

WRITTEN SUBMISSION FROM STOP CLIMATE CHAOS SCOTLAND

Below is the Stop Climate Chaos Scotland (SCCS) response to the Transport, Infrastructure and Climate Change Committee's Call for Views on the Climate Change (Scotland) Bill. SCCS is a coalition of more than 30 organisations campaigning on climate change. SCCS members include environment and development NGOs, faith groups, trade unions, community councils, student societies, women's organisations, a mental health charity, and many others. In Scotland, those members have a combined supporter base of over 1.5 million people.

This document represents the areas of broad consensus in the coalition, and does not necessarily represent the detailed policy positions of all members. For the more detailed positions of individual members, please refer to their individual consultation responses.

Q1 The Bill creates a statutory framework for greenhouse gas emissions reductions in Scotland by setting a 50% reduction target for 2030 and an 80% reduction target for 2050.

What are your views on the 2050 target and a 2030 interim target proposed in the Bill?

SCCS welcomes the long-term reduction target of at least 80% by 2050, and fully supports the requirement that this target is based on the basket of six Kyoto greenhouse gases. This is the minimum reduction required by Scotland, and the rest of the developed world, if it is to make a fair contribution to preventing dangerous climate change.

However, not only is this end target critical but so too is the emission reduction path taken to reach this goal. Scotland must meet its target of at least 80% via a trajectory that constrains total cumulative emissions over the period to 2050 to a fair share of a safe global budget. Any interim target should be on at least such a trajectory. SCCS would like to see an ambitious interim target of 50% reduction by 2020.

The proposed interim target of a 50% emissions reduction by 2030 does not ensure we will cut our emissions at the necessary rate to help prevent dangerous climate change. Indeed, initial calculations indicate that simply aiming for the 2030 target would result in approximately 200 million more tonnes of CO₂ equivalent being emitted into the atmosphere by 2050 than would be the case if the trajectory resulting from emissions reductions of 3% a year were followed, as promised in the SNP election manifesto.

SCCS would like to see the interim target revised so that a 50% emissions reduction must be achieved by 2020 rather than 2030. Not only does this place the target on a more desirable trajectory, it also places the Scottish interim target in line with other UK, European and international targets – all of which have 2020 targets rather than 2030 targets. Scotland is well placed to deliver this more ambitious target because of the opportunities we have in terms of producing renewable energy. There will also be economic benefits for Scotland in early investment in green technologies as can we build up expertise and a skilled workforce ahead of other countries. The earlier target will also give investors confidence to invest in renewable and carbon-reducing technologies, as the demand for these technologies will be ensured.

- **Set out a framework that will achieve *at least* an 80% reduction in greenhouse gas emissions by 2050.**

Q2 The Bill requires that the Scottish Government sets annual targets, in secondary legislation, for Scottish emissions from 2010 to 2050. It is proposed that these annual targets will be set in batches, the first being for the years 2010 to 2022 inclusive.

What are your views on the setting of targets in batches from 2010 to 2022?

SCCS believes that the Climate Change (Scotland) Bill must set in place annual emission reductions of at least 3% year on year, right from the start. Only annual targets will guarantee that the necessary minimum will be done.

Without an annual statutory target of at least 3% per year, the risk of inaction in early years and the subsequent delays in making significant early progress towards the 80% cut are significantly increased. If action is delayed, the effect will be to increase the concentrations of greenhouse gases in the atmosphere towards dangerous levels. Recent scientific evidence gives greater urgency to immediate emissions

reduction as it describes a rapid acceleration in the rate of growth of atmospheric CO₂ concentrations from 1.3% per year to 3.3% per year and a decline in the efficiency of the world's natural carbon sinks¹.

The costs resulting from delaying meaningful climate change action have been repeatedly shown to dwarf the immediate costs of reducing our emissions. The UK Climate Change Committee and others have echoed the conclusions of the Stern Review that first set out the economic imperative of early action². If we do not immediately make reductions of at least 3%, we will be required to make much steeper cuts in the future that will challenge our economy and society.

Globally, emissions must peak and begin a rapid decline³ in the next few years. This means that developed nations must be actively reducing their emissions now. Scotland's leadership on climate change is dependent on committing to immediate emissions reductions of at least 3% per year. While targets of at least 3% per year should be the primary aim of the Bill, climate science is increasingly suggesting the need for increasingly ambitious targets. In light of this, and in order to account for the latest scientific evidence, SCCS supports the Bill's intention of setting annual targets in multi-year batches.

However, when setting multi-year batches of annual targets a number of criteria should be adhered to:

1. A minimum 3% annual target between 2010 and 2050 should be maintained. Therefore, any annual targets proposed would have to be over and above 3%.
2. Consideration of a fair and safe cumulative budget must be included in the factors to which Ministers and the advisory body must have account when setting multi-year batches of annual targets.
3. Consideration towards meeting an interim target of 50% by 2020 must be included in the factors to which Ministers and the advisory body must have account when setting batches of annual targets.

We also have concern about the current periods and timelines outlined in the Bill. In particular setting the first set of annual targets by June 2010 – halfway through the first annual target - seems to build in an excuse to either miss or set a weak annual target for 2010.

- **Establish in statute annual emission reductions of *at least* 3% year-on-year from the start, not just from 2020, compatible with a fair and safe cumulative budget identified by the advisory body.**

Q3 The Bill provides that from the year 2020, the annual emissions targets must be set so that each is at least 3% lower than the target for the previous year. Prior to 2020, the Scottish Government has indicated that it intends to set annual targets which build towards delivering emissions reductions of at least 3% each year.

What are your views on this approach or any possible alternative approaches?

SCCS believes that the current requirement in the Bill - which simply states that Scotland's emissions must be less than the previous year between 2010 and 2019 and then from 2020 until 2050 they must be reduced by at least 3% - is inadequate. Cuts of at least 3% a year need to be in place right from the start. The resulting framework fails to incentivise the necessary immediate emissions reductions, does little to encourage the large-scale investment required to kick-start the transition to a low carbon economy, and ultimately undermines any interim target.

