

**The responses below are those of members of The Chartered Institute of Logistics and Transport(UK) Scottish Policy Group who have contributed to the discussion on**

## **The Scottish Government Consultation**

**on**

## **Consultation on Proposals for a Scottish Climate Change Bill**

### **Preamble**

1. The CILT(UK) Scottish Region welcomes the preparedness of the Scottish Government to complement the current UK Climate Change Bill by taking actions to ensure appropriate strength of response within Scotland to the challenge of Climate Change.
2. We agree that Scotland should recognise that as a result of its capacity for and commitment towards achieving a high level of renewable energy usage, it is in principle reasonable to set a higher target for Scotland's reduction (by 2050) of targeted greenhouse gas emissions than the current 60% target for the UK as a whole. But see [13] and 14].
3. Given that the Scottish Bill is being developed at the same time as the UK Bill is being finalised, it would be advisable to capitalise upon the procedures and expertise that will become available through that route in order to avoid unnecessary duplication of effort or inconsistency of procedure.

### **On "TARGETS"**

4. On Q1<sup>1</sup> and Q2<sup>2</sup> we recommend that the practice be followed of designating a greenhouse gas as a "targeted" greenhouse gas, in a manner that is consistent with the practice adopted in the UK as a whole, as envisaged in the UK Climate Change Bill<sup>3</sup>. It seems likely that carbon dioxide emissions should be the only targeted greenhouse gas in the first instance. Should others be considered it appears from Figure 3 (p21) that, in Scotland, only methane and nitrous oxide should be candidates for additional attention, since on current evidence the CO<sub>2</sub> equivalent effect of the remaining three gases is negligible. The Scottish Bill should make provisions for altering the gases that are included, in harmony with the UK Bill.
5. The debate at §5.4 as to whether emissions should be based on those that are **produced** or those that are **consumed** is important. But the preference at §5.9 to base targets on those that are produced seems inconsistent with the argument at §5.33 to use measures of consumption in creating an end-user inventory.
6. We suggest that the anomaly apparent at [5] above can be overcome by recognising that **targets need to be targeted**. That is, if a given Minister, group of people, industry sector or body is to be encouraged to meet a target, the target needs to be in terms that are meaningful and measurable for that Minister, group, sector or body. Thus it would be

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<sup>1</sup> Q1: Should a Scottish target be based on carbon dioxide only or the basket of six greenhouse gases?

<sup>2</sup> Q2: Should the Bill contain provisions to alter which gases are included, for example if the reliability of data for a particular gas improves or if science changes in the future about which gases cause climate change?

<sup>3</sup> Bill 97 07-08. Bill as brought from the Lords on 1st April 2008 (<http://services.parliament.uk/bills/2007-08/climatechange.html>). Referred to subsequently in this response just as the "UK Bill", or by the Clause number within it.

understandable for a Minister with overall responsibility for climate change to have a high-level national target expressed in terms of emissions produced at the national level; and it would be equally understandable for individuals or groups to be challenged in terms of their consumption. The concept of “separate targets” discussed at §5.34 is therefore in principle reasonable; but not necessarily as statutory targets: see [8]. If the benefits of consumption-based targets are not all measurable by the Minister’s production-based targets then it may be desirable but not necessary to show how one relates to the other.

