i) the aggregate amount of net Scottish emissions of greenhouse gases, and
 - (ii) the amount of the net Scottish emissions account, and
- (e) the fair and safe Scottish emissions budget, and the aggregate amount of net Scottish emissions of greenhouse gases for the period from 2010 to the end of the year covered by the report.

(2) The Scottish Ministers must use current international carbon reporting practice for the purposes of assessing and reporting on the matters mentioned in subsection (1).

(3) If the methods used to determine net Scottish emissions of greenhouse gases change and that change is such as to require adjustment of an amount for an earlier target year, the report must—

- (a) specify the adjustment required and state the adjusted amount, and
- (b) explain why the adjustment is required.

(4) An adjustment under subsection (3) must, in so far as reasonably practicable, be made in accordance with current international carbon reporting practice.

(5) The report may contain such other information as the Scottish Ministers consider appropriate.”.

17A Report on proposals and policies where emissions reduction targets not met

(1) Section 36 of the 2009 Act is amended as follows.

(2) For subsection (1), substitute—

“(1) This section applies if the Scottish Ministers lay a report under section 33 which states that an emissions reduction target has not been met.”

(3) In subsection (2), for “subsection (1)(a)” substitute “subsection (1)”.

17B Reports on emissions attributable to Scottish consumption of goods and services

In section 37 of the 2009 Act—

(a) in subsection (2)—

- (i) the words from “the emissions” to the end become paragraph (a),
- (ii) after that paragraph, insert—

“(b) the goods and services the consumption and use of which contributed most significantly to those emissions.”,

(b) after subsection (3) insert—

“(4) Each report under subsection (1) must be laid before the Scottish Parliament within the period of 15 months beginning on the date on which the previous report under that subsection was so laid.”.

17C Reports on land use strategy

After section 37 of the 2009 Act, insert—

“37A Reports on land use strategy

(1) The Scottish Ministers must lay before the Scottish Parliament a report on—

(a) the assessment of progress towards implementing the objectives, proposals and policies of the land use strategy under section 57, and

(b) how these objectives, proposals and policies will contribute towards achieving the targets in the Act.

(2) Scottish Ministers must—

(a) publish each report prepared under subsection (1), and

(b) lay a copy of it before the Scottish Parliament,

as soon as reasonably practicable after the end of each financial year.

(3) The report may also contain such other information as the Scottish Ministers consider appropriate.”.

18 Provision of further information to the Scottish Parliament

(1) Section 42 of the 2009 Act is amended as follows.

(3) After subsection (1) insert—

“(1A) If the emissions reduction target for the target year covered by the report has not been met, the statement made under subsection (1)(b) must explain why.”.

(4A) In subsection (2)—

(a) in paragraph (a), for “annual target” substitute “emissions reduction targets”, and

(b) paragraph (c) and (d) are repealed.

(5) In subsection (3), for “report referred to in subsection (2)(a)” substitute “report on emissions reduction targets under section 33”.