If the Bill sets in place immediate annual emission reductions of at least 3%, there will be greater certainty of what the minimum annual target from 2010-2050 will be, right from the time the Bill is implemented. Consideration of a fair and safe cumulative budget must be taken into account when Ministers and the advisory body set annual targets.

Scotland could have the strongest climate legislation in the world, but without annual emission reductions of at least 3%, the Climate Change (Scotland) Bill cannot hope to fulfil the Scottish Government's ambition of "setting an example to the rest of the world of how a developed nation can become greener sustainably"⁴. If

¹ See Canadell, J.G. *et al.* (2007). Proceedings of the National Academy of Sciences. <http://www.pnas.org/content/104/47/18866.full.pdf+html>. See also Le Quere *et al* 2007

² 'Building a low-carbon economy – The UK's contribution to tackling climate change', First Report of the Committee on Climate Change, December 2008, TSO ppvi, 78, 355

³ WWF, IPPR and RSPB report: '80% challenge: delivering a low-carbon UK', http://www.wwf.org.uk/filelibrary/pdf/80percent_report.pdf, p8

⁴ Ministerial foreword to Consultation on Proposals for a Scottish Climate Change Bill

it is the blueprint for other nations following in our wake, then it is even more important it addresses the urgency rather than delaying the shift to a low carbon economy into the future.

Q.4 The Bill introduces the concept of a “net Scottish emissions account” as a point of reference against which the target for reducing greenhouse gases can be measured. It is defined as the net Scottish emissions plus or minus any carbon units credited to or debited from the account. Any units purchased may be used to offset Scottish emissions. Any carbon units generated in Scotland and sold to customers outside Scotland, count as emissions made in Scotland.

What are your views on the proposals in the Bill relating to the net Scottish emissions account, and should there be a limit on the number of carbon units which Scotland can purchase?

SCCS believes that the key objective of the Scottish Climate Change Bill must be to reduce *Scotland's* emissions by at least 80% by 2050.

The unlimited access to overseas credits allowed by the Climate Change Bill undermines Scotland's leadership on climate change, increases the risk of dangerous climate change and would mean that Scotland misses the opportunity to develop a low carbon economy.

SCCS proposes that at least 80% of the effort to cut emissions in any given year should take place in Scotland. In its latest report, the IPCC concluded that in order to tackle climate change the developed world must reduce *its* emissions by at least 80%.⁵

If we do not limit access to carbon credits we may not succeed in sufficiently reducing our domestic emissions, become over-reliant on an immature carbon market and not incentivise investment in carbon abatement technologies here. Taking action in Scotland to reduce our emissions will place us at the forefront of the low carbon economy and help to ensure we fulfil Scotland's considerable renewables potential.

In order to achieve this we must address the role of the EU Emissions Trading Scheme (ETS) in both reducing emissions in Scotland and the rate of reduction it compels. The ETS captures almost 50% of Scotland's emissions, the majority of which originate from the power sector. As it currently operates, the ETS allows for all the emissions reductions it requires to be met outside of Scotland, both from within the EU and, very substantially, from the developing world.

Over-reliance on the EU ETS sector builds two fundamental weaknesses into the Climate Change (Scotland) Bill. Firstly, the level of cuts that will be required under the ETS over the next decade will be wholly inadequate to match the Scottish Government's ambition of at least an 80% cut in emissions by 2050. The current annual rate of reduction currently prescribed by the ETS is only 1.74% a year between now and 2020. This is particularly inadequate as the ETS includes areas of the economy which most climate analysts (including Lord Stern, Lord Turner and the IPCC) identify as critical to achieving a low-carbon economy. Indeed the power sector, a key part of the ETS, needs to be almost zero carbon by 2030⁶. In this context, it is critical that Scotland takes domestic action designed to supplement the reductions achieved through the EU ETS. Requiring a minimum level of domestic effort to meet the Climate Change Bill targets will provide a framework to drive the necessary supplementary reductions.

Secondly, in addition to setting an inadequate emissions reduction trajectory, the ETS also allows for almost 50% of Scotland's emissions to be reduced overseas, either in Europe or, through its link to the Kyoto Protocol's Clean Development Mechanism⁷, across the developing world. A minimum level of domestic effort is needed to correct for this and place the balance of emission reductions firmly within Scotland.

SCCS's proposal that the Bill requires a minimum level of domestic *effort* does not limit the legal access the ETS sector has to external carbon credits, it simply establishes that of the total volume of emissions reduced in any one year at least 80% occurs in Scotland. In effect, the minimum level of domestic effort presents a

⁵ Indeed the UK Committee on Climate Change recently stated that, "the majority of 80% will in the long term need to be achieved via domestic action". 'Building a low-carbon economy – The UK's contribution to tackling climate change', First Report of the Committee on Climate Change, December 2008, TSO pxvi

⁶ The First Report of the Committee on Climate Change says "Any feasible path to a 80% reduction by 2050 will require the almost total decarbonisation of electricity generation by 2030", 'Building a low-carbon economy – The UK's contribution to tackling climate change', December 2008, TSO p198.

⁷ The Clean Development Mechanism (CDM) allows developed countries to offset their own emissions through emissions abatement projects in developing countries. There is concern that many of these projects do not offer emissions reductions that are genuinely 'additional' to what the developing country had already committed to, and that therefore they cannot be guaranteed to offset emissions from developed nations.

powerful incentive to develop and implement policies designed to tackle our power sector or other sectors outside the ETS such as transport.

