



National Assembly for Wales
Cynulliad Cenedlaethol Cymru

Climate Change Bill

Abstract

This research paper examines the UK Government's Climate Change Bill, and its implications for Wales.

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Climate Change Bill

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Executive Summary

The UK Government's Climate Change Bill is the first piece of legislation in the world to lay legally binding targets for reducing greenhouse gas emissions. In particular, it encompasses the following main provisions:

- Compared to a 1990 baseline, it sets a mandatory target of a 26-32 per cent reduction in greenhouse gases by 2020, and a reduction of 60 per cent by 2050;
- Carbon budgetary periods of five years, during which time greenhouse gas¹ emissions must be within predetermined limits;
- The incorporation of a Committee on Climate Change which will advise the UK Government and, upon request, other national governments in the UK, on aspects of climate change;
- The ability for trading schemes to be established in any of the UK countries.

There are several aspects of the Bill that are of notable interest to Wales:

- Welsh Ministers must be consulted when any changes are planned to agreed carbon budgets, or when UK policies for meeting a carbon budget may impact on Welsh Assembly Government policies;
- The Committee on Climate Change is duty-bound to provide information to Welsh Ministers about aspects of climate change;
- Welsh Ministers are required to occasionally report on the Welsh Assembly Government's activities in tackling carbon emissions;
- The Bill amends legislation so that Welsh local authorities must have regard to a 'climate change measures report' prepared by Welsh Ministers, rather than the UK Secretary of State's 'energy measures report'.

¹ The carbon budget is weighted to include all the greenhouse gases, the most important of which is carbon dioxide

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Climate Change Bill

1 The Climate Change Bill

"We need to step up the fight against climate change and we need to do it fast"².

Hilary Benn, UK Secretary of State for the Environment, Food and Rural Affairs, October 2007

The *Climate Change Bill [HL]*³ was introduced into the House of Lords on 14 November 2007. It sets out the UK Government's approach to tackling the challenge of climate change. The Bill's publication follows a public consultation on the *Draft Climate Change Bill*⁴, a consultation which the UK Government responded to in a Command Paper⁵ in October 2007.

1.1 Carbon target and budgeting

The Bill requires the Secretary of State to ensure that UK greenhouse gas emissions for the year 2050 are at least 60 per cent lower than the 1990 baseline⁶. The Secretary of State is responsible for setting a net UK carbon budget for successive five-year periods, starting with 2008-2012, and for ensuring that UK emissions do not exceed the budget⁷. Carbon budgets must be set no later than February 2009 for the first three budgetary periods, or 12 years before the start of later periods.

Beginning with the year 2008, the Secretary of State must submit a report containing the UK emissions and removals⁸ of each greenhouse gas⁹. The report must be published by the end of the March in the second year after the one to which it relates¹⁰ (by March 2010 in the first instance). The report must also list emissions from international aviation and international shipping:

"that the United Kingdom is required to report for the year in accordance with international carbon reporting practice"¹¹,

although the Bill makes it clear that emissions of greenhouse gases from international shipping and aviation are specifically excluded from counting as emissions from sources in the UK "except

² DEFRA, *Benn sets out strengthened Climate Change Bill*, 29 October 2007, <http://www.defra.gov.uk/news/2007/071029a.htm>

³ UK Parliament, *Climate Change Bill [HL]*, <http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

⁴ DEFRA, *Draft Climate Change Bill*, March 2007, <http://www.defra.gov.uk/corporate/consult/climatechange-bill/consultation.pdf>

⁵ The Stationery Office, *Taking forward the UK Climate Change Bill: The Government response to pre-legislative scrutiny and public consultation*, October 2007, <http://www.official-documents.gov.uk/document/cm72/7225/7225.pdf>

⁶ UK Parliament, *Climate Change Bill [HL]*, p.1, <http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

⁷ *Ibid*, p. 3

⁸ 'Removals' are defined on page 12 of the Bill as removal of greenhouse gas from the atmosphere due to land use, land use change, or forestry activities

⁹ UK Parliament, *Climate Change Bill [HL]*, p.6, <http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

¹⁰ *Ibid*, p. 7

¹¹ *Ibid*, p. 6

as provided by regulations under this section"¹². In practice, this means that international shipping and aviation will only be included in the UK carbon budgeting process if European or other international law or agreements require it¹³, although the Department for Transport's recent programme for sustainable transport indicates that the UK Government is examining ways of including these emissions in international agreements¹⁴.

