



The Scottish Parliament  
Pàrlamaid na h-Alba

## Delegated Powers and Law Reform Committee

Gillian Martin MSP  
Acting Cabinet Secretary for Net Zero and Energy  
The Scottish Government

**10 September 2024**

Dear Gillian,

### **Climate Change (Emissions Reduction Targets) (Scotland) Bill**

The Delegated Powers and Law Reform Committee considered the above Bill at its meeting today. I agreed to ask the following questions:

#### **Approach to Delegated Powers in the Bill**

The Committee questioned the general approach chosen by the Scottish Government in relation to delegated powers in the Bill, beyond the information as set out in the [Delegated Powers Memorandum](#).

The Committee noted that while delegated powers may allow for changes to be made expediently when compared to primary legislation, there is an inevitable trade-off with the level of Parliamentary scrutiny available for MSPs and stakeholders. The Committee noted, for example, that while Section 1, inserted section A2 sets out what “Scottish carbon budgets” and associated concepts mean, these can be set by regulations. The Committee contrasted this with the setting of financial budgets, which happens on an annual basis, following the Parliament’s standard three-stage scrutiny process.

**As such, it asks what further information the Scottish Government can set out to explain its decision to use regulation-making powers for setting such highly significant policy choices, which are key to the purpose of the Bill, rather than taking an approach of using primary legislation?**

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

Email [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot) We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

## **Specific questions on individual powers**

The committee had two questions in relation to **Section 1, inserted section A4: Budget-setting regulations.**

New section A4, which would be inserted by this Bill into the Climate Change (Scotland) Act 2009 (“the 2009 Act”), deals with the setting of Scottish carbon budgets by regulations. It requires that Scottish Ministers must, by regulations, set Scottish carbon budgets so that every year between 2026 and the net-zero emissions target year is covered by a budget. The net-zero emissions target year is currently set at 2045 by the 2009 Act. It also requires that the Scottish Ministers have regard to the target-setting criteria, which have been established by the Parliament, and expert advice from the Climate Change Committee.

The Committee noted that while new section A4 is framed in such a way that Scottish Ministers “must” exercise the power, there is no further requirement as to the timing of the exercise of the power.

**Consequently, it agreed to ask whether the Scottish Government had considered setting a deadline by which such regulations establishing Scottish carbon budgets must be laid before the Parliament, for example by reference to a timescale following the delivery of advice from the Climate Change Committee.**

The Committee also noted that the 2009 Act includes provision, in section 97, for a “pre-laying procedure” to apply when certain powers are exercised.

The “pre-laying procedure” requires that the Scottish Ministers must lay a copy of the proposed regulations, and a statement setting out their reasons for proposing to make those regulations, before laying the draft regulations before the Parliament. There must be a representation period of at least 90 days during which representations on the proposed regulations may be made to the Scottish Ministers.

**The Committee agreed to ask the Scottish Government whether any consideration has been given to applying an enhanced procedure to the regulation making power, to allow Members an opportunity to make representations on proposed regulations before the draft regulations are laid.**

## **Response and next steps**

The Committee understands that the timetable for this Bill is still under discussion. **If timings allow, the Committee would like to hear from you at its next meeting (Tuesday 17 September) to discuss the delegated powers in this Bill further.**

The Committee also requests a response, copied to the Parliament’s Net Zero Energy and Transport Committee, by **5pm on Thursday 12 September.**

Yours sincerely,

**Stuart McMillan MSP**  
**Convener**