

**THE HIGHLAND COUNCIL**  
**CLIMATE CHANGE WORKING GROUP**  
**10th September 2009**

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| Agenda Item | 4         |
| Report No   | CCWG 8/09 |

**CLIMATE CHANGE (SCOTLAND) ACT 2009**

**Report by Head of Policy and Performance**

**Summary**

This report outlines key targets, timeframes and provisions associated with the Climate Change (Scotland) Act 2009 which received Royal Assent on 4 August 2009.

**1. INTRODUCTION**

- 1.1 The progress of the Scottish Climate Change Bill through the Parliamentary scrutiny and amendment process has been a regularly reported item at meetings of the Climate Change Working Group.
- 1.2 On 4 August 2009 the Scottish Climate Change Bill was granted Royal Assent making the Bill an Act of Parliament.
- 1.3 The Act is a key commitment of the Scottish Government and establishes the initial framework towards reducing greenhouse gas emissions in Scotland and the transition to a low carbon economy on a legislative basis. As previously reported to this Working Group and other Committees the Act will have significant implications on both the Council's own target setting and emission reduction procedures but also the forecasting and allowance purchasing elements of such initiatives as the CRC scheme separately reported on today's agenda.
- 1.4 The full text of the Act is available on the Office of Public Sector Information website<sup>1</sup>. The actual detail on abatement measures and how they will be delivered in practice will be provided in the form of subsequent secondary legislation and Governmental Plans. Some of these key documents and timeframes are outlined in Appendix 1. However the headline provisions of the Act, as it stands, are as follows.

**2. TARGETS**

**2.1 The 2050 Target**

- 2.1.1 Part 1 of the Act formally creates the long-term statutory framework for greenhouse gas emission reduction in Scotland. Section 1(1) of the legislation introduces the statutory target for Scottish Ministers to ensure Scotland's net emissions reduce by at least 80% by 2050 lower than the 1990 baseline.
- 2.1.2 As previously reported to the working group the term 'emissions' covers the basket of six greenhouse gases recognised by the United Nations Framework Convention on Climate Change (carbon dioxide; methane; nitrous oxide; hydrofluorocarbons; perfluorocarbons and sulphur hexafluoride) and includes Scotland's share of emissions from international aviation and shipping.

<sup>1</sup> <http://www.opsi.gov.uk/legislation/scotland/s-acts2009a>

## 2.2 The Interim Target

- 2.2.1 In addition to the 2050 target Section 2(1) of the legislation states “The Scottish Ministers must ensure that the net Scottish emissions account for the year 2020 is at least 42% lower than the baseline”. This is to be known as the ‘Interim Target’.
- 2.2.2 This interim target of at least 42% emissions reduction by 2020 is higher than the UK government stated aim of curbing greenhouse gas emissions by 34% by 2020 although the Act also contains provisions for the Scottish Ministers to vary targets following expert advice from such a body as the UK Committee on Climate Change, which will be ‘the relevant body’ in the absence of any formally established Scottish equivalent.
- 2.2.3 Under Section 2(4) the Scottish Ministers must, as soon as reasonably practicable request advice from the relevant body as to whether the percentage figure is the highest achievable interim target; and if not, what the highest achievable interim target is. This advice must be published by the Scottish Ministers no later than 31 December 2009 or, if the advice is not published by that date, as soon as reasonably practicable afterwards<sup>2</sup>.

## 2.2 Annual Targets

- 2.2.1 Under section 3 of the legislation progress towards the 2050 and interim targets will be driven by a framework of annual targets consistent with a reduction of net Scottish emissions to allow the interim and 2050 targets to be met. Ministers must set the first batch of annual targets by order, covering 2010-2022, by June 1, 2010 and annual targets to cover 2023-2027 must be set by October 31, 2011 with further batches set every five years by 31 October thereafter (see Appendix 1). Again in setting such targets Scottish Ministers must take advice from the relevant body as mentioned above.

## 3. PUBLIC SECTOR DUTIES

- 3.1 Part 4 of the legislation largely refers to duties of public bodies relating to climate change.
- 3.2 **“A public body must, in exercising its functions, act in the way best calculated to contribute to the delivery of the targets set in... this Act.”<sup>3</sup>**

Section 44 of the Act places three climate change duties on a wide range of public bodies in Scotland and contains powers to enable the Scottish Ministers, by order, to create further duties. The current duties on the face of the Act require that a public body must, in exercising its functions, act:

- in the way best calculated to contribute to the emissions reduction targets;
- in the way best calculated to deliver any statutory adaptation programme; and
- in a way that it considers most sustainable.

- 3.3 Sections 65 and 72 of the Act also impose duties relevant to local authorities to establish appropriate energy efficiency discount schemes and to include emission policies in local development plans. These are further explored in section 5.1.1 of this report below.