Up to 1 per cent of the carbon budget for any five-year budgetary period can be 'borrowed' from a succeeding budgetary period, and any amount of 'spare' or unused carbon budget can be carried forward into a succeeding budgetary period¹⁵.

After each budgetary period, a report must be submitted by the Secretary of State detailing whether or not the budget was met, and if not, the reasons why¹⁶.

Carbon budgets may be altered, but only if "there have been significant changes affecting the basis on which the previous decision was made"¹⁷.

The Bill makes provision for the purchasing of credits from elsewhere, but requires that these credits are retired from offsetting (ie that they are not available for re-use by other schemes)¹⁸.

1.2 The Committee on Climate Change

A Committee on Climate Change is to be constituted, which will advise the Secretary of State on the level of the carbon budget for budgetary periods, the use of carbon credits (offsetting), and the contribution that trading schemes should make to carbon reduction as opposed to sectors not covered by trading schemes.

1.3 Trading schemes

Welsh Ministers and other national authorities may make regulations for trading schemes relating to greenhouse gas emissions¹⁹. Trading schemes may relate to activities that involve:

- The consumption of energy
- The use of materials in whose production energy was consumed
- The disposal otherwise than for recycling of materials in whose production energy was consumed
- The production or supply of anything whose subsequent use directly causes or contributes to greenhouse gas emissions.

¹² *Ibid*, p. 13

¹³ UK Parliament, *Climate Change Bill [HL]*, p. 13,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

¹⁴ Department for Transport, *Towards a sustainable transport system: Supporting economic growth in a low carbon world*, October 2007, pp. 36-37.

<http://www.dft.gov.uk/about/strategy/transportstrategy/pdfsustaintransssystem.pdf>

¹⁵ UK Parliament, *Climate Change Bill [HL]*, p. 7,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

¹⁶ *Ibid*, p. 8

¹⁷ *Ibid*, p. 9

¹⁸ *Ibid*, pp. 11-12

¹⁹ *Ibid*, p. 17

1.4 Impact of and adaptation to climate change

The Secretary of State must report occasionally on the risks for the UK of the current and predicted impact of climate change, along with a programme setting out proposals for adaptation to climate change²⁰.

1.5 Other provisions

Other provisions include the means for up to five local authorities in England to pilot waste reduction variable charging for waste disposal²¹. They also include a duty on Welsh Ministers to report occasionally on greenhouse gas emissions²², and a change in the report to which Welsh local authorities must have regard, from the Secretary of State's energy measures report, to Welsh Ministers' climate change measures report. More information on these aspects is provided in section 2.2 of this research paper.

1.6 Some initial comments on the Bill

Since the Bill is the first of its kind in the world, it has been welcomed by environmental groups, although it has received criticism for not going far enough. The Director of Friends of the Earth said²³:

"We're delighted that the UK is set to become the first nation to introduce legislation to cut its contribution to climate change. But the Government must strengthen its proposed legislation if it is to be truly effective and deliver the scale of action that scientists are now calling for. This means setting annual milestones that will deliver at least an 80 per cent cut in carbon dioxide emissions by 2050, and including Britain's share of emissions from international aviation and shipping".