A Scottish Climate Change Bill, which limited the proportion of emission reductions bought in from elsewhere, would make Scotland an industrialised nation that has demonstrated its willingness and ability to make deep cuts at home. In so doing, Scotland would be at the forefront of generating greater trust and confidence amongst developing countries, which is desperately needed in advance of the international talks in Copenhagen in December 2009. It would also have the added benefits of:

- Ensuring the Scottish Climate Change Bill meets its overall objectives of at least an 80% reduction in Scotland's greenhouse gas emissions and guide Scotland to a low carbon economy;
- Capitalising on the economic benefits of early investment in green technology; and
- Encouraging an equitable global solution to climate change.

SCCS also believes that there needs to be absolute transparency in reporting what level of reductions has been achieved through purchasing international credits. The annual reporting of progress towards emissions reduction targets must clearly show both actual emissions reductions from Scotland, as well as the net emissions reductions after credits are taken into account.

- **Ensure that at least 80% of the effort to cut emissions takes place in Scotland.**

Standards

Any international credits bought by the Scottish Government must at least meet the requirements set out under the Gold Standard⁸. The Gold Standard is the most widely endorsed quality standard for designing and implementing carbon offset projects. The Gold Standard's main purpose is to ensure that projects are both reducing emissions and fostering sustainable development. According to members of the SCCS coalition, the Gold Standard best reflects the objectives of the Kyoto Protocol.

Q5 The Bill defines "Scottish emissions", in relation to a greenhouse gas, as being emissions of that gas which are attributable to Scotland. The policy memorandum states that "Scottish emissions" are defined as being those greenhouse gases which are emitted in Scotland or which represent the Scottish share of emissions of gases from international aviation and international shipping.

What are your views on this definition of Scottish emissions?

International aviation and shipping

SCCS fully supports the inclusion of Scotland's share of emissions from international aviation and shipping in the definition of 'Scottish emissions', along with those emissions from sources in Scotland.

However, emissions from international aviation and shipping must be included in the Climate Change Bill from the very start. Although the Cabinet Secretary announced that the "Government has taken the bold decision to include emissions from international aviation and shipping within its targets"⁹ the Bill as presented to the Scottish Parliament does not include these emissions. As it currently stands, the Bill says that Scottish Ministers *may* by order make provisions regarding emissions from international aviation and shipping and that before doing this they must ask for advice from the 'relevant body'. Despite reassurances from civil servants in their evidence to the Committee, this falls short of including emissions from both international aviation and shipping from the outset and does not guarantee that they will be included in the immediate future.

Aviation is a significant and rapidly-growing source of greenhouse gas emissions, and urgent action is required to put it on a more sustainable path. It is one of the fastest-growing sources of greenhouse gas emissions in the UK. Between 1990 and 2006, Scottish CO_{2e} emissions from aviation have risen by approximately 185%. In recent years, emissions have been growing at over 10% a year. If we choose to ignore the emissions from international aviation and shipping, our calculations suggest that we will in effect make less than a 70% reduction by 2050, well short of the minimum needed of 80%.

⁸ http://www.cdmgoldstandard.org/about_goldstandard.php?id=11

⁹ From press release at launch of the Bill: <http://www.scotland.gov.uk/News/Releases/2008/12/05094352>

The Scottish Climate Change Bill needs to account for the total sum of emissions Scotland is responsible for producing. Excluding a particular sector undermines the intention of the legislation and threatens the credibility of the Bill. As a matter of principle, it is important that the Bill includes emissions from international aviation and shipping. We are responsible for these emissions and cannot simply put off acknowledging that responsibility until some time in the future. This is especially true given that, as the Cabinet Secretary pointed out, “Scotland benefits greatly from international trade and travel,” and therefore, “it is right to take responsibility for the Scottish share of these emissions”¹⁰.

If the inclusion of these emissions is delayed until some unconfirmed date in the future, it introduces a potential disruptive element into the emissions reduction trajectory. With limited warning, Scotland’s emissions would need to be reduced at a greater rate than had been planned for and without the necessary investment plans in place. Accounting for Scotland’s full emissions responsibility from the outset ensures there is a long-term projection of the total emissions reduction needed, this is a prerequisite for investment in a low carbon economy.

Emissions from both domestic and international aviation for Scotland are currently reported on as part of the UK Greenhouse Gas inventory. This methodology follows the most robust and accurate approach recommended by the IPCC. The data is provided by the Civil Aviation Authority and sets out details of each individual flight, including airport origin, destination, fuel type, plane type and engine type.¹¹

SCCS proposes that the Bill should be amended to allow for the methodology used to account for emissions from aviation and shipping to be revised in the future so that it continues to follow international best practice. This would mean emissions from international aviation and shipping were included from the outset and the Bill would recognise, as is the case elsewhere, that there must be scope to keep in step with international reporting methods.

- **Include emissions from all sectors in the framework and targets set out in the Bill, including those from international aviation and shipping, from the very start.**

Consumption

SCCS would also like to see parallel reporting on those emissions that result from consumption in Scotland. Our consumption of goods and resources generates further emissions that are not counted under a production based reporting system. The Scottish Government have committed to reporting on Scotland’s ecological footprint annually as one of the National Performance Indicators, this means that it would be relatively straightforward to present an account of Scotland’s CO₂eq footprint. SCCS would like to see such an account reported on at least every year along with the production-based emissions account the following reasons:

- **Global responsibility:** climate change is the response to a *global* change in the atmospheric concentration of greenhouse gases. Scotland’s shift towards a service-based economy means it is increasingly important that we account for this burden shift of greenhouse gas emissions to other countries.
- **Policy levers:** both production- and consumption-based reporting methods have their strengths in ensuring Scotland is able to target its policy levers to address climate change. Importantly, consumption-based reporting helps to identify the drivers behind changes in the worldwide impact of emissions from Scotland’s consumption patterns. It also allows for a much more subtle understanding of the critical drivers and behaviours behind Scotland’s emissions.
- **Visible indicator:** consumption-based reporting can provide a valuable footprint-based representation of our contribution to climate change. The footprint description provides a powerful communication tool, allowing for an immediate and intuitive appreciation of our global contribution to climate change, empowering consumers to make choices that reduce Scotland’s consumption emissions.
- **Individual responsibility:** we all have an important role to play in reducing Scotland’s greenhouse emissions. Consumption-based reporting provides the disaggregated description of Scotland’s emissions that highlights the contribution the individual can make to a national target, both in behaviour and consumer activity.