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<sup>2</sup> Section 2(6)

<sup>3</sup> Part 4, Section 44(1) *Climate Change (Scotland) Act 2009*

- 3.4 The Scottish Government intends to consult on draft statutory guidance to relevant public bodies in relation to climate change duties and this is provisionally timetabled for around June 2010. The Highland Council would be viewed to be working towards such duties presently through the work of the Climate Change Working Group and associated initiatives designed to reduce emissions and build resilience to a changing climate. Such initiatives include:
- Work towards a Highland climate change strategy;
  - Implementation of Energy Management and Carbon Management Plans;
  - Participation in Scotland's Climate Change Declaration reporting framework;
  - Ongoing work with the Carbon Trust;
  - Ongoing Adaptation work with services, communities and partners;
  - Participation in the Carbon Reduction Commitment (CRC) scheme;
  - Leading the Single Outcome Agreement process.
- 3.5 Furthermore, as noted on this meeting's agenda, The Highland Council has been asked by the Convention of the Highlands and Islands Secretariat, as a key Convention member, to prepare a paper on climate change issues and priorities and present this as a joint lead with the Scottish Government Climate Change Division, who will be presenting on the policy position and the Climate Change legislation, for the next meeting of the group in October. This could present a further opportunity to determine duties required of public bodies.

## 4 REPORTING

- 4.1 Part 3 of the Act places duties on the Scottish Ministers requiring that they report regularly to the Scottish Parliament on Scotland's emissions and on the progress being made towards meeting the emissions reduction targets in the Act. Some of the monitoring and reporting requirements contained in part three and elsewhere include:
- 4.2 *Reports on Annual Targets*
- 4.2.1 For each year in the period 2010-2050, Ministers must provide Parliament with a report on annual targets, no later than October 31 in the second year after the target year. The report must state whether the annual target for the year has been met and if not it must explain why. Section 34 of the Act includes a list of additional information the report must also contain, including carbon units purchased, electricity generation and more.
- 4.3 *Reports on Policies And Proposals for Meeting Annual Targets*
- 4.3.1 In June 2009 *Scotland's Climate Change Delivery Plan*<sup>4</sup> was published which set out, at a high level, key sectors for abatement including electricity, heat, transport, rural land use and waste and abatement options available to meet the statutory targets set by the Act. However Section 35 of the Act makes provision for much more detailed reporting on abatement measures and how they will be delivered in practice. After setting each batch of annual targets, Ministers must produce a report setting out proposals and policies for meeting those targets, and describing how they contribute to the interim and 2050 targets. The first of these reports is due in late 2010.

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<sup>4</sup> <http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action/EmissionsReductions>

#### 4.4 *Reports on emissions attributable to Scottish consumption*

- 4.4.1 This report, due for each year in the period 2010-2050 under section 37, must set out the 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 during that year. The Climate Change (Scotland) Act is the only legislation which requires that this kind of reporting be carried out on a statutory basis. This step ensures that production-based and consumption-based emissions are considered together.

### 5. **OTHER PROVISIONS**

#### 5.1 **Further Promoting Emission Reduction and Adaptation Practice**

- 5.1.1 Part 5 of the Act contains various other provisions on climate change. In addition to provisions in favour of and promoting practice reducing greenhouse gas emissions and renewable installation, alteration or replacement work in different categories of property some of the key features include:
- Requiring Scottish Ministers to lay before Parliament and subsequently report on Programmes for adaptation to climate change (s.53);
  - Requiring Scottish Ministers to produce a land use strategy no later than 31 March 2011 (s.57);
  - Requiring Scottish Ministers to publish plans for promoting energy efficiency and renewable heat no later than 12 months after commencement of the sections (60 and 61);
  - Requiring Scottish Ministers, by order, to (a) make provision for the assessment of (i) energy performance and (ii) emissions of domestic and non-domestic accommodation, and (b) require owners to take appropriate steps (Sections 63 and 64);
  - Imposing a duty on local authorities to establish as the local authority considers appropriate energy efficiency discount schemes in respect of council tax where improvements are made to the energy efficiency of chargeable dwellings and certain conditions are met (Section 65);
  - Requiring Scottish Ministers as soon as practicable after 31 March 2012 and annually thereafter to report on the operation of such energy efficiency discount schemes (Section 66);
  - Requiring planning authorities in any local development plan prepared by them to include policies requiring all developments include greenhouse gas emission policies (Section 72) and that Scottish Ministers report on the operation of this requirement one year after the Section's commencement and annually thereafter<sup>5</sup>;
  - Permitting Scottish Ministers, if required, to introduce regulations to promote and provide information on waste minimisation and recycling (Sections 78-82), to set targets for the reduction of packaging (s.83), establish deposit and return schemes (s.84) and provide for changing for supply of carrier bags (s.88).

