

Report on the Climate Change (Wales) Regulations 2021

March 2021

Overview

This is the second set of climate change regulations made under Part 2 of the Environment (Wales) Act 2016 that we have reported on. In our report on the first set of regulations, the Climate Change (Wales) Regulations 2018, we expressed disappointment that the preferred target of a 80% reduction of emissions by 2050 was not sufficient to meet the aims of the Paris Agreement. The Climate Change (Wales) Regulations 2021 rectify this, introducing a target to achieve net zero emissions by 2050.

The net zero target, along with the other changes set out in the 2021 Regulations, give effect to the Climate Change Committee's latest recommendations. We endorse those recommendations, and therefore, support the 2021 Regulations.

The 2021 Regulations form part of the wider statutory framework for the reduction of emissions in Wales, set out in Part 2 of the Act. Our work on climate change during the Fifth Senedd, including scrutiny of the 2018 and 2021 Regulations, has highlighted key weaknesses within the existing framework. This report touches on how these weaknesses can be addressed. However, we believe there is a more substantive piece of work to do to review Part 2 of the Act, with a view to introducing more rigorous scrutiny procedures, improving transparency and strengthening accountability arrangements. We intend to include this in our Legacy Report for our successor committee in the Sixth Senedd to consider.



1. Introduction

1. On 9 February, the Welsh Government laid the following regulations (collectively referred to as ‘the Climate Change (Wales) Regulations 2021’) before the Senedd:

- [The Environment \(Wales\) Act 2016 \(Amendment of 2050 Emissions Target\) Regulations 2021](#);
- [The Climate Change \(Interim Emissions Targets\) \(Wales\) \(Amendment\) Regulations 2021](#);
- [The Climate Change \(Carbon Budgets\) \(Wales\) \(Amendment\) Regulations 2021](#); and
- [The Climate Change \(Net Welsh Emissions Account Credit Limit\) \(Wales\) Regulations 2021](#).

2. In summary, these Regulations amend the existing 2050 emissions reduction target, the interim targets for 2030 and 2040, and Carbon Budget 2 (2021-25). They also set Carbon Budget 3 (2026-30) and the offset limit for Carbon Budget 2.

Our approach

3. On 10 February, the Committee wrote to the Minister for Environment, Energy and Rural Affairs (the Minister) to notify her that, in accordance with Standing Order 27.8, it would be reporting on the Climate Change (Wales) Regulations 2021 (‘the 2021 Regulations’).

4. On 25 February, the Committee took evidence from the Committee on Climate Change (‘CCC’), Friends of the Earth Cymru and WWF Cymru on progress made by the Welsh Government in the Fifth Senedd in tackling climate change, including the 2021 Regulations.

2. Background

5. Part 2 of the Environment (Wales) Act 2016 (the Act) places duties on the Welsh Government to reduce emissions of greenhouse gases, including a requirement to ensure that net emissions for 2050 are at least 80% lower than the baseline.¹

6. The Act places several duties on Welsh Ministers to ensure the 2050 target is met. These include:

- Setting interim emissions targets for 2020, 2030 and 2040;
- For each five year budgetary period the Welsh Government must set a maximum total amount for net Welsh emissions (described as a carbon budget); and
- The Welsh Government must take into account international agreements to limit increases in global average temperatures.

Role of Climate Change Committee ('CCC')

7. The CCC provides advice to the Welsh Ministers on their climate change obligations as set out in the Act. The Welsh Ministers must take into account the CCC's advice when making climate change regulations under the Act.

The Climate Change (Wales) Regulations 2018

8. The Climate Change (Wales) Regulations 2018² (hereafter referred to as 'the 2018 Regulations') established a system of interim emissions targets and carbon budgeting to create an emissions reduction trajectory towards the 2050 target. They also set out how the Welsh Ministers can utilise international carbon credits

¹ The baseline is defined in Section 38 of the Act as "the aggregate amount of net Welsh emissions of greenhouse gases for the baseline years". The baseline year for each greenhouse gas is— (a) carbon dioxide: 1990; (b) methane: 1990; (c) nitrous oxide: 1990; (d) hydrofluorocarbons: 1995; (e) perfluorocarbons: 1995; (f) sulphur hexafluoride: 1995; (g) nitrogen trifluoride: 1995.

² The Climate Change (Wales) Regulations 2018 is a collective term for the following: The Climate Change (Interim Emissions Targets) (Wales) Regulations 2018; The Climate Change (Carbon Budgets) (Wales) Regulations 2018; The Climate Change (International Aviation and International Shipping) (Wales) Regulations 2018; The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2018; and The Carbon Accounting (Wales) Regulations 2018

and set the credit (“offset”) limit for Carbon Budget 1 (CB1, 2016-20). Finally, they provided for how emissions from international shipping and internal aviation would be dealt with in calculating emissions.