7. Thus, in response to Q3<sup>4</sup>, the rationale at [6] implies that incentives for industry might in general be related to the emissions produced; incentives for individuals to the emissions consumed. (Though for certain types of business it might also be easier to incentivise through emissions consumed.) There could of course be overlap between the measures involved in each. That would not matter; as that could lead to a powerful reinforcing effect with consequential benefits in attaining the overall national target.
8. However, the implication of Q3 that targets for end-users or for individuals are set by statute is surely not credible. It is barely credible for a succession of ministers to “ensure” that the target of a 60% reduction in UK’s greenhouse gases (or 80% for Scotland’s) is achieved by 2050, though it is certainly a very positive move to translate what has hitherto been an advised goal into a legal imperative. It may be noted that a previous UK Climate Change Bill, introduced in the 2005/06 session, had proposed setting annual targets for nine different sectors; but that it failed to make it to the statute book; whilst the present UK Climate Change Bill proposes only one target, that for the UK as a whole, in 2050. There, the phrase “annual targets”, is avoided, and the concept of carbon budgets, set over a five-year period, is now preferred. We suggest that, in the Scottish statutory context, the term “target” has similarly restricted usage.
9. The issue of the “means of measuring the target” raised in Q4<sup>5</sup> therefore has two distinct interpretations: one relates to the statutory target the other relates to the carbon budgets. Either should be changeable through secondary legislation.
10. The last sentence of §5.34 raises the important question as to whether other statutory targets (eg those expressed in terms of energy efficiency) might be met whilst the national target set for targeted greenhouse gases remains unmet. It is clearly desirable for there to be consistency. The UK Climate Change and Sustainable Energy Act 2006 took some steps in this direction, by requiring that the Gas Act 1986 and Electricity Act 1989 be amended by substituting for “energy efficiency target” the phrase “carbon emissions reduction target”. This might be the kind of change needed in some Scottish legislation, as envisaged in Q33<sup>6</sup>, concerning which - see also [32].
11. The issue raised in Q5<sup>7</sup> of how to take account of emission trading schemes is one on which the proposed UK Committee on Climate Change has a duty to advise (see Clause 34(1c) of the current UK Bill). That Committee’s advice on this and other matters has also to be made to the devolved Scottish administration (see [19]). Whether the effect of emissions trading needs to be taken into account for Scotland is a question that merits further examination: see [14].

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<sup>4</sup> Q3: The Scottish Government wishes to ensure that the Bill gives sufficient incentives to invest in energy efficiency and renewable electricity. Should the targets be based on source emissions; an end-user inventory; or on individual targets for energy efficiency and renewable electricity? Do you have any other suggestions?

<sup>5</sup> Q4: Do you agree that the Bill should allow the means of measuring the target to be changed through secondary legislation to reflect international developments or unforeseen consequences of the Bill?

<sup>6</sup> Q33: Is there any existing legislation within the competence of the Scottish Parliament (devolved) which needs to be amended so that appropriate action on climate change can be taken by sectors in society?

<sup>7</sup> Q5: Should the emissions reduction target take account of the abatement effort made by companies under emissions trading schemes? If so, how?

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12. On Q6<sup>8</sup>, a procedure for the handling of international credits is covered at the UK level by the procedures for defining and regulating the “net UK carbon account” outlined in Clause 27 of the UK Bill. Of course the critical question in the Scottish context remains as to how much of the UK accreditation can be credited towards Scotland. Whether the effect of international credits needs to be taken into account for Scotland is a question that merits further examination: see [14]; if it can be done with little effort, eg by agreeing a simple sharing percentage for each five-year budget period, it might be worthwhile.
13. Concerning the level of the 2050 target adopted in Scotland, we suggest in response to Q7<sup>9</sup> that the procedures be similar to those proposed in the UK Bill, under which the UK Climate Change Committee would be responsible for proposing amendments. For Scotland, the advice for a Scottish target would have to heed the conclusions reached concerning the UK target.
14. The first duty of the UK Committee on Climate Change is to advise, by 1<sup>st</sup> December 2008, whether the current 60% reduction target (with respect to the 1990 baseline) for the UK should be amended; and if so to what level (Clause 33). A shadow Committee has already been set up (initially as a non-statutory body) and has been asked to assess whether the UK target should be raised to 80%. We recommend that Scotland’s proposed target of an 80% reduction on the 1990 baseline should also be a matter of early appraisal by an appropriate panel (for which see [18-21]). That appraisal should consider:
  - Whether the 80% target for Scotland is realistic relative to the current 60% target for the UK, being higher by one-third of the reduction sought for the UK as a whole.
  - The conclusions reached by the UK Committee on Climate Change on the UK target for 2050 and the reasons for these.
  - The nearer the target gets to 100% the more difficult it gets to attain each extra percentage gain.
  - Whether there is a case for targeting the Scottish Government’s efforts only to those areas for which it has devolved responsibility and hence most ability to influence, bearing in mind that as electricity supply is not one of these, the effect would be to reduce the Scottish target.
  - Whether the effects of emission trading and international credits can be ignored in setting the Scottish target, so leaving this matter for the UK level only.

