



Proposed legislation to revise framework for emissions reduction targets

A briefing from Stop Climate Chaos Scotland
June 2024

Summary

It is expected that the Scottish Government will shortly introduce legislation to amend the current statutory framework for emissions reduction targets in Scotland. This follows [recent advice from the Climate Change Committee](#) (CCC) and it appears likely that the bill will alter the current annual and interim target to one of 5 yearly carbon budgets, as used by the UK and Welsh Governments.

This briefing reviews the background to these proposals and the context in which they are made. It highlights an approach that may enable the retention of Scotland's climate leadership ambitions, and in particular recommends that the Bill: -

- must not amend the 2045 target date for reaching net zero.
- must ensure that carbon budgets are set in accordance with (or are more stretching than) the Climate Change Committee's recommended pathway to net zero by 2045.
- should make provision for long-term, sectoral targets/pathways to 2045.
- should retain annual accountability mechanisms such as progress reports and statements to Parliament by Ministers.
- should retain international aviation and shipping in Scotland's climate targets.
- should not permit any carry forward mechanism.
- should require periodic reviews, by the CCC, of carbon budget levels.
- should require the next Climate Change Plan (CCP) to be produced as soon as possible after the first carbon budget has been set, and set out fully-costed proposals, and that this and subsequent plans should have a section comparing the Scottish carbon budgets and progress towards them against the previous interim targets (2030, 2040).
- should retain the just transition and international climate justice principles, as set out in the current legislation, and ensure they are applied to all climate change policy actions. In so doing, the Scottish Government should reconfirm its commitment to UNFCCC principles and international obligations.
- recognises the key international principle that the "polluter pays".

In addition, in parallel to any legislative change, it is absolutely essential to reinvigorate climate action across a range of policy areas - both to deliver emissions reductions but also their co-benefits such as warmer homes, cheaper energy, improved health and a more sustainable economy. It is imperative that the Scottish Government proceeds, as soon as possible with its planned Heat in Buildings Bill (as praised by the CCC). In addition, more actions are needed in the areas of transport, buildings, agriculture, land use and waste.

Introduction

On 20 March 2024, the Climate Change Committee (CCC) published its latest, 2023, [Report to Parliament on Progress in Reducing Emissions in Scotland](#). The key conclusions of the report were:

- Scotland's annual target was missed again, underlining that the annual target has now been missed in eight of the past twelve years; and
- The acceleration required in emissions reduction to meet the 2030 target is now beyond what is credible.

In [the Scottish Government's response](#) (made on 18 April 2024), the Cabinet Secretary said:

"The Scottish Government will bring forward expedited legislation to address matters raised by the CCC and ensure our legislative framework better reflects the reality of long-term climate policymaking. The narrowly drawn Bill will retain our legal commitment to 2045 alongside annual reporting on progress, whilst introducing a target approach based on five-yearly carbon budgets."



When such a bill is introduced, this paper seeks to set out what (in the circumstances) SCCS considers it should (and shouldn't!) include.

Context

The circumstances giving rise to the need for this legislation are deeply unfortunate and, as SCCS and many others would argue, have arisen due to inadequate delivery by the Scottish Government and others. The CCC report sets out the current situation very well. In addition to the issues above, relating to targets, the report also highlights that:

- **Current overall policies and plans in Scotland fall far short of what is needed to achieve the legal targets under the Scottish Climate Change Act.** The CCC identifies risks in all devolved policy areas - transport, buildings, agriculture, land use and waste. The CCC did welcome policy actions and proposals related to heating but sought a clearer timeline for the Heat in Buildings Bill.
- **The Scottish Government has delayed its draft Climate Change Plan.** A draft CCP was, previously, expected in November 2023 but has been delayed. Scotland is therefore lacking a comprehensive strategy that outlines the actions and policies required to achieve the 2030 target.
- **Most key indicators of delivery progress are off track**, with tree planting and peatland restoration rates, heat pump installations and community energy, electric van sales and recycling rates significantly so.

