Climate Change (Emissions Reduction Targets) (Scotland) Bill at Stage 1

The Delegated Powers and Law Reform Committee considered the above Bill on Tuesday 4 September and seeks an explanation of the following matters:

Section 1 (inserting section A1(2) into the Climate Change (Scotland) Act 2009 (“the 2009 Act”) – Power to set a net-zero emissions target year

Power conferred on: The Scottish Ministers
Power exercisable by: Regulations made by Scottish statutory instrument
Parliamentary procedure: Affirmative

Section 1 inserts new section A1 (the net-zero emissions target) into the 2009 Act. New section A1(2) confers power on the Scottish Ministers to specify by regulations the year in which the “net-zero emissions target” is to be met. This year would become the “net-zero emissions target year”.

The Committee is content with the power in section 1 of the Bill, that inserts section A1(2) into the 2009 Act, in principle, and finds it acceptable that it is subject to the affirmative procedure.

However, the Committee asks for clarification on the following matter:

Section A1 does not require the Scottish Ministers, in preparing regulations to specify the net-zero emissions target year, to have regard to the target-setting criteria and the most up-to-date advice received from the UK Committee on Climate Change. Once the regulations have been laid, however, the Scottish Ministers are required by subsection (3) to publish a statement setting out
their reasoning, and – notably - the extent to which the proposed net-zero emissions target year takes account of the target-setting criteria, and whether that year is consistent with the most up-to-date advice received from the UK Committee on Climate Change.

The power may be compared to that in section 4 of the Bill, which inserts a new section 2A into the 2009 Act, permitting modification of the 2050 and interim targets. In preparing regulations under new section 2A(1), regard must be had to the target-setting criteria and the most up-to-date advice from the relevant body (new section 2A(3)). Once the regulations have been laid, under new section 2A(6) the Scottish Ministers must publish a statement similar to that described in section A1(3) setting out their reasoning, the extent to which the target-setting criteria have been taken account of, and whether the proposed modification is consistent with the most up-to-date advice received.

Please explain why in section A1, although the Scottish Ministers must publish a statement on the extent to which target-setting criteria were taken into account, and whether the net-zero emissions target year is consistent with the most up-to-date advice received from the relevant body, there is no requirement to have regard to target-setting criteria or advice from the relevant body in preparing the regulations, along similar lines to new section 2A(3).

I would be grateful if you could please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Tuesday 2 October 2018.

Thank you.

Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform Committee