### **On “SUPPORTING FRAMEWORK”**

15. On emission budgets there needs to be consistency at various points with the proposals in the UK Bill. Thus the terminology should be “carbon budgets” rather than “emission budgets”; the length of the interim budget periods (Q9<sup>10</sup>) should be the same as that proposed for the UK (namely 5 years), as should the amount of advance notice of the budgets (Q10<sup>11</sup>), and any percentage limits (Q11<sup>12</sup>) on the amount of carbon emissions that can be “borrowed” from a following period (1%). Interim point targets (Q12<sup>13</sup>) are unwise because of the fluctuations that can occur in a given year and are not necessary in view of the fact that the

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<sup>8</sup> Q6: Do you agree that international credits should be counted towards Scottish targets? Should there be limits on credits counted towards Scottish targets?

<sup>9</sup> Q7: Should the Bill allow the level of the 2050 target to be changed through secondary legislation? If so, should this only be allowed on the basis of independent, expert advice, to reflect international developments or unforeseen consequences of the Bill? Should any changes to the target be limited to an increase in the target?

<sup>10</sup> Q9: How long should interim budget periods be?

<sup>11</sup> Q10: How many years in advance should emissions budget periods be set in order to provide sufficient time to develop infrastructure?

<sup>12</sup> Q11: What should be the limit (in terms of absolute quantity or as a percentage of the budget period) on the amount of emissions which the Government can borrow from a following budget period?

<sup>13</sup> Q12: Should the Bill include an interim point target? If so, what year (or years) should it be for (2020, 2025, 2030, etc.)? How should the level be chosen?

UK Bill proposes that the budget for 2018-2022 be set in a way that is consistent with the Government's target to reduce emissions by at least 26% against 1990 levels by 2020.

16. Of the factors listed in §6.5 of the Scottish Consultation document as possible ones to take into account when setting the level of budgets (Q8<sup>14</sup>), the main omission is that of energy policy. That is included (together with factors equivalent to those in §6.5) in those proposed (at Clause 11) to be taken into account by the UK Climate Change Committee in setting the UK budgets. An important issue concerning energy policy in this context is that it should not be limited to questions of power supply; the supply of fuel for transport, including alternative fuels, are important to include, as are matters affecting energy demand (including the demand for fuel). In this respect, the Scottish Government may be able to be more inclusive in the scope of its energy policy than the UK Government appears to be. Indeed, since Scotland currently generates more electricity than it needs for its own domestic, commercial and industrial use, and proposes an increasing reliance on renewable energy, it may be in a position to encourage significant take-up of electric (or hybrid electric) vehicles. [Electric cars are already commercially available and could become an attractive economic choice for more households as the oil price rises.](#)
17. The key question is whether and how the (percentage) budgets in Scotland should differ from the UK carbon budgets. As the UK Climate Change Committee is also charged with "taking into account differences in circumstances between England, Wales, Scotland and Northern Ireland" in setting the budgets, the question arises as to how that Committee is best informed of such differences and whether and how consistency can be achieved between that committee's views of its effect on the UK budget and a Scottish view of its effect on a Scottish budget. See [18-20] for comment on how that might be done.

#### On "REPORTING AND SCRUTINY FRAMEWORK"

18. On Q13<sup>15</sup>, other than the requirements set out in the document, Scottish Ministers should set Scotland's position in the UK context by including information on progress in reaching the UK reduction target. Parliamentary scrutiny seems the appropriate way of holding the Scottish Government to account (Q14<sup>16</sup>).
19. On Q15<sup>17</sup> and Q16<sup>18</sup>, the primary source of advice to the Scottish Government should be the proposed UK Committee on Climate Change. That is because, as noted at §7.12 *et seq* its brief requires it to:
  - take note of Scottish circumstances in setting UK budgets (Clause 11, as in [16])
  - lay before both Parliament and each of the devolved legislatures an annual report (Clause 35), in responding to which the Secretary of State is obliged to consult other national authorities (Clause 36)
  - send a copy of its advice to other national authorities at the same time as it provides it to the Secretary of State (Clauses 33, 34)
  - provide advice, analysis, information or assistance to a national authority at the latter's request (Clause 37).