It is important, therefore, that the Scottish Government should acknowledge why “we are where we are”. While the recent changes to UK Government policy and the overall fiscal challenges (largely a consequence of UK Government policy) are undoubtedly a part of this explanation, they are not the only reasons. It must therefore be fully recognised that delays to and inadequate delivery of Scottish Government policies have been a major contributory factor. For instance, following the Heat in Buildings strategy it was three years before the consultation on proposed legislation (which, itself, is yet to be introduced) and following its announcement three years ago, the route map for a 20% reduction in car-km is yet to be published.

Thus, as well as measures to address the legislative challenge, it is vital that parallel steps are taken to significantly improve delivery in devolved areas. For instance, it is imperative that the Scottish Government proceeds, as soon as possible with its planned Heat in Buildings Bill (as praised by the CCC). In addition, more actions are needed in the areas of transport, buildings, agriculture, land use and waste.

The need for such actions was, in principle, recognised by the Cabinet Secretary in her statement of 18 April 2024, which included a range of policy measures. Unfortunately, [analysis of the measures announced](#) indicates that they lack ambition and much additional effort is needed to get anywhere near to delivering the emission reductions needed.

Legislative proposals – general approach

While the existing legal constraints are understood, SCCS has significant concerns about the Climate Change (Scotland) Act 2009, as amended, being reopened. Such a move entails inherent risks that fundamental legislative requirements will be re-examined and questioned, creating unnecessary distraction from the efforts required to deliver emissions reductions (see above). The Parliamentary time taken to consult, scrutinise and debate legislative changes would be far better spent on agreeing a comprehensive suite of policies that accelerate emissions reductions across the economy before 2030.

However, should it be deemed by the Scottish Government to be absolutely necessary, any changes to the legislation must be **focused and forensic** so as to clearly address the current legislative constraint – and done so in a way that prevents any further or wider unnecessary changes that risk diluting Scotland’s legislative framework and see us being even further off track from the emissions reductions needed. It is essential that the Scottish Government provides robust rationales for any such forensic amendments it proposes to make. In particular, it is important that the overall ambition, the annual reporting and scrutiny, the expert advice provided by the CCC, and the just transition and international climate justice principles are retained in full. Any move to remove these elements would undermine the Scottish Government’s ability to retain the confidence of the climate movement in



Scotland. In addition, any perceived backing away from commitments to achieve net zero by 2045 (or making the final stages of the trajectory more difficult by delays to early action) would result in significant reputational damage for Scotland. This is especially the case given the statements made at COP26 and elsewhere on reducing emissions as a contribution to climate justice for poorer countries facing mounting losses and damages.

In particular, SCCS will wish to see, in the legislation or alongside it, a recommitment from the Scottish Government to the UNFCCC principles and international obligations. This would mean that the budget-setting process established by the Bill must demonstrate an intent to drive up climate ambition in such a way that achieving "stretch targets" is still pursued, mirroring the "ratchet mechanism" of the Paris Agreement which pursues exponential national contributions to global climate efforts over time, and recognises Scotland's historic contribution to the climate crisis.