¹⁰ Consultation response from Scottish Government: <http://www.scotland.gov.uk/Publications/2008/10/response>

¹¹ Greenhouse gas emissions data from international aviation and shipping for Scotland can be found here. http://www.airquality.co.uk/archive/reports/cat07/0811180855_International_aviation_and_shipping1990-2006_final_v5.xls

- Data availability: the data needed to provide a consumption-based report of Scotland's emissions are available now and are being used to deliver the Scottish Government supported Local Footprints Project¹². The necessary data are available at both a Scotland and local authority level.

¹² See <http://www.sustainable-scotland.net/page.asp?pg=25> for more information about the Footprint project.

- **Ensure Scotland counts all its emissions and reports on those produced by products and services we consume as well as emissions produced domestically.**

Q6 The Scottish Government has indicated that initially it intends to seek independent, expert advice on climate change from the UK Committee on Climate Change. The Scottish Government states in the policy memorandum that if it determines that the UK Committee on Climate Change does not meet all the advice needed for Scotland, the Bill contains provisions which will allow the Scottish Government to establish a Scottish Committee on Climate Change or to designate an existing body to exercise these advisory functions.

What are your views on the Scottish Government's approach to obtaining independent, expert advice on climate change?

SCCS believes that Scotland needs a distinctive body to support delivery of the Climate Change (Scotland) Bill from the moment it is implemented. Although that body would work constructively with the UK Climate Change Committee, there are so many crucial differences between the Scottish and UK contexts that a separate Scottish body is essential. Indeed, the Chair and Chief Executive of the UK Committee on Climate Change have both indicated in response to questioning that they may not be able to support Scotland in these different approaches and areas.

The legislative framework that Scotland will be working within is different from the rest of the UK, e.g. Scotland is committed to emissions reduction through annual targets. The policy context is completely different with much that affects climate change emissions and adaptation devolved, and whether in housing, transport, energy or education the priorities and approaches may be different from the rest of the UK.

The organisations that will be expected to deliver under the legislation are distinctively Scottish, whether in local government (which operates under a completely different structure and funding arrangement in Scotland), agencies or other public bodies. The cultural, educational, legal, social and geographical context is different. The tools and measures to support the implementation and delivery to the targets under the climate legislation will need to be tailored to Scotland.

SCCS further believes that the body should be a Scottish Climate Change Commission (not Committee, so as not to be confused with the Climate Change Committee in Scottish Parliament).

While the Scottish Government will be responsible for delivery of the targets within the Scottish Climate Change legislation, the Scottish Parliament should be responsible for auditing progress and ensuring delivery. Scotland's Parliament should be able to seek advice from an independent, arms-length body which can support it in ensuring that the targets and plans implemented deliver the requirements of the Climate Change legislation.

A Scottish Climate Change Commission is needed to provide that advice and support; advising Parliament on the global scientific picture; supporting them in the review of delivery or even plans in order to reach targets; monitoring progress in Scotland; and putting activity in Scotland into international context. Such a Commission could provide Scottish Government with advice and support, but as a body that is 'owned' by the Scottish Parliament rather than the Government it would remain independent from Government and therefore not compromised by being too close to Government.

- **Establish a Scottish advisory body, a Scottish Climate Change Commission, in the primary legislation to support delivery of the Bill when it is enacted.**

Q7 The Bill places duties on the Scottish Government requiring that it reports regularly to the Scottish Parliament on Scotland's emissions and on the progress being made towards the emissions reduction targets set in the Bill. The Bill sets out details of these reporting requirements.

What are your views on these proposed reporting arrangements?

The Bill sets out a framework of annual, interim and long-term targets to ensure that Scotland achieves at least an 80% reduction in greenhouse gases by 2050.

In order to be absolutely sure that Scottish Governments, from now until 2050, deliver the targets on time and by the amount that is necessary to make our contribution to avoiding dangerous climate change, the reporting mechanisms and processes set out in the legislation must be tough and meaningful. These will be critical to holding Government to account and ensuring that any failures to deliver are addressed.

Parliamentary process

In line with the Cabinet Secretary's commitment to make the process tough enough that any Minister in the future would rather go to the dentist and have all his/her teeth pulled out, than come to the Scottish Parliament and tell them he/she has failed, the following process is proposed:

1. Annually, the First Minister (as the Minister with an overview of all departments) should be required to make a statement in the Chamber in front of the whole Parliament. This statement will be on progress in the last year (i.e. have Government met the targets) and set out the plans for the coming year.
2. The full annual report to accompany this statement should be placed in the Scottish Parliament Information Centre (SPICe). It should be accompanied by an annual report response from the Scottish Climate Change Commission (see SCCS Briefing 4), which gives a global snapshot and independent commentary on how Scottish Government has performed and advice for plans for the next year. It could also be accompanied by an audit of the numbers Government set out¹³.
3. With these documents available to inform the Parliament, there should be a 6-8 week process of scrutiny undertaken led by the Audit Committee (as a mandatory committee) on what has been achieved, any failings and particular areas needing investigation to inform the next year's plans. Evidence should be invited from external sources, including the Scottish Climate Change Commission and secondary Committees (for example in relation to transport or local government) could also be appointed.
4. The Audit Committee should then produce a short report, with recommendations, which would form the basis of an informed debate in Parliament. At the end of this debate, there would be a vote on the recommendations and, potentially, the Government's proposals for the following year could be amended if deemed necessary to achieve the right cuts.