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<sup>14</sup> Q8: What factors should be taken into account when setting the level of budgets?

<sup>15</sup> Q13: Should the Scottish Ministers be required to report on any other issues related to climate change in addition to the requirements already set out? If so, what and how often?

<sup>16</sup> Q14: Is a process of Parliamentary scrutiny the appropriate way of holding the Scottish Government to account if targets or budgets are not met?

<sup>17</sup> Q15: What should be the primary source of advice to the Scottish Government for setting emissions targets or budgets and why? Options include the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself

<sup>18</sup> Q16: If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

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20. There is however a case for identifying a secondary source of advice that is specific to Scotland. This should not duplicate the role of the UK Committee on Climate Change but could well assist both it and the Scottish Government, by bringing forward more specialist expertise on aspects of climate change in Scotland. This could be more of an Advisory Panel than a committee, with a composition that might change as the issues confronted change. Responsibility for convening it should lie with a body that is well networked into issues of climate change in Scotland, and with the associated research community. For this convening role and/or a steering group role, the Scottish and Northern Ireland Forum for Environmental Research (SNIFFER) might be an appropriate body, as the research it commissions and manages includes that on climate change, and its membership includes the Scottish Environment Protection Agency (SEPA), the Scottish Government, the Environment and Heritage Service, Scottish Natural Heritage and the Forestry Commission, with a link to the Scottish Climate Change Impacts Partnership (SCCIP). This might be best set up early on, rather than waiting 3 years to evaluate the effect of working only with the UK Committee on Climate Change as envisaged at §7.18. In either case, the issues at [14] need very early consideration.
21. With regard to monitoring the progress of the Scottish Government in reducing emissions (Q17<sup>19</sup> and Q18<sup>20</sup>) and scrutinising it further (Q19<sup>21</sup>, Q20<sup>22</sup> and Q21<sup>23</sup>), there will of course be reports that monitor progress prepared by the UK Committee on Climate Change. But these will not necessarily identify issues particularly pertinent to Scotland (although under Clause 37 the Scottish Government can ask for it) and further scrutiny is desirable. It is suggested that this should be under the auspices of the Royal Society of Edinburgh (RSE), at the end of each five-year budgetary period, following receipt of the appropriate reports from the UK Committee on Climate Change, since the RSE has a wealth of expertise across a wide range of areas and should have no difficulty in finding within its membership those prepared to undertake the inquisitive role that would be necessary. The group that has the responsibility for monitoring should have powers to collect evidence and commission surveys and analyses and the departments of the Scottish Government and its agencies such as Transport Scotland, should have a duty to provide such evidence.
22. There are two remaining functions not covered by the above arrangements that might need to be appraised (Q22<sup>24</sup>). The first is to identify the gaps in knowledge and research that are critical to reaching the national targets. For this, the RSE might again be a suitable body for Scotland; but the issue might be more appropriately addressed for the UK, eg through the Royal Society or the Royal Commission on Environmental Pollution. The second is to review whether the above arrangements for Scotland are working satisfactorily. This calls for somewhat different skills, and might be more appropriately assessed via a consultancy contract.

### **On “SUPPORTING MEASURES”**

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<sup>19</sup> Q17: Which organisation should be tasked with monitoring the progress of the Scottish Government on reducing emissions and why? Options include the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself

<sup>20</sup> Q18: If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

<sup>21</sup> Q19: Should additional independent mechanisms for scrutinising the effectiveness of the Scottish Government's policies in reducing emissions be created by the Bill (in addition to any scrutiny already provided by the Scottish Parliament)?

<sup>22</sup> Q20: If so, which organisation is best placed to carry out this function and why? Options include a new Scottish Committee on Climate Change or an existing public body in Scotland.

<sup>23</sup> Q21: If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

<sup>24</sup> Q22: Are there any other functions related to climate change, existing or new, which should be carried out at arm's length from the Scottish Government and why?

