

April 2018

# Policy brief

## 10 years of the UK Climate Change Act



### Headline issues

- The experience of the UK's Climate Change Act provides lessons for climate law-making that apply internationally.
- The Climate Change Act has been instrumental in advancing climate action over the past decade but reform will be needed if the UK is to meet its international climate obligations.

### Summary

**A comprehensive framework law is an essential tool for coordinating action to reduce greenhouse gas emissions and increase resilience.**

A good climate law contains statutory targets, assigns clear duties and responsibilities and provides clarity about the long-term direction of travel. Economy-wide, multi-year targets, set well in advance, help to define a clear yet flexible path towards the long-term climate objective. A strong independent body is critically important to ensure consistent policy delivery and evidence-based decision-making.

**In the UK the introduction of the Act and its carbon budgets has helped to reduce emissions, particularly in the power sector, while the economy has continued to grow.** Although the Act is technically consistent with the Paris Agreement, it will probably need supplementing by 2020, for instance by including a target for achieving 'net zero' emissions.

**New safeguards are needed to strengthen the ability to hold the UK government to account,** for example by creating a statutory response time for the government to publish its carbon plans. All parts of government must be fully committed to implementation of the Act as the UK moves into a more challenging phase of emissions reductions.

**Policy briefs** provide analysis on topical issues, presenting specific recommendations to inform ongoing policy debates. Drawing on the Grantham Research Institute's expertise, they summarise either our research findings or the state of knowledge about a particular issue.

This policy brief has been written by **Sam Fankhauser, Alina Averchenkova and Jared Finnegan**. It summarises a longer report, *10 years of the UK Climate Change Act* (43 pp), available at: [www.lse.ac.uk/GranthamInstitute/publication/10-years-climate-change-act/](http://www.lse.ac.uk/GranthamInstitute/publication/10-years-climate-change-act/)

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## Introduction

The UK Climate Change Act went through Parliament 10 years ago and became law in November 2008. The Act offers a number of lessons, for the UK and other countries, on how climate change legislation is best structured to be effective. These are summarised here, with a focus on the legal provisions in the Act and how they have been implemented.

The assessment is based on 33 semi-structured interviews with active or former civil servants, special advisers, government ministers, shadow ministers, backbench Members of Parliament, policy commentators and private sector representatives from different industries. Their responses are complemented with insights from the relevant literature, the authors’ own experience in engaging with UK climate policy and several informal conversations with experts in UK policy and in climate change governance.

## Key components of the Climate Change Act

Five features stand out that make the Climate Change Act a particularly innovative framework law on climate change and a powerful guide for climate change policy following the Paris Agreement (see also Figure 1).

- **A statutory long-term emissions target:** The Act prescribes that economy-wide annual emissions of greenhouse gases in 2050 must be at least 80 per cent lower than 1990 levels. The purpose of this provision is to offer a clear legal signal about the long-term

direction of policy travel. The target was informed by science, which is central to the credibility of the framework.

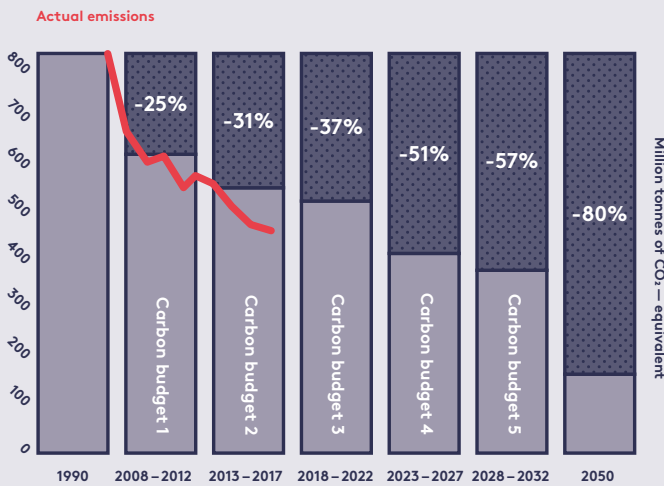
- **Statutory five-year carbon budgets:** The Act requires the adoption of a rolling set of