This process would ensure that there is adequate information and support provided to the Scottish Parliament to allow informed and meaningful scrutiny of the progress on achieving targets. With the Scottish Parliament empowered to undertake strong scrutiny, it would mean that the Government is held to account through a strong, robust process which is transparent and accountable.

The sanctions that would be placed on Government for a failure to achieve targets would be political.

Public bodies reporting

We call for a general duty on public bodies (see 8) and therefore propose that public bodies should report annually on progress on measures to tackle climate change. This could be reinforced by the relevant Parliamentary committee calling in a selection of annual reports each year for scrutiny. In addition, innovative ways of involving local communities directly should be explored. Local accountability might be strengthened by local hearings. For example, an annual schools gathering where students could question appropriate Councillors and officials on the report.

On public bodies, the Bill leaves too much to secondary legislation which may be implemented at some point in the future. In our view, this will unnecessarily delay urgent action by these bodies to cut greenhouse gas emissions.

Cross-sectoral scrutiny

The current proposals state that there will be an annual statement to Parliament. The need for cross-sectoral scrutiny is acknowledged by a proposal to meet with the Convener's Group in the Scottish Parliament.

¹³ Done by Audit Scotland

The intention of this proposal is good, however, SCCS does not consider the Convener's Group to be the appropriate forum for this discussion. We are concerned that the Convener's Group does not meet in public (therefore lacks transparency and accountability) and is not currently constituted in a suitable manner to support the scrutiny of such an important piece of legislation. Instead, a process led by the Audit Committee (which is mandatory) would offer a formal process that is transparent and accountable in line with the Consultative Steering Group principles.

If the government are to be held to account to an appropriate standard of assessment, transparency and expertise, SCCS believes it is essential that the Scottish Parliament Committee system be utilised, in conjunction with the Scottish Climate Change Commission and a meeting of the full Parliament, as outlined above.

Q8 The Bill contains powers to allow the Scottish Government, by regulations, to impose duties on public bodies in relation to climate change, to issue guidance to those bodies relating to their climate change duties and to require that they report upon the discharge of those duties.

What are your views on this proposal?

SCCS supports the proposal to place climate change duties on public bodies. However, this should be in the Bill as primary legislation and enacted now, not at a possible date in the future.

While some local authorities are innovative and ambitious in their emission reduction plans, existing guidance and voluntary measures are not enough to ensure that all public bodies play their part in tackling climate change. If they were, serious action would already be happening.

SCCS believes it is critical to give all public bodies climate change duties that will ensure they all take the necessary action to contribute towards delivery of national targets for emissions reduction. Public bodies will only be able to contribute to climate change targets if these targets are included in their procurement and commissioning practices and this needs to be reflected in the Scottish Government's procurement regulations and guidance.

It will be impossible for the Scottish Government to deliver its emission reduction targets without the active support of and lead from the public sector. At UK level, the need for a similar duty on public bodies to help deliver the Climate Change Act was not included and a need for it has been identified¹⁴. Climate change duties introduced from the start mean that everyone is on a level playing field, and how they deliver those duties can be made appropriate for each organisation and local authority area.

If there are no duties laid out at the start, Scottish Government may have to be more prescriptive in order to ensure action is taken, through policies and regulation. A general duty across the public sector would be fairer and more flexible.

When consulted on this issue, the majority of Local Authorities responded positively to the proposed duties.

The statute as drafted would just serve to delay implementation and require consulting these bodies all over again on the same question, which they have just responded positively to, thereby delaying investment and planning towards delivery towards the national goal.

The Carbon Reduction Commitment, being introduced in 2010, will apply to large public bodies but will not set even those, let alone all public bodies, on a path to reducing greenhouse gas emissions in line with national targets. A public body duty will cover the full range of activities carried out by the body, including the extremely important one of procurement, which can be a very effective lever outside the public sector. In relation to Local Authorities, it could help fulfill outcomes in many Single Outcome Agreements, such as emission reduction or footprint reduction. It would also further the intentions of the Scottish Climate Change Declaration (SCCD). This was always intended to pave the way for action on climate change, not be the whole answer. A duty would underpin the commitments under the SCCD.

¹⁴ 'Delivering the Climate Change Act: A Manifesto for a Low-carbon Economy', Friends of the Earth. October 2008. Online at: www.foe.co.uk/resource/reports/climate_change_manifesto.pdf

The Bill must establish a duty on public bodies to consider the impact of climate change in all their decisions and to pursue, in a manner based on sustainable development principles, reductions in carbon emissions in line with national targets. The duty would also apply to adaptation work. This should be implemented immediately so the public sector is involved in delivery right from the start.

SCCS also believes that all public bodies should be required to report annually on the specific measures they have taken to tackle climate change (see 7). Furthermore, all public bodies should be required to seek to negotiate a workplace environmental agreement with their recognised trade unions.

- **Establish duties on all public bodies to reduce greenhouse gas emissions in line with the national target.**

Q9 The Bill places a duty on the Scottish Government to produce a report for Scotland, setting out its objectives in relation to adaptation to climate change, proposals and policies for meeting them and the timescales within which they will be introduced.

What are your views on this proposal?

SCCS supports the requirement for Scottish Ministers to lay before Parliament an adaptation programme for Scotland, following publication of a UK report on the impact of climate change.

However, SCCS does not believe that such a programme as detailed in the Bill will be adequate in dealing with Scotland's adaptation needs.

SCCS believes that Scottish Ministers should be required to produce their own climate change impact assessment as well as reporting annually to Parliament on programmes of sustainable adaptation action. The Bill should therefore ensure that:

- Climate change impacts, consistent with UK reporting, are identified for Scotland's particular circumstances. This will assist public bodies in carrying out adaptation work under their general climate change duties.
- Scottish Ministers seek independent assessments of progress made towards implementing the adaptation programme, from the UK Committee on Climate Change and any Scottish advisory body established with functions relating to climate change.
- Sustainable adaptation is secured across all sectors, safeguarding the future of Scotland's communities, biodiversity and ecosystems.
- Scotland supports adaptation work to address the impacts of climate change on vulnerable communities and ecosystems in developing countries. Any support must be additional to existing overseas development assistance.