9. The Act prevents the Welsh Ministers from making regulations changing the 2050 emissions target, an interim emissions target or a carbon budget unless at least one of the following conditions is met:

- They are satisfied that it is appropriate to make the change as a result of significant developments in scientific knowledge about climate change, or EU or international law or policy relating to climate change;
- The change has been recommended by the CCC; and
- The change is in connection with provision made under section 35(1) or 37(2).³

Developments since the 2018 Regulations

10. In May 2019, following a request from the Governments of the UK to reassess the UK’s long-term emissions target, the CCC published Net Zero – the UK’s contribution to global warming. It recommended that the UK should introduce a target to achieve net zero emissions by 2050. For Wales, it recommended a 95% reduction in emissions.

11. In June 2019, the Welsh Government declared a climate emergency and, in line with the CCC’s recommendation, committed to reduce emissions by at least 95% by 2050, with an ambition to achieve net zero by 2050. The Welsh Government signaled its intention to bring forward regulations to amend the existing 2050 target, interim targets and carbon budgets as necessary.

12. In December 2020, the CCC published its Progress Report: Reducing Emissions in Wales. The report sets out progress towards Wales’ existing targets using the latest available emissions data (for 2018), with a focus on trends in emissions across Wales’ first carbon budget period from 2016 to 2020.

13. According to the report, emissions in Wales have fallen by 31% since 1990. In the first two years of Wales’ first carbon budget period (2016 to 2018) emissions fell by 20%, almost entirely due to reductions in the power sector. The report states

³ Section 35(1) relates to emissions from international aviation and international shipping. Section 37(2) relates to the definition of ‘greenhouse gas’.

that Wales is currently on track to meet its 2020 target and its first carbon budget, as long as emissions do not increase in 2019 and 2020.

14. The report explains the Welsh Government has made significant policy improvements since 2017. However, it highlights the lack of a cohesive, economy wide strategy for 2050 at both the UK and Welsh Government level, which means Wales is not currently on track for the 80% target.

15. Alongside its Progress Report, the CCC published its Advice Report on **The path to a Net Zero Wales**. It makes a number of recommendations on Wales' climate targets, including setting a net zero emissions target for 2050 and a tightening of future carbon budgets and interim targets. The Climate Change (Wales) 2021 Regulations give effect to these recommendations.

3. The Climate Change (Wales) Regulations 2021

A net zero target for Wales

16. In its December 2020 Advice Report, the CCC recommends that Wales legislates for a net zero target as soon as possible. According to the CCC, analysis shows that a net zero target “is clearly feasible, provided effective policies are introduced across the economy without delay”.

17. The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021 increase the current 2050 target of 80% lower than the baseline to at least 100% ('net zero'). This gives effect to the CCC's recommendation.

Interim emissions targets

18. The existing statutory interim emissions targets are as follows:

- A 2020 target for an emissions reduction of 27% against the baseline;
- A 2030 target for an emissions reduction of 45% against the baseline; and
- A 2040 target for an emissions reduction of 67% against the baseline.

19. In its December 2020 Advice Report, the CCC recommends amending the 2030 and 2040 targets to 63% and 89% respectively. The Climate Change (Interim Emissions Targets) (Wales) (Amendment) Regulations 2021 give effect to this.

Carbon budgets

20. A carbon budget sets a maximum limit on the total amount of Welsh emissions permitted over a 5-year budget period. Each carbon budget must be set at a level consistent with meeting the 2050 emissions target and the interim emissions target for any interim target year that falls within or after that budgetary period.

21. Existing Carbon Budget 1 (2016-20) is set at 23% below the baseline, and Carbon Budget 2 (2021-2025) at 33%.

22. According to the CCC, Carbon Budget 2 should be “tightened to a 37% reduction compared to 1990 levels as an absolute minimum to account for the

early closure of Aberthaw power station.” It also recommends Carbon Budget 3 (2026-2030) should be set at an average 58% reduction compared to 1990 levels.

23. The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021 amends Carbon Budget 2 and sets Carbon 3, in line with the CCC’s recommendations.

Net Welsh Emissions Account Credit Limit

24. The Act provides that the net Welsh emissions account for a period is the amount of net Welsh emissions of greenhouse gases plus any carbon units debited from the account, and minus any carbon units credited to the account during the period.

25. The Act requires the Welsh Ministers to set a limit on the amount of carbon units that may be credited for a budgetary period. This is known as the offset limit.

26. In providing advice on the offset limit, the CCC states:

“As our recommendation is to amend the level of the Second Carbon Budget to a level that will likely need to be outperformed in order to get on track to meeting the Third Carbon Budget and the 2030 target, it is not appropriate to meet the Second Carbon Budget with any use of carbon units. We recommend there is no allowance of carbon units to contribute to meeting this carbon budget.”