Climate change plan

19 Climate change plan

(1) For section 35 of the 2009 Act, substitute—

“Climate change plan

35 Climate change plan

- (1) The Scottish Ministers must lay a climate change plan before the Scottish Parliament—
- 5 (a) in the case of the first plan, before the end of the period of 5 years beginning with the day on which this section comes into force,
- (b) in the case of each subsequent plan, before the end of the period of 5 years beginning with the day on which the previous plan was laid.
- (2) The plan must, in particular, set out—
- 10 (a) the Scottish Ministers’ proposals and policies for meeting the emissions reduction targets during the plan period,
- (b) those proposals and policies in chapters on—
- (i) each of the sectors mentioned in subsection (2A), and
- (ii) such other sectors or topics as the Scottish Ministers consider appropriate for the plan, and
- 15 (c) the timescales over which those proposals and policies are expected to take effect.
- (2A) The sectors referred to in subsection (2)(b)(i) are—
- (a) energy supply,
- (b) transport (including international aviation and shipping),
- 20 (c) business and industrial process,
- (d) residential and public (in relation to buildings in those sectors),
- (e) waste management,
- (f) land use, land use change and forestry,
- (g) agriculture.
- 25 (3) In subsection (2), the “plan period” means the period of—
- (a) 15 years beginning with the year after the year in which the draft plan is laid before the Parliament, or
- 30 (b) such other period of between 10 and 20 years beginning with that year as the Scottish Ministers may specify in the plan in order that the period ends in the same year as an interim target or the net-zero emissions target year.
- (4) The plan must also set out the Scottish Ministers’ proposals and policies regarding the respective contributions towards meeting the emissions reduction targets that should be made by each of the sectors mentioned in subsection (2A).
- 35 (4ZA) Without prejudice to the generality of subsection (4), the plan must in particular set out the Scottish Ministers’ proposals and policies for—
- (a) the establishment of any regional land use partnerships (subject to such partnerships having not already been established), and
- 40 (b) the support to and resourcing of any regional land use partnerships to develop frameworks.

(4ZB) For the purposes of this section—

“regional land use partnership” is a partnership established in a strategy under section 57,

“frameworks” are frameworks created by a regional land use partnership.

(4ZC) The plan must also set out the Scottish Ministers’ proposals and policies regarding the exploitation of fossil fuels including onshore unconventional oil and gas reserves.

(4A) The plan must also set out the Scottish Ministers’ proposals and policies regarding the development of district heating for new developments, where feasible.

(4B) The plan must also set out the Scottish Ministers’ proposals and policies regarding the public procurement of electric vehicles.

(4C) The plan must also set out the Scottish Ministers’ proposals and policies for improved access to electric vehicle charging stations for those living in tenements within the meaning of section 26 of the Tenements (Scotland) Act 2004.

(4D) The plan must also set out the Scottish Ministers’ proposals and policies regarding public procurement of ultra-low emission vehicles.

(4E) The plan must also set out the Scottish Ministers’ proposals and policies regarding—

(a) the establishment of a whole farm approach to emissions accounting on Scottish farms,

(b) the reduction of Scottish whole farm greenhouse gas emissions through the use of—

(i) research,

(ii) knowledge transfer and advice,

(iii) land management accreditation, including organic farming,

(iv) nutrient resource budgeting,

(v) circular economy initiatives,

(vi) energy generation and efficiency,

(vii) any land use strategy prepared under section 57,

(viii) agroecology,

(ix) carbon sequestration,

(x) agroforestry.

(4F) For the purposes of subsection (4E)—

“agroecology” means a whole farm approach to land and resource management which integrates the production of food with restoration and maintenance of the natural environment and other social benefits, taking into account the wider impact of the farm’s activities.

“whole farm” has the same combined meaning as “agriculture”, “agricultural land” and “agricultural unit” as in section 86 of the Agriculture (Scotland) Act 1948.

- 5 (4G) The plan must also set out the Scottish Ministers’ proposals and policies regarding the consideration of the potential for the capture and long-term storage of carbon when designating marine protected areas under section 67 of the Marine (Scotland) Act 2010.
- 10 (4H) The plan must also set out the Scottish Ministers’ proposals and policies regarding the establishment of a fund, to be known as an Agricultural Modernisation Fund, to support investment in mitigation measures to reduce greenhouse gas emissions on Scottish farms.
- 15 (4I) Without prejudice to the generality of subsection (2), the plan must set out what (if any) measures the Scottish Ministers propose to take during the plan period to ensure that emissions from housing are reduced such that the majority of housing in Scotland achieves an energy performance certificate rating of “C” or above, where practical.
- 20 (4J) The plan must also set out the Scottish Ministers’ proposals and policies for taking, or supporting, action to reduce emissions of greenhouse gases (whether in Scotland or elsewhere) which are produced by or otherwise associated with the consumption and use of goods and services in Scotland.
- (4K) The plan must also set out the Scottish Ministers’ proposals and policies for supporting, including by the sharing of expertise and technology, action in developing countries to reduce emissions of greenhouse gases and adapt to the effects of climate change.
- 25 (5) The plan must also, with reference to the just transition principles (see section 35C)—
- 30 (a) explain how the proposals and policies set out in the plan are expected to affect different sectors of the Scottish economy and different regions in Scotland, including how they are expected to affect employment in those sectors and regions, and
- (b) set out the Scottish Ministers’ proposals and policies for supporting the workforce, employers and communities in those sectors and regions.
- (5A) The plan must also set out an estimate of the costs and benefits associated with the policies set out in the plan.
- 35 (5B) In preparing a plan under subsection (1), the Scottish Ministers must have regard to—
- (a) the just transition principles (see section 35C),
- (b) the climate justice principle.
- 40 (5BA) In subsection (5B)(b), the “climate justice principle” is the importance of taking action to reduce global emissions of greenhouse gases and to adapt to the effects of climate change in ways which—
- (a) support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects, and
- 45 (b) help to address inequality.