SCCS believes that the Bill should require the production of a Scottish adaptation programme, at least every three years, which should include:

- an assessment of the current and future predicted impact of climate change in Scotland;
- the objectives of the Scottish Government in relation to adaptation to climate change;
- the Scottish Government's proposals, policies and timescales for meeting those objectives; and
- key indicators by which to measure progress.

and should provide for:

- an independent assessment, at least every two years, of progress towards implementing the objectives, proposals and policies set out in the adaptation strategy; and
- annual reporting to the Scottish Parliament of achievements and revisions to the strategy.

Even with immediate and significant cuts in our emissions, the changes we are already committed to will have an impact on Scotland's communities and wildlife. Wildlife that is already stressed will be ill-equipped to cope with climate change. We need increased investment in protected areas, on land and at sea, and more environmentally friendly management of the wider countryside to secure healthy populations. Adequate resources and effort must be directed at improving the resilience of Scotland's wildlife in the face of climate change.

An annual reporting requirement on adaptation, and a requirement to develop a set of indicators to measure progress would assist in measuring success and highlighting areas where more research or resource is required.

- **Be explicit that sustainable development is core to the purpose and delivery of the statute in relation to mitigation and adaptation.**

Q10 Muirburn is the act of controlled burning of vegetation on open semi-natural habitats such as muir (Scottish word for moor) or moorland, and includes the burning of plants such as gorse, heather and grass. The Bill contains an enabling power to allow the Scottish Government to vary the permitted times during which muirburn may be made where they consider it necessary or expedient to do so in relation to climate change.

What are your views on this proposal?

We would highlight that the proposed clause is an enabling clause giving Ministers the power to make changes should they consider it 'necessary or expedient to do so in relation to climate change'.

Given that the impacts of climate change are already evident in the habitats associated with muirburn we support these provisions, which would give Scottish Ministers powers similar to those in England and Wales to take account of these changes and vary permitted time for making muirburn as appropriate.

We would add that we also support the idea of making provision through a licensing system for out of season burning, to allow flexibility of approach. To provide the necessary safeguards for the natural heritage from out-of-season burning, we consider that a licensing system should be put in place and it seems to us most appropriate that such a system is administered by Scottish Natural Heritage as the Scottish Government's advisors on nature conservation.

Such a licensing system would, as mentioned, enable a flexible approach whilst a change in the unlicensed dates would reflect the needs of a changing climate and bring Scotland into line with England and Wales. We would welcome amendments to the draft Climate Change (Scotland) Bill to enable such a licensing system to be established at the same time as any changes in the permitted times for making muirburn.

Q11 The Bill will allow modification by order of the functions of the Forestry Commissioners to enable the Forestry Commission in Scotland to play a greater role in tackling climate change. The immediate intent of the Scottish Government is to take forward proposals relating to renewable energy development on the National Forest Estate and the release of capital from the National Forest Estate for woodland creation.

What are your views on this proposal?

SCCS is concerned that the forestry provisions are distracting from discussion of the overall aims and objectives of the Climate Change (Scotland) Bill, the urgency of reducing our emissions and how we propose to meet the targets. These provisions were introduced late in the day, meaning that there has not been appropriate consultation on the details of this.

SCCS supports the idea of Forestry Commission Scotland being able to participate in environmentally appropriate joint ventures to address climate change. However, without adequate legislative scrutiny, we do not believe that the Climate Change (Scotland) Bill is the appropriate place for the Government to propose new forestry provisions and enabling powers – such as those under Clause 47 (1), (2), and (4) - that would fundamentally alter the legal basis of Scottish forestry regulation, forestry and practice. SCCS would expect to see full consultation and public debate on such fundamental changes, undertaken separately from the Climate Change (Scotland) Bill.

It concerns us that forestry has been isolated as a form of land use. Other aspects of Scotland's land use have not been included in the Bill, nor are they being debated.

SCCS is also extremely concerned that the proposal to lease substantial parts of the National Forest Estate to private companies threatens jobs. We share the concerns about the risk to jobs that have been raised by the Forestry Commission Trade Unions, who oppose the leasing proposal. The unions back the Bill's

targets on climate change and the expansion of renewable energy programmes. They acknowledge that the Scottish Government has promised no compulsory redundancies, but they warn that this commitment and staff terms and conditions could be at risk under any transfers and they conclude that several hundred good quality jobs could be lost in the forestry, timber processing, recreation and tourism sectors.

As drafted, the Bill also offers no guarantee that the money generated from the sale of the forestry estate will be allocated to climate change mitigation. We also note that this method of funding climate change-related activities is not sustainable as it would be a one-off payment in return for the land, and therefore does not provide a secure source of financing in the years and decades to come.

Overall, we believe that the Climate Change (Scotland) Bill should take a more holistic approach to rural land use, rather than just considering forestry and muirburn. It is vital to addressing within the Bill the 25% of Scotland's greenhouse gas emissions that come from land use. An indication in the Bill that the forthcoming Land Use Review would set out a strategic approach for managing Scotland's land use in relation to climate change would be welcomed.

Q12 The Bill requires the Scottish Government to produce an action plan setting out current and proposed measures to improve the energy efficiency of buildings in Scotland, as well as measures to encourage behavioural change.

What are your views on this proposal?

While SCCS supports the requirement for Ministers to produce an action plan setting out measures to improve the energy efficiency of buildings in Scotland, we are concerned that the measures set out in this section of the Bill do not match the level of ambition laid out in earlier sections of the Bill, nor in existing statute. It is essential that the Scottish Government adopts a comprehensive and sustainable approach to reducing emissions from energy use, and brings forward, at an early date, a comprehensive energy strategy taking account of demand reduction, energy efficiency and renewables, and to review it periodically.