27. The Climate Change (Net Welsh Emissions Account Credit Limit) (Wales) Regulations 2021 set an offset limit for the budgetary period 2021-2025 of 0% of the carbon budget. This is in line with the CCC’s recommendation.

Our view

Scrutiny procedure and timeline

This is the second set of climate change regulations made under Part 2 of the Act that the Committee has reported on. In our report on the first set of regulations, and more recently, our Annual Report on Climate Change 2019-20, we recommended that any future regulations be published in draft and consulted on to facilitate Senedd and external scrutiny. The Welsh Government rejected this on the basis that its approach to regulation making meets the requirements of the Act. While the Act does not include a requirement to consult, it in no way prevents the Welsh Government from doing so.

Given the above, and our repeated representations on this matter, we are disappointed the Welsh Government chose not to consult on the 2021 Regulations.

The need for more ambitious targets and carbon budgets

The 2021 Regulations set more ambitious emissions reduction targets and tighter carbon budgets for Wales, giving effect to the CCC's latest recommendations. We endorse those recommendations, and therefore, support the 2021 Regulations.

For some commentators, a net zero target for Wales is already overdue. The new target brings Wales in line with the other UK nations, which we welcome. This is particularly timely as the UK prepares to host the UN Climate Change Conference of the Parties (COP26) in November.

We acknowledge the view expressed by representatives of the environmental sector, that there is potential for Wales to demonstrate greater ambition and go even further than the targets set out in the 2021 Regulations. We believe there is merit in revisiting the targets in due course, in particular, to ensure they fully reflect the impact of the Covid-19 pandemic.

Setting more ambitious targets is the easy part. Although the CCC's latest progress report provides reason for cautious optimism, it also points out that Wales is not currently on track to achieve an 80% reduction in emissions, let alone net zero, by 2050. This brings into sharp focus the scale of the challenge ahead.

The Welsh Government has itself acknowledged the new targets are "extraordinarily challenging". It has also acknowledged the need to "redouble efforts" in the fight against climate change and "to increase the scale and rate of policy effort". This rhetoric must now be met with bold and decisive action. The Second Low Carbon Delivery Plan (LCDP2) coupled with the Welsh Government's proposals for a green recovery from Covid-19 must deliver on this.

The Second Low Carbon Delivery Plan

The CCC has recommended that the LCDP2 should set a long-term vision for meeting the net zero target, and the expected impact of policies, including those in early planning, "should be clearly quantified and in sum be enough to meet the third carbon budget". We fully endorse this.

In our previous reports, we recommended that the Welsh Government commits to consulting on the draft LCDP2. Our recommendation was rejected on the basis that it will be a matter for the Government at the time to determine consultation arrangements. We acknowledge that the incumbent Welsh Government cannot give a binding commitment on behalf of a new Government. But, this does not prevent the current Welsh Government from expressing a commitment in principle to a future course of action. There are numerous examples of where it has done this, such as the introduction of a future agricultural policy and the establishment of new environmental governance arrangements, both of which are promised to be introduced in the Sixth Senedd.

We heard from representatives of the environmental sector and the CCC that the LCDP2 will be critical to ensuring the 2030 target is met. There is a clear case for ensuring that stakeholders have an opportunity to consider the Plan before it is finalised. Engagement during the early stages of the Plan's development, and consultation on distinct policies within the Plan, do not negate the need for consultation on the draft LCDP before it is finalised.

The LCDP2 must be published before the end of 2021 to meet the requirements of the Act. We expect time to be made available for public consultation on the draft LCDP2 before then. This will also provide an opportunity for our successor committee to consider the draft LCDP2 if it chooses to do so.

Part 2 of the Act does not make provision for Senedd scrutiny of draft LCDPs. We believe this is a significant omission. At the Committee's request, the Welsh Government provided us with an advanced copy of the First Low Carbon Delivery Plan. It did so just one week before publication of the Plan, leaving little time for scrutiny and none to suggest improvements to it. The ability of the Senedd and its committees to scrutinise a document of such significance should not be left to the discretion of the Government of the day. We believe there is a strong case to amend Part 2 of the Act to make provision for Senedd scrutiny of future LCDPs. We intend to explore this further in our Legacy Report.

Recommendation 1. We recommend to the Senedd that it approves The Climate Change (Regulations) Wales 2021.

Recommendation 2. We recommend that the Welsh Government revisit the emissions targets in due course, in particular, to ensure they fully reflect the impact of the Covid-19 pandemic.

Recommendation 3. We recommend that the Welsh Government commits to consulting on the draft Second Low Carbon Delivery Plan not least to ensure that the Senedd and its committees have an opportunity to scrutinise the Plan before it is finalised.