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Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform
Committee
Room T1.01
Scottish Parliament
EH99 1SP

Your ref:
Our ref:
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Dear Andrew,

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

Thank you for your letter of 6 September to James Hynd seeking an explanation around aspects of the delegated powers at section 1 of the Climate Change (Emissions Reduction Targets) (Scotland) Bill. The Committee, while noting that it is content with section 1 in principle asked for clarification on one aspect.

“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).”

Our view is that a requirement to have regard to the criteria and advice is implicit under the provisions of the Bill. As the Committee noted, section A1 requires draft regulations to be accompanied by a Ministerial statement setting out the extent to which a proposed net-zero emissions target year takes account of the criteria and whether the year is consistent with the most up-to-date advice. In addition, the statement must give reasons for proposing the year. In order to prepare the draft regulations and that statement, Ministers will have to have regard to those criteria and that advice. Likewise, section 8 of the Bill places duties on Ministers which would require Ministers to have regard to those matters if regulations were not laid in draft.

However, we recognise the Committee's point that this approach is not consistent with the explicit provisions at new section 2A(3), inserted by section 4 of the Bill, and thank the Committee for bringing this to our attention. While the powers have different contexts, they are nevertheless similar and achieve the same outcome. The Government is therefore willing to consider amending the Bill for consistency if, in the Committee's view, it would be beneficial for the two sections to be consistent in form.

Yours sincerely,

Eleanor Stanley
Climate Change Bill team