- (5C) Each plan under this section must explain—
- (a) the extent to which it takes account of the just transition principles,
 - (b) how the implementation of the plan is expected to contribute to the achievement of sustainable development, including the achievement of the United Nations sustainable development goals.
- (6) Each plan under this section—
- (a) must contain an assessment of the progress towards implementing proposals and policies set out in the immediately preceding plan, and
 - (b) may make such adjustments to those proposals and policies as the Scottish Ministers consider appropriate.
- (7) For the purposes of subsection (6), “the immediately preceding plan” includes the most recent report on proposals and policies for meeting annual targets which was laid by the Scottish Ministers under section 35 of this Act before the date on which section 19 of the Climate Change (Emission Reduction Targets) (Scotland) Act 2019 came into force.
- (8) The Scottish Ministers may by regulations modify subsection (2A).
- (9) Any modification made in regulations under subsection (8) must be consistent with international carbon reporting practice.

35A Climate change plan: further procedure

- (1) The Scottish Ministers must, before laying a climate change plan under section 35 before the Scottish Parliament—
- (a) lay a draft of the plan before the Parliament for a period of 120 days, of which no fewer than 60 must be days on which the Parliament is not dissolved or in recess, and
 - (b) have regard to—
 - (i) any representations on the draft plan made to them,
 - (ia) any views on the draft plan set out by the relevant body in a report under section 9(1)(d),
 - (ii) any resolution relating to the draft plan passed by the Parliament, and
 - (iii) any report relating to the draft plan published by any committee of the Parliament for the time being appointed by virtue of standing orders.
- (2) The Scottish Ministers must, when laying a climate change plan under section 35 before the Parliament, lay a statement setting out—
- (a) details of any representations, views, resolutions or reports mentioned in subsection (1)(b),
 - (b) the changes (if any) they have made to the plan in response to such representations, views, resolutions or reports and the reasons for those changes.

35B Climate change plan: annual progress reports

- (1) The Scottish Ministers must in each relevant year, lay before the Scottish Parliament a report on each substantive chapter of the most recent climate change plan laid under section 35.
- 5 (2) Each report laid under subsection (1) must contain an assessment of progress towards implementing the proposals and policies set out in that chapter, including proposals and policies for supporting the workforce, employers and communities.
- 10 (3) A report under subsection (1) must be laid by 31 May in each relevant year or, if the Scottish Ministers consider that is not possible because the information needed for the report is not available, as soon as reasonably practicable after that date.
- (4) In this section—
- 15 (a) “relevant year” means—
- (i) 2021, and
- (ii) each subsequent year, other than any year in which a climate change plan is laid before the Scottish Parliament under section 35(1), and
- 20 (b) “substantive chapter” means a chapter of the climate change plan which is included in the plan by virtue of section 35(2)(b) and which contains distinct proposals and policies for meeting the emissions reduction targets during the plan period.
- (5) Until such time as the first climate change plan is laid under section 35, subsection (1) is to be read as if it—
- 25 (a) applied in relation to the most recent report on proposals and policies for meeting annual targets which was laid by the Scottish Ministers under section 35 of this Act before the date on which section 19 of the Climate Change (Emission Reduction Targets) (Scotland) Act 2019 came into force, and
- 30 (b) required a report on each chapter of that most recent report which contains distinct proposals and policies for meeting the targets to which the report relates during the period covered by the report.