Legislative proposals – specific content

1. **The bill MUST NOT amend the 2045 target date for net zero.** Any altering of overall ambition or delaying the target of net zero by 2045 would be unacceptable. The CCC continues to advise that a credible pathway to 2045 is available. To its credit, a continued commitment to net zero by 2045 formed part of the Cabinet Secretary's statement of 18 April 2024. However, in the context of re-opening the 2009 Act, as amended, this principle must be restated.
2. In legislating for a switch to carbon budgets, there should be a **requirement that the Scottish Government set those budgets (and ambition for 2030 and 2040) in accordance with the Climate Change Committee's recommended pathway to net zero by 2045, as a minimum.** However, provision must also be made to permit Scottish Ministers, should they wish and consider it achievable, to be more ambitious - that is, to adopt a more stretching pathway to 2045 or to seek to achieve net zero before 2045. The bill should also retain a "s.36 type provision" to require Scottish Ministers to report on action being taken should the budgets not be met. In addition, it should be clear that the budgets are legally-binding, as per the previous targets, and that the Scottish Government is retaining [its commitment](#) that the emissions reductions to be achieved on this pathway will be met "through domestic action alone, without any use of international offset credits".
3. **Consideration should be given to setting (or providing for the setting) of sectoral targets,** especially for the period beyond 2030. Thus, for instance the existing targets for community and local energy should be extended to 2045, and the proposed targets for heat in buildings referenced. Other sectoral pathways should also be set out - such as for agriculture and land use, where the rural support plan (currently in preparation) might be seen as a sectoral plan and have an associated carbon budget. Such an approach offers greater certainty and clarity to stakeholders in each sector, but should not rule out interchange between sectors or ambition to exceed sectoral targets.
4. **The Bill should retain annual accountability mechanisms** such as progress reports and statements to Parliament by Ministers. This needs to include a continuation of the CCC's annual Progress Reports to Parliament - and similar annual responses by Government as to the actions being taken to address any recommendations. The reports and responses should also include an assessment of the steps taken to ensure that emissions reductions are fair (that is, socially equitable) as well as the co-benefits (including warmer homes, cheaper energy, improved health and a more sustainable economy) secured. A [recent review of cases](#) relating to delivery of climate policies has highlighted the importance of a rigorous and transparent approach to data monitoring, reporting, scrutiny, and the regular assessment of progress.
5. **The Bill should retain international aviation and shipping in Scotland's climate targets.**
6. **The Bill should not permit any carry forward mechanism:** a carry forward mechanism (by which over-performance in one budget can be 'carried forward' to count towards the next) must not form part of Scotland's new legislation. While such a mechanism does exist within the UK carbon budget system, the UK Government has recently decided not to use it – and the CCC has advised that such mechanisms are unnecessary.



7. **The Bill should require periodic reviews, by the CCC, of carbon budget levels.** These would enable tightening when external factors (e.g. recession, inventory changes) rather than policy action have made them easier to meet. Notwithstanding the revision of the overall framework, **the next and subsequent CCPs should have a section comparing the Scottish carbon budgets and progress towards them against the previous interim targets (2030, 2040)** to serve as a reminder of Scotland's previous global promise and to quantify the additional emissions resulting from a lower ambition pathway.
8. **The Bill should require the next Climate Change Plan (CCP) to be produced as soon as possible after the first carbon budget has been set** – and this plan must set out costed policies and proposals that will ensure that emissions are reduced in line with that budget, as a minimum.
9. **The Bill should retain the just transition and international climate justice principles**, as set out in the current legislation, and ensure they are applied to all climate change policy actions. Key international commitments that should be explicit include the Paris Agreement target to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels” and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.” There should also be recognition of the concept of [common but differentiated responsibilities and respective capabilities](#), as enshrined in the UNFCCC, which highlights that Annex I countries (such as Scotland and the UK) have a greater mitigation role than others.
10. In addition to those already in the 2009 Act as amended, **one key international principle that could be included in the new legislation, and embedded in future policies, is the "polluter pays principle"**. This would recognise the need to fairly finance climate change policies and protect those on low incomes from disproportionate costs, so as to ensure the social equity of costs and benefits.

If these features are not met by the proposed legislation, this would represent a significant rolling back of Scotland's climate ambition and action, and thus a serious concern for Scotland's international credibility as a climate leader, international reputation and influence (so-called 'soft power'). This would mean we do not deliver our fair share of action, betraying communities in the Global South and meaning people in Scotland miss out on the benefits of a just transition.

Conclusion

It is expected that the Scottish Government will shortly introduce legislation to amend the current statutory framework for emissions reduction targets in Scotland. This follows recent advice from the Climate Change Committee and it is likely that the bill will alter the current annual and interim targets to one of 5 yearly carbon budgets, as used by the UK and Welsh Governments.

This briefing has reviewed the background to these proposals and the context in which they are made. It highlights an approach that might be acceptable to the Stop Climate Chaos Scotland coalition – and makes ten specific recommendations as to what the Bill should (or shouldn't) include.