23. We are surprised that this section contains no sub-section on the transport sector, given the high and increasing proportion of that sector's contribution to the nation's carbon footprint (18% for road transport in Scotland, 27% for UK transport users) and the guidance available on reducing this from the Commission for Integrated Transport and others – see [26].
24. In respect of duties placed on parts of the public sector, Q23<sup>25</sup> and Q24<sup>26</sup>, it is noteworthy that the UK Bill proposes modifications to the Climate Change and Sustainable Energy Act 2006 that introduce a new requirement upon local authorities in Wales (Clause 76) to “have regard to climate change measure reports” but leaves the requirement upon local authorities in England unchanged; they only have to “have regard to energy measures reports”! This seems extraordinarily weak, even for Wales, as the obligation for Welsh Ministers to publish a climate change measures report is only “from time to time”; and the climate change measures reports they have to consider (defined in Clause 76(3)) contain just “information”. There is no duty imposed to assist in attaining national climate change targets. This may be because “trading schemes” are the UK government's preferred way of achieving action. Scotland has the same rights as ministers in England, Wales or Northern Ireland to propose a trading scheme, to seek the advice of the UK Committee on Climate Change upon it, and to obtain information, give guidance, give direction and make or arrange for the making of grants in relation to such schemes. This may be sufficient: but it puts the onus on the government rather than a duty on the local authority.
25. For Scotland, we suggest that Transport Scotland and the Regional Transport Partnerships (RTPs) are the appropriate public bodies in the transport sector upon which a duty may be placed. The impact made through giving the RTPs the lead in transport related issues would be greater than that of local authorities acting individually in these areas. The duties could include working with partner organisations in developing and implementing relevant interventions and monitoring the effect of these on transport related greenhouse gas emissions; adopting and if possible improving upon any guidelines or procedures that have the aim of reducing such emissions; and reporting annually on the steps taken and their outcome.
26. On Q25<sup>27</sup> and Q26<sup>28</sup>, guidance in the transport field appropriate for the Scottish Government, Transport Scotland, the RTPs and others is the report issued by the Commission for Integrated Transport in 2007 on *Transport and Climate Change*<sup>29</sup>. It includes recommendations on delivering greater cost-effectiveness in carbon savings from transport by 2020. Provision of statutory powers does not seem appropriate. But in order to encourage these and local authorities more generally to take note of appropriate guidance (including any revision to Best Value Guidance, Q28<sup>30</sup>), it may suffice to have a Clause similar to that of Clause 76(3) for Wales, weak though it is. An enabling power that is desirable, is one that could establish mechanisms whereby gaps in existing guidance can be readily identified and commented upon by practitioners and others, and rectification actions initiated by government.

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<sup>25</sup> Q23: Should the Bill contain enabling powers to introduce a duty on certain parts of the public sector (i.e. local authorities and large public bodies) to take specified actions on climate change or other specified environmental issues? Why?

<sup>26</sup> Q42: What should such a duty (or duties) include?

<sup>27</sup> Q25: Should the Bill contain enabling powers to introduce statutory guidance for certain public sector bodies (i.e. local authorities and large public bodies) on specified climate change or other environmental measures? Why? Are there gaps in any existing guidance?

<sup>28</sup> Q26: What should this guidance include?

<sup>29</sup> Commission for Integrated Transport (2007). *Transport and Climate Change*. Advice to Government from the Commission for Integrated Transport.

<sup>30</sup> Q28: As a potential non-legislative measure, should current Best Value guidance be amended to take specific account of climate change mitigation and adaptation? If so, how should Best Value guidance be amended?