SCCS is concerned that the current drafting of this section would actually lead to a weakening of the duty on Scottish Ministers. In section 179 of the Housing (Scotland) Act 2006, Ministers have a duty to *improve* energy efficiency in domestic housing. In contrast, the drafting of this section of the Bill merely gives Ministers a duty to *promote* energy efficiency, while section 179 of the Housing (Scotland) Act would be repealed by the passage of this Bill. Such a weakening of the duties on Scottish Ministers is unacceptable.

Q13 The Bill confers powers on the Scottish Ministers to make regulations providing for the assessment of (a) the energy performance of non-domestic buildings; and (b) emissions of greenhouse gases produced or associated with such buildings. The provisions are enabling in nature and the Policy Memorandum provides further information on the Scottish Government's thinking in this area.

What are your views on this approach?

SCCS welcomes the proposals in the Bill, which confer on Ministers the power to make regulations providing for the assessment of the energy performance of non-domestic buildings and emissions associated with such buildings. However, we believe the voluntary approach outlined will fail to deliver the level of emissions cuts required. The Bill should therefore confer powers on Ministers to mandate energy efficiency improvements in both domestic and non-domestic buildings.

Q14 The Bill places a duty on the Scottish Government to take such steps as it consider appropriate to promote the use of heat from renewable sources. The Scottish Government has indicated this provision will enable it to introduce measures it deems appropriate to incentivise the production of heat from renewable sources.

What are your views on this proposal?

SCCS supports the encouragement of promoting more district heating systems and the financial assistance the government is committing in this area.

However, the illusive definition of renewable sources raises serious cause for concern. The use of waste as a renewable fuel directly conflicts with the attempts to reduce CO₂ emissions. Incinerator technologies

(gasification, pyrolysis, mass burn, plasma) emit almost a third more CO₂ per unit electricity generated than coal-fired power stations. It is also a contradiction of internationally recognised definitions of zero waste.

SCCS does not view these technologies as renewable and wants to see the government promotion of anaerobic digestion as the primary 'renewable source' in this commitment, as being the least harmful thermal technology to human health and climate change emissions.

SCCS believes that a reducing amount of waste incineration should be permitted, and that energy from waste facilities must maximise energy conversion possibilities with strict heat recovery rules, while avoiding policies that require waste production to feed energy from waste plant.

Q15 The Bill sets out measures aimed at improving waste and recycling. The Bill gives powers to the Scottish Government to make regulations in the following areas:

Waste prevention and management plans;

Waste data;

Deposit of recyclable waste;

Procurement of recycle;

Reduction of packaging;

Deposit and return schemes;

Charges for carrier bags.

What are your views on these proposals?

SCCS welcomes the introduction of powers to establish deposit and return schemes, targets for packaging reduction schemes, and charges for supply on carrier bags and further recycling provisions. However, further work is required on waste reduction and prevention, as the priorities of the waste hierarchy.

SCCS supports a move towards zero waste as one important strand of climate change mitigation, but is disappointed with the Scottish Government's definition of zero waste. SCCS opposes the definition of waste incineration as either renewable energy or as part of zero waste. Among the range of definitions, many of our members support the following internationally recognised definition of zero waste, as set by zero waste practitioners and scientists, recyclers and community waste organisations:

"Zero Waste is a goal that is both pragmatic and visionary, to guide people to emulate sustainable natural cycles, where all discarded materials are resources for others to use. Zero Waste means designing and managing products and processes to reduce the volume and toxicity of waste and materials, conserve and recover all resources, and not burn or bury them. Implementing Zero Waste will eliminate all discharges to land, water or air that may be a threat to planetary, human, animal or plant health."¹⁵

The Government's inclusion of energy recovery has no place in this definition and aim of zero waste. It only provides disincentives to further developments on reduction, reuse and recycling by including the 25% of waste targeted for energy from waste.

SCCS encourages Scottish Government Ministers to further refine their definition of zero waste, based on sustainable development principles within the context of global climate change.

SCCS welcomes the introduction of waste prevention and management plans for businesses and public bodies, alongside other waste reduction and recycling measures. Much can be learned from the community sector which has been active in this area for many years. It is essential to bring businesses fully on board in this area, while public bodies have a crucial role to play in leading by example, as part of overall sustainable development strategies.

Concerted action by the public sector can make a major contribution to reducing Scotland's waste, can set a good example for the private sector and can encourage employees to change their behaviour at home - although often now workers find they are doing far more recycling at home than at work and want employers to take much stronger action.

These proposals should help ensure public and private sectors tackle waste prevention, waste reduction and recycling in a focused, planned manner in line with all relevant legislation, guidance and targets and making use of sustainable procurement policies to effect improvements. Negotiated workplace environmental agreements will ensure the best chance of successful implementation of plans.

¹⁵ Zero waste International Alliance, November 2004

Q16 What are your views on the adequacy of the Scottish Government's consultation in advance of publishing the Bill?

The fact that more than 20,000 people responded to the Scottish Government's consultation is a measure of how important the Climate Change (Scotland) Bill is perceived to be. With this in mind, it was disappointing that the Scottish Government did not make more effort to engage individuals and communities around Scotland in the consultation process. The majority of the respondents became aware of the consultation because of the hard work of NGOs, rather than because of any genuine attempt by the Scottish Government to solicit their views.

This was particularly disappointing given that in order to achieve the targets within the Bill, the Scottish Government is going to need buy-in and support from every sector of society, and every individual in Scotland. The earlier people can engage in the process the better.

It was also a stark contrast with the consultation on the Smoking, Health and Social Care (Scotland) Bill – where significant Government effort was made to engage members of the public and due respect was paid to their opinions.