#### 5.2. **Public Engagement**

- 5.2.1 Under Part 6, section 91 of the Act Scottish Ministers must prepare and publish a strategy (a "public engagement strategy") setting out the steps they intend to take to inform persons in Scotland about the targets specified by virtue of this Act;

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<sup>5</sup> Section 73

encourage them to contribute to the achievement of those targets and identify actions which persons in Scotland may take to contribute to the achievement of the targets. Section 91(3) states this must be published no later than 31 December 2010.

### **5.3 Carbon Assessment of Financial Proposals**

5.3.1 Furthermore, section 94 requires Scottish Ministers 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, to also present a document describing the direct and indirect impact on greenhouse gas emissions of the activities to be funded by virtue of the proposals.

5.3.2 The intention to develop a carbon assessment tool to be applied across all Government spending in Scotland was first announced by the Cabinet Secretary for Finance and Sustainable Growth in his January 2008 Budget speech. The Scottish Government is currently working on a carbon assessment to be delivered alongside the draft budget for 2010-11, in September 2009. The Climate Change (Scotland) Act sets this requirement on a statutory basis.

## **6. RESOURCE AND OTHER IMPLICATIONS**

6.1 As noted above the Act establishes the initial framework towards reducing greenhouse gas emissions in Scotland and the transition to a low carbon economy on a legislative basis and the actual detail on abatement measures and how they will be delivered in practice will be provided in the form of subsequent secondary legislation and Governmental Plans.

6.2 Several of the duties contained in the Act are imposed on Scottish Ministers, although the Act contains powers to enable the Scottish Ministers, by order, to create further duties for public bodies. As noted in section 3.4 The Highland Council is already progressing against those currently contained in Part 4 of the Act in the absence of draft statutory guidance on relevant duties provisionally expected June 2010.

6.3 However in the bigger picture of Scottish Climate Change Act targets for a reduction of 42% by 2020 means that the current pace of change in the Council will be insufficient to meet our anticipated local and the national targets.

6.4 The legislative, environmental and financial drivers to reduce carbon emissions from the Council's operations require greater priority to be afforded to carbon reduction projects and initiatives within the capital programme in both the short and longer term.

6.5 Members are asked to note that this new legislation and any associated regulations will mean that carbon reduction projects will require increased prioritisation within the Council's current and future capital programme. Plans to meet new carbon reduction targets will be developed through this Working Group and brought back to future meetings of the Resources Committee and full Council.

## **6. RECOMMENDATION**

Members are asked to **note and comment** on the key elements of the legislation as outlined.

Signature:

Designation: Head of Policy and Performance

Date: 19<sup>th</sup> August 2009

Author(s): Noel McAllister, Policy Assistant

## Climate Change (Scotland) Act 2009 - Key Plans, Proposals and Timeframes

| TITLE / DESCRIPTION   | Required by / Expected                           |
|---|--|
| <b><u>Guidance</u></b>  |  |
| Consultation on Draft Statutory Guidance on Public Body Duties                                  | June 2010  |
| <b><u>Public Engagement</u></b>   |  |
| Scottish Government Public Engagement Strategy  | 31 December 2010                                 |
| <b><u>Targets</u></b>   |  |
| Published advice from relevant body on Interim Target   | 31 December 2009                                 |
| Annual Emission Targets for the period 2010-2022  | 1 June 2010                                      |
| Annual Emission Targets for the period 2023-2027  | 31 October 2011                                  |
| Annual Emission Targets for the period 2028-2032  | 31 October 2016                                  |
| Annual Emission Targets for the period 2033-2037  | 31 October 2021                                  |
| Annual Emission Targets for the period 2038-2042  | 31 October 2026                                  |
| Annual Emission Targets for the period 2043-2047  | 31 October 2031                                  |
| Annual Emission Targets for the period 2048-2050  | 31 October 2036                                  |
| Detailed Report on Policies and Proposals for Meeting Annual Targets                            | Summer 2010 and after each batch set.            |
| Annual Reporting on Targets 2010-2050   | 31 October in year after target                  |
| <b><u>Other Provisions</u></b>  |  |
| Carbon Assessment of Draft Budget 2010-11   | September 2009                                   |
| Scotland's Climate Change Adaptation Framework  | December 2009                                    |
| Rural Land Use Study  | Late 2009  |
| Land Use Strategy   | By 31 March 2011                                 |
| Scottish Government Plans for Promoting Energy Efficiency and Renewable Heat                    | By August 2010                                   |
| National Waste Management Plan  | 2010   |
| Requirement for Scottish Ministers to report on operation of energy efficiency discount schemes | ASAP after 31 March 2012 and annually thereafter |