Commentators from the Tyndall Centre for Climate Change Research have stated that there is "no chance for the climate without tackling aviation", and that a climate change limit "has credibility *only* if it applies to *all* emission sources"²⁴. International aviation, which is not included in the auspices of the Climate Change Bill, is the fastest-growing carbon emission source of any sector²⁵. In the opinion of the Research Director of the Tyndall Centre²⁶, the Climate Change Bill should:

- Adopt cumulative emissions as the basis for targets
- Acknowledge that a 2°C target is much more demanding than previously thought (corresponds to a 6-9 per cent carbon reduction per year)
- Include aviation and shipping emissions
- Recognise the need for immediate action on reducing demand.

²⁰ UK Parliament, *Climate Change Bill [HL]*, p. 21,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

²¹ *Ibid*, p. 23 and p. 55

²² *Ibid*, p. 24,

²³ Telegraph, *Climate Change Bill promises 60pc cuts*,
<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/11/06/nclimate106.xml>

²⁴ Kevin Anderson, Research Director: Tyndall Centre for Climate Change Research, *Drinking in the last chance saloon: The challenge of climate change and 'sustainable' energy*,
http://www.naseg.co.uk/presentations/Nov2007/TCCCRKA_Nov_2007.ppt

²⁵ *Ibid*

²⁶ *Ibid*

2 Implications for Wales

2.1 The Command Paper

The Command Paper²⁷ detailing the UK Government's response to the consultation on the *Draft Climate Change Bill* contains a small section relating directly to devolution. The paper notes that, on the issue of clarifying the roles and responsibilities of the devolved administrations, "agreement has now been reached between the UK Government and the Devolved Administrations"²⁸. Four 'provisions' have been agreed²⁹:

- The Committee on Climate Change³⁰ will be set up as a jointly-sponsored body, and its membership as a whole will include an understanding of the differences across the UK and the devolved context of climate change;
- In establishing carbon budgets, both the Committee and the Government will need to take into account the differences across the UK;
- The Government will consult the Devolved Administrations prior to taking decisions on targets and budgets under the Bill. The period for consultation will be specified in the Bill, to ensure that the Devolved Administrations have sufficient time to consider the Committee's advice and participate fully in the decision-making process. The Secretary of State will remain ultimately responsible for meeting the targets and carbon budgets under the Bill;
- The enabling powers under the Bill will be available to all four administrations to establish trading schemes within their existing competence, and for trading schemes to be set up jointly by more than one administration.

A Concordat will be developed once the Bill has completed its passage through Parliament, which will set out the roles and responsibilities of the different administrations in more detail.

The Command Paper accedes to the Welsh Assembly Government's request that Welsh Ministers be placed under a duty to report to the National Assembly for Wales on progress on tackling the causes and consequences of climate change³¹. It also states that the Bill will amend the *Climate Change and Sustainable Energy Act 2006*³² as it applies to Wales, such that Welsh local authorities will have a duty to "have regard to" a climate change measures report published by Welsh Ministers, rather than to the Secretary of State's energy measures report. The scope of the Welsh Ministers' report will be broader than the Secretary of State's report.

²⁷ The Stationery Office, *Taking forward the UK Climate Change Bill: The Government response to pre-legislative scrutiny and public consultation*, October 2007,

<http://www.official-documents.gov.uk/document/cm72/7225/7225.pdf>

²⁸ *Ibid*, p. 35

²⁹ *Ibid*, p. 36

³⁰ The Welsh Assembly Government has announced that a Climate Change Commission for Wales is to be established:

<http://new.wales.gov.uk/about/cabinet/cabinetstatements/cabinetstates2007/1760451/?lang=en>

³¹ The Stationery Office, *Taking forward the UK Climate Change Bill: The Government response to pre-legislative scrutiny and public consultation*, October 2007, p. 34,

<http://www.official-documents.gov.uk/document/cm72/7225/7225.pdf>

³² OPSI, *Climate Change and Sustainable Energy Act 2006*,

<http://www.opsi.gov.uk/ACTS/acts2006/20060019.htm>

2.2 The Climate Change Bill

When the Secretary of State lays a report before the UK Parliament with proposals and policies for meeting a carbon budget that relates to proposals and policies of Welsh Ministers, that part of the report must be prepared "in consultation with that authority", and the Secretary of State must send a copy of the report to Welsh Ministers³³.

