

REVIEW



Climate Change Bill – The Key Points



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Consultation has now closed as to the Isle of Man's Climate Change Bill. Eve Aycock (LLM in Global Environment and Climate Change Law) analyses some of the key considerations in this significant new legislation that will in time affect the lives of the Island's present and future generations. Eve Aycock is affiliated to M&P Legal.

Amidst a global pandemic, an insidious international emergency endures – climate change. The effects of climate change transcend strictly environmental matters: it is a 'threat multiplier' that exerts additional pressure on extant political, social and economic concerns.

The 2018 Intergovernmental Panel on Climate Change (IPCC) report underlined the urgency of climate change, stating that limiting global warming to 1.5°C above pre-industrial levels will mean "rapid, far-reaching and unprecedented changes in all aspects of society". In order to mitigate the impact of climate change, anthropogenic greenhouse gas emissions must be reduced. To help achieve this, the Isle of Man has enacted a draft Climate Change Bill that commits the government to reaching net-zero carbon emissions by 2050, in alignment with IPCC recommendations. Net-zero emissions will be attained when human-caused emissions are balanced by carbon removal through Negative Emissions Technologies (NETs) such as carbon capture and storage.

The proposed Manx Climate Change Bill makes provision to set future interim targets

to achieve net-zero emissions by 2050; to enhance natural carbon storage on the Island; to impose reporting duties relating to greenhouse gas emissions on the Council of Ministers and public bodies; to enable renewable energy generation and use; and to reduce and recycle waste. The Bill is supplemented with the pre-existing Government Action Plan for achieving net-zero emissions by 2050. Phase One of the Action Plan entails a commitment to generate 75% of the Island's electricity from renewable energy by 2035; planting an 85,000-tree woodland; and prohibiting peat cutting. Whereas COVID-19 has delayed implementation of some aspects of the Action Plan, the Island's lockdown period provided an opportunity for rapid progress to be made on certain emission-reduction activities; paving the way for a new normal post-pandemic.

Whilst the Isle of Man is bound through the UK by the 1992 UN Framework Convention on Climate Change and its 1997 Kyoto Protocol, two of the three international climate change treaties, the 2015 Paris Agreement is yet to be extended to the Isle of Man, despite the Manx Green Party advocating this extension. In terms of implementing a domestic legislative framework for climate change, the Isle of Man lags behind its neighbours, with Westminster and Scotland having passed Climate Change Acts in 2008 and 2009 respectively. It is clear that the Manx Bill was especially influenced by Scotland's equivalent Climate Change legislation. For instance, the Isle of Man followed suit from Scotland by including just transition and climate justice principles, which

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recognise the socio-economic and ethical dimensions of climate change; thus advocating for fairness in sharing both its burdens and benefits. The Bill's acknowledgment of these principles is important, given that climate change will have the effect of deepening social inequality and aggravating injustice to poor, vulnerable and marginalised communities.

There are two important aspects of the Isle of Man's Climate Change Bill which differ to Scotland's Act – the baseline year being one. This is the starting point against which future reductions in domestic greenhouse gas emissions are measured. The Isle of Man has set its baseline year as 2018, which is its peak year of greenhouse gas emissions. Setting the peak year as the baseline means that the Isle of Man's percentage reductions in emissions will seem larger and thus artificially inflated relative to other countries; many of which have set their base year as 1990 (the Kyoto Protocol's recommended baseline for industrialised countries). The Isle of Man's choice of baseline means it will apparently be doing better than others in reducing its emissions; and will render it more difficult to compare the Island's accurate progress to other countries. Globally, choosing the peak year of emissions as the baseline year has perhaps unsurprisingly emerged to be a relatively popular tactic, with 44.1% of the 58 countries with base year targets in the Paris Agreement having selected one of the three most favourable years as their base year.

A second core element of the Isle of Man's Bill

relates to the target year for net-zero emissions. Although Scotland decided to set an ambitious target of net-zero emissions by 2045, the Isle of Man has mirrored Westminster and the EU by setting the net-zero target year to 2050. This is despite the chair of the Island's Climate Emergency Transformation Team, Professor James Curran, stating in his influential report that the Isle of Man "can potentially deliver a net-zero position slightly in advance of 2050, perhaps even by 2045". Given the Island's capability of achieving net-zero emissions before 2050 (and given its generous baseline), it is curious that it has decided to not pursue the more ambitious path set by Scotland.

Another curiosity regarding the Bill is its failure to mention the Island's status as a UNESCO Biosphere Reserve; the only entire nation in the world to have this status. Although the Biosphere status is not enshrined in legislation and is a privilege that can be removed, it is a relevant environmental consideration for setting interim targets and devising a climate change plan. Reference to the Island's status in the Bill would encourage the maintenance of this valuable accolade.

Nonetheless, there are many positives of the Bill. Its inclusion of provisions solely concerned with reducing fossil fuel consumption, entailing a ban on fossil fuel heating systems in new buildings from 2025, is to be applauded; particularly as a provision on fossil fuels is a conspicuous lacuna of the Paris Agreement. The Bill also contains a part dedicated to the regulation of single-use plastics, which is

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prescient given that the COVID-19 pandemic has prompted an unfortunate spike in single-use PPE waste. The connection between single-use plastics and climate change is often overlooked; with plastics being primarily perceived as an oceans issue. The Bill's incorporation of a part regulating single-use plastics is an important recognition of plastics' generation of heat-trapping greenhouse gases throughout their life cycle.

Finally, the Schedule to the Bill prohibits the disturbance of registered peatland areas, a practice which releases significant greenhouse gases into the atmosphere; and requires restoration of disturbed peatland. As peatlands are a natural carbon sink – storing twice as much carbon as all the world's forests – their protection and restoration is crucial for reducing emissions, thus helping to combat climate change.

Progress of this Bill through Tynwald will be worth monitoring. It could yet change. Everyone in the Isle of Man should take note and play their part in this crucial process.

Eve Aycock is training to be a lawyer.



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