35C Just transition principles

- 35 (1) In this Act, the “just transition principles” are the importance of taking action to reduce net Scottish emissions of greenhouse gases in a way which—
- (a) supports environmentally and socially sustainable jobs,
- (b) supports low-carbon investment and infrastructure,
- 40 (c) develops and maintains social consensus through engagement with workers, trade unions, communities, non-governmental organisations, representatives of the interests of business and industry and such other persons as the Scottish Ministers consider appropriate,
- (d) creates decent, fair and high-value work in a way which does not negatively affect the current workforce and overall economy,

(e) contributes to resource efficient and sustainable economic approaches which help address inequality and poverty.

(2) The Scottish Ministers may by regulations modify subsection (1).”.

(2) In section 9(1) of the 2009 Act, after paragraph (c) insert—

“(d) any draft climate change plan laid before the Scottish Parliament under section 35A(1)(a) within the period of 12 months immediately preceding the making of the request.”.

Adaptation programmes

19A Programmes for adaptation to climate change

In section 53 of the 2009 Act, after subsection (2) insert—

“() In setting out their objectives under subsection (2)(a)(i), the Scottish Ministers must include an objective in relation to Scotland’s contribution to international climate change adaptation in line with international best practice.”.

19B Sustainable development

In section 92(1) of the 2009 Act, after “development” insert “, including the achievement of the United Nations sustainable development goals”.

19C Impact of infrastructure investment on emissions

After section 94 of the 2009 Act insert—

“94A Impact of infrastructure investment on emissions

(1) Subsection (2) applies where the Scottish Ministers publish an infrastructure investment plan.

(2) They must also publish an assessment of the extent to which investment in accordance with the plan is expected to contribute to the meeting of the emissions reduction targets.

(3) The assessment—

(a) may be set out—

(i) in the plan, or

(ii) in a separate document,

(b) if set out in a separate document, must be published at the same time as, or as soon as reasonably practicable after, the plan is published.

(4) In subsection (1), “infrastructure investment plan” means a plan prepared by the Scottish Ministers setting out their priorities for investing in, and strategy for the development of, public infrastructure.”.

PART 4

MINOR AND CONSEQUENTIAL MODIFICATIONS

20 Meaning of certain terms

(1) Section 98 of the 2009 Act is amended as follows.

(2) For the definition of “annual target”, substitute—

““annual target” has the meaning given by section 3(6),”.

(3) After the definition of “Committee” insert—

““current international carbon reporting practice” has the meaning given by section 19(2),”.

(4) After the definition of “emissions” insert—

““emissions reduction target” means—

(a) an annual target,

(b) an interim target, or

(d) the net-zero emissions target,”.

(4A) After the definition of “energy efficiency” insert—

““fair and safe Scottish emissions budget” has the meaning given by section 2B(2),”.

(5) In the definition of “international carbon reporting practice”, for “19” substitute “19(1)”.

(5A) After that definition insert—

““just transition principles” has the meaning given by section 35C(1),”

(6) After the definition of “net Scottish emissions account” insert—

““net-zero emissions target” has the meaning given by section A1(1),

“net-zero emissions target year” has the meaning given by section A1(2A),”.

(7) For the definition of “target year” substitute—

““target year” means a year for which an emissions reduction target has been set,”.

(8) After that definition insert—

““target-relevant international carbon reporting practice” has the meaning given by section 19(2),”.

(9) After the definition of “UK Committee on Climate Change” insert—

““United Nations sustainable development goals” means the goals set out in “Transforming our world: the 2030 Agenda for sustainable development” adopted by the General Assembly of the United Nations by resolution A/Res/70/1 of 25 September 2015,”.

21 Further consequentials: the 2009 Act

The schedule contains further modifications of the 2009 Act.