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27. On Q27<sup>31</sup>, enabling powers about reporting are necessary as it is desirable that public bodies (including government agencies) make regular reports on measures they are taking to tackle climate change. They should lead by example, and this needs to be transparent. The reports should therefore primarily state the action they have taken to reduce carbon emissions in the running of their own affairs, quantifying the expected and actual effect where possible, and only secondarily summarise the measures they have introduced to facilitate or require similar actions by others.
28. On Q29<sup>32</sup>, variable charging is a useful means of managing demand, eg for electricity or for travel. But the charges need to be obvious at the time people make their decisions, justified, and the reasons for their variability understood. (FETA's proposal some time ago to vary the tolls on the Forth Road Bridge were strongly resisted because the highest toll envisaged (£4) was too much. It was perceived as a revenue-raising scheme rather than as a demand management scheme. Had it just been made free at certain times of the day with the £1 charge retained at peak times there would have been no resistance and the desired effect in terms of demand management would have been achieved.) In the transport sector there is evidence of people's readiness to change and of the difficulty they have in doing so: the need is to show them how, and make it simple for them. The issue is more complex than just enabling variable charging, so we suggest that any changes in the law on this is best done in the context of specific proposals in which other factors are taken into account.
29. On Q30<sup>33</sup>, we are surprised at the switch of emphasis at this late point in the consultation from mitigation to adaptation, especially as §4.25 and §4.26 of the Consultation Document made it clear that adaptation strategies are dealt with in Scotland elsewhere. Notwithstanding this, we suggest that it may be appropriate to include in the Bill enabling powers that enable the scope of the Scottish Committee on Climate Change if there is one (or of the panels suggested meantime [18-21]) to be changed to provide advice on such matters, complementing the role of the Climate Change Adaptation Subcommittee of the UK Committee on Climate Change.
30. Other provisions may be appropriate to include in the Scottish Climate Change Bill, relevant to the main theme of carbon reduction rather than to adaptation. Two are suggested here..
- Help people to understand the carbon implications of their consumption choices. One way of doing so would be by requiring fuel bills (whether for gas, electricity or for petrol/diesel) to display information about the amount of carbon dioxide that will be released on consuming a given quantity of fuel. (Ideally information should also be given about the amount already released in generating and delivering that fuel to them.) A second would be to encourage installations of cheap micro-sensors so that people can readily see the amount of electricity consumed by their various devices. (This point may also be pertinent to Q31<sup>34</sup> )
  - Require firms to pass on to their customers such cost-saving benefits that their carbon reduction measures have given rise to. For example, if diesel contains a proportion of biomass fuel, the benefits of the lower duty should be reflected in a lower price. (This point might also be pertinent to Q32<sup>35</sup>)
31. On equality implications (Q32), the FETA experience referred to at [28] and the "boundary" issues raised in the debate on the Edinburgh road pricing scheme, demonstrate that it is

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<sup>31</sup> Q27: Should the Bill contain enabling powers to create a requirement for certain public sector bodies (i.e. local authorities and large public bodies) to make regular reports on specific measures they are taking to tackle climate change (whether mitigation or adaptation) or other environmental issues? Why? What should be included in such reports?

<sup>32</sup> Q29: Are there any amendments to existing legislation or any enabling powers needed to allow for variable charging (for example by local authorities) to incentivise action or eliminate perverse incentives?

<sup>33</sup> Q30: Are there any provisions to help Scotland adapt to the impacts of climate change which should be included in the Scottish Climate Change Bill?

<sup>34</sup> Q31: Should provisions within the Environmental Assessment (Scotland) Act 2005 be amended in order to provide clearer links with emissions reduction? If so, how should this be done?

<sup>35</sup> Q32: What are the equalities implications of the measures in the proposals for the Scottish Climate Change Bill?

important that any proposals for raising charges (whether variable or not) using Climate Change as a rationale, assess the implications for social and geographical equity. Another important issue is to ensure that incentivisation measures or adaptation measures do not have perverse effects. For example, incentives to use biomass fuel may need to include conditions concerning its source (for example, that it be organic waste products) in order to avoid land being taken away from food production to the detriment of others. It may be more appropriate for carbon-reduction measures to be based on whole-life carbon emissions rather than in-use carbon emission (which might for example lead to VED being related not just to fuel usage but the carbon costs of production and eventual disposal). Adaptation measures that require new infrastructure to be built should have their carbon cost implications taken into account in determining whether a particular adaptation measure is most appropriate.

32. Further to the point made at [10] re Q33, the Scottish Parliament should review and amend as necessary the Building (and other similar) Regulations to ensure that standards are adjusted to take account of technological developments. On the adaptation issues raised at §4.26, the Scottish Parliament should review legislation relating to sea defences and flood plains such that appropriate risk assessments are made in respect of new and existing infrastructure.