Finally, SCCS believes that the questions in the consultation document could have been significantly more accessible. Obviously there was a need to consult on the detail of trading schemes, carbon budgeting etc, but we believe there was also a need for more general questions about the principles and objectives of the Bill, responsibility of different sectors to take action, the role of Scottish communities in climate change mitigation and adaptation, and the broader international context.

Q17 Do you have any views on the Strategic Environmental Assessment which was carried out by the Scottish Government out on the consultation proposals?

No view.

Q18 Does the Bill raise any equalities issues you would wish to highlight?

We already know that climate change is compounding existing global inequalities. Poverty increases people's exposure to the adverse effects of climate change, and poor communities are the most vulnerable, even though they have minimal responsibility for creating the problem. Between 2000-2004, 262 million people were affected by climate disasters annually. 98% of these people were in the developing world¹⁶.

Climate change is also projected to increase the number of refugees and immigrants from areas least able to cope with a changing climate to areas with greater resources. The possibility of increased immigration flows raises equality and societal issues around questions of race and immigration.

By making a legislative commitment that Scotland will keep within a fair share of a global greenhouse gas budget, at least 3% reductions per year and at least 80% reduction by 2050, the Scottish Government will set a positive precedent and consolidate its position as a global leader on climate change, as well as playing its part in addressing global and intergenerational inequalities.

It is equally important that mitigation and adaptation policies are held against criteria of social and environmental justice within Scotland. Efforts to reduce emissions and adapt to the impacts of climate change must go hand-in-hand with existing work to lift people out of fuel poverty and address environmental injustices.

Q19 Do you have any comments on the impact of the Bill on sustainable development?

Global sustainable development must be an underpinning principle of the Bill and SCCS would like to see this acknowledged in the long title of the Bill. This may have precedence given that the Rural Agriculture and Environment Committee have recommended that the Flood Risk (Scotland) Management Bill be amended to include 'more specific reference to sustainability on the face of the Bill.'¹⁷

¹⁶ UNDP 2007 World Development Report

¹⁷ Rural Affairs and Environment Committee, Stage 1 Report on the Flood Risk Management (Scotland) Bill

SCCS further believes that the Climate Change (Scotland) Bill should place a duty on the Scottish Government to ensure that any mitigation and adaptation efforts contribute to the furthering of sustainable development and ensure the avoidance of negative social, economic and environmental impacts; either within Scotland or in the developing world.

- **Be explicit that sustainable development is core to the purpose and delivery of the statute in relation to mitigation and adaptation.**

Q20 Do you have any other comments on the Bill?

SCCS is keen to ensure that the provisions in the Bill are implemented effectively. We believe the courts should have a role in scrutinising the delivery of the targets. We would like it made clear that, as in England and Wales, the courts have an important preventative role in using their powers to quash Ministerial decisions on issues such as future targets, or projects or programmes that were likely to lead to breaches of the targets. In doing so, the courts would have to be able to consider the merits of the matter, and in particular the relevant advice of the relevant Advisory Body. It would also be critical that access to the court was timely and affordable. Unfortunately, these three criteria, despite being established by the Aarhus Convention and the three EU Directives arising from this, are not met fully in Scotland at present.

Even judicial review is less easily accessible in Scotland than in England and Wales where the courts have accepted the principle of 'protective costs orders' where campaign groups take such actions in the public interest. These provide a guarantee that the threat of a punitive costs award cannot deter a legitimate action to seek judicial review. New provisions in Scottish law are needed to ensure that affordable, timely and merits-based access to justice is available in cases relating to the Bill's objectives. This would ensure that public interest groups could seek a court ruling if ministers were failing to comply with their duties under the Bill. Such provisions may not require primary legislation, but we would expect Ministers to commit to ensuring that the necessary provisions are brought forward.

- **Ensure that strong enforcement measures are set in place in statute.**

Therefore, Stop Climate Chaos Coalition Scotland priorities for the Climate Change (Scotland) Bill are that it must:

1. Set out a framework that will achieve *at least* an 80% reduction in greenhouse gas emissions by 2050.
2. Establish in statute annual emission reductions of *at least* 3% year-on-year from the start, not just from 2020, compatible with a fair and safe cumulative budget identified by the advisory body (see 4).
3. Include emissions from all sectors in the framework and targets set out in the Bill, including those from international aviation and shipping, from the very start.
4. Establish a Scottish advisory body, a Scottish Climate Change Commission, in the primary legislation to support delivery of the Bill when it is enacted.
5. Ensure that at least 80% of the effort to cut emissions takes place in Scotland.
6. Establish duties on all public bodies to reduce greenhouse gas emissions in line with the national target.
7. Set in place robust, transparent reporting measures so the Scottish Parliament is well informed on progress in meeting targets and Government is held to account on mitigation and adaptation.
8. Ensure that strong enforcement measures are set in place in statute.
9. Ensure Scotland counts all its emissions and reports on those produced by products and services we consume as well as emissions produced domestically.
10. Be explicit that sustainable development is core to the purpose and delivery of the statute in relation to mitigation and adaptation.

SCCS members are:

A Rocha
Association for the Conservation of
Energy
Baldernock Community Council
Christian Aid Scotland
Church of Scotland
Concern Worldwide Scotland
Edinburgh University Students
Association
Friends of the Earth Scotland
Glasgow Eco-renovation Network
Glasgow Students Representative
Council
Greenpeace
Heriot Watt University Students
Association
Justice and Peace Scotland
Mercy Corps Scotland

National Trust for Scotland
Oxfam Scotland
People and Planet
RSPB Scotland
SAMH
SCIAF
Scottish Action on Climate Change
Scottish Episcopal Church
Scottish Seabird Centre
SEAD
Spokes
Sustrans
Tearfund
Transform Scotland
UNISON
WDM Scotland
Woodland Trust
WWF Scotland