Carbon budgets may be altered, but only if "there have been significant changes affecting the basis on which the previous decision was made"³⁴. However, before laying a draft statutory instrument to change the budgets, the Secretary of State must take into account representations made by Welsh Ministers and the other national authorities³⁵ (providing those representations are made within stipulated timescales).

The Committee on Climate Change must send a copy of its advice on the carbon budgets to the national authorities at the same time as it gives its advice to the Secretary of State³⁶. It is also required to lay before the National Assembly for Wales a report setting out progress made towards meeting the UK carbon budget targets³⁷. The Committee is also under a duty³⁸ to provide on request advice, analysis, information or other assistance to Welsh Ministers and other national authorities in connection with:

- The authority's functions under the Act
- Progress made towards meeting objectives under the Act
- Climate change generally
- Limits proposed to be set by a trading scheme
- Statistics relating to greenhouse gas emissions.

Welsh Ministers and other national authorities may make grants to the Committee "of such amount and subject to such conditions as the authority thinks fit"³⁹.

The Welsh Ministers may make regulations for trading schemes relating to greenhouse gas emissions⁴⁰ insofar as they are within the legislative competence of the National Assembly for Wales, or they relate to limiting activities in Wales that consist of the emission of greenhouse gas, other than activities in connection with offshore oil and gas⁴¹. See section 1.3 of this paper for further details of trading schemes.

The Secretary of State must report occasionally to the UK Parliament on the risks for the UK of the current and predicted impact of climate change, along with a programme setting out proposals for

³³ UK Parliament, *Climate Change Bill [HL]*, p. 6,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

³⁴ *Ibid*, p. 9

³⁵ *Ibid*, p. 9

³⁶ *Ibid*, p. 14

³⁷ *Ibid*, p. 15

³⁸ *Ibid*, p. 15

³⁹ *Ibid*, p. 16

⁴⁰ *Ibid*, pp. 17 and 18

⁴¹ *Ibid*, p. 19

adaptation to climate change⁴². A copy of each such programme must be sent to Welsh Ministers and the other national authorities⁴³.

The Bill places a duty on Welsh Ministers to report occasionally⁴⁴ on action taken by Ministers to deal with greenhouse gases and future priorities to deal with emissions and their impacts⁴⁵. Each report after the first must contain an assessment of progress made since earlier reports.

The Bill amends the *Climate Change and Sustainable Energy Act 2006*⁴⁶ as it applies to Wales, such that Welsh local authorities will have a duty to "have regard to" a climate change measures report published by Welsh Ministers, rather than to the Secretary of State's energy measures report. The scope of the Welsh Ministers' report will be broader than the Secretary of State's report, and will include information about the local authority measures that Welsh Ministers consider might have any of the following effects⁴⁷:

- Improving efficiency in the use of any description or source of energy
- Increasing the amount of energy generated, or heat produced, by microgeneration
- Increasing the amount of energy generated, or heat produced, by plant that relies wholly or mainly on a source of energy or a technology listed in section 26(2)
- Reducing emissions of greenhouse gases
- Reducing the number of households in which one or more persons are living in fuel poverty
- Addressing the impact of climate change.

Welsh Ministers are required to consult with representatives of local government before the publication of any such report.

⁴² UK Parliament, *Climate Change Bill [HL]*, p. 21,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

⁴³ *Ibid*, p. 22

⁴⁴ "from time to time"

⁴⁵ UK Parliament, *Climate Change Bill [HL]*, p. 24,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>

⁴⁶ OPSI, *Climate Change and Sustainable Energy Act 2006*,
<http://www.opsi.gov.uk/ACTS/acts2006/20060019.htm>

⁴⁷ UK Parliament, *Climate Change Bill [HL]*, p. 25,
<http://www.publications.parliament.uk/pa/ld200708/ldbills/009/2008009.pdf>