PART 5

FINAL PROVISIONS

*Definition and ancillary provision***22 Meaning of the 2009 Act**

5 In this Act, “the 2009 Act” means the Climate Change (Scotland) Act 2009.

23 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, in connection with or for giving full effect to this Act.

10 (2) Regulations under subsection (1) may—

- (a) modify any enactment (including this Act),
- (b) make different provision for different purposes.

(3) Regulations under subsection (1)—

- 15 (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
- (b) otherwise, are subject to the negative procedure.

*Commencement and short title***24 Commencement**

(1) This section and sections 22, 23, and 25 come into force on the day after Royal Assent.

20 (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

(3) Regulations under subsection (2) may—

- (a) include transitional, transitory or saving provision,
- (b) make different provision for different purposes.

25 Short title

25 The short title of this Act is the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

SCHEDULE
(introduced by section 21)

MODIFICATIONS OF THE 2009 ACT

1 The 2009 Act is amended as follows.

5 4 Sections 4 to 8 are repealed.

5 In section 9—

(a) in subsection (1)—

(i) the words “, beginning with the year 2011,” are repealed,

(ii) in paragraph (a), after “of”, insert “future emissions reduction targets,”,

10 (iii) in paragraph (a), sub-paragraphs (i) to (iii) are repealed,

(iv) in paragraph (b), for “annual targets, the interim target or the 2050 target”
substitute “future emissions reduction targets”, and

(v) in paragraph (c), for “annual targets, the interim target or the 2050 target”
substitute “the future emissions reduction targets”,

15 (b) in subsection (2)—

(i) for “a year for which an annual target has been set (a “target year””,
substitute “each target year”,

(ii) in paragraph (a), for “annual” substitute “emissions reduction”,

(iii) paragraph (b) is repealed, and

20 (iv) in paragraph (d), after “emissions” insert “of greenhouse gases”.

6 Sections 14, 21, 22 and 23 are repealed.

7 After section 20, insert—

“20A The relevant body

(1) In this Part, the “relevant body” means—

25 (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.

(2) In subsection (1)(a), the “UK Committee on Climate Change” means the
Committee on Climate Change established under section 32 of the 2008 Act.”.

30 8 In section 24(3)—

(a) in paragraph (a), for “5, 7” substitute “2C, 2D”, and

(b) in paragraph (b), for “27” substitute “30”.

9 In section 26—

(a) in subsection (1), for “27” substitute “30”, and

35 (b) in subsection (2), paragraph (a) is repealed.

10 The title of section 26 becomes “**Application of sections 30 to 32 and 56**”.

11 Sections 27 to 29 are repealed.

13 Before section 37, insert the following italic cross heading—

“Other reporting provisions”.

14 Sections 38 to 41 are repealed.

15 The Part title of Part 3 of the 2009 Act becomes “REPORTING AND PLANNING DUTIES”.

5 16 In section 96(6)(a), for “19(b)” substitute “19(1)(b)”.

17 In section 98—

(a) the definition of “domestic effort target” is repealed,

(aa) the definition of “the 2050 target” is repealed, and

(b) in the definition of—

10 (i) “net Scottish emissions”, for “has the meaning given by” substitute “is to be construed in accordance with”,

(ii) “relevant body”, for “5(7)” substitute “20A(1)”,

(iii) “target-setting criteria”, for “4(4)(b) to (j)” substitute “2B(1)”, and

(iv) “UK Committee on Climate Change”, for “5(8)” substitute “20A(2)”.

15 18 In section 100—

(a) in subsection (2), for “27” substitute “30”, and

(b) in subsection (3), for “27” substitute “30”.

Climate Change (Emissions Reduction Targets) (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to amend the Climate Change (Scotland) Act 2009 to make provision setting targets for the reduction of greenhouse gases emissions and to make provision about advice, plans and reports in relation to those targets, with the objective of Scotland contributing appropriately to the world's efforts to deliver on the Paris Agreement reached at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change.

Introduced by: Roseanna Cunningham
On: 23 May 2018
Bill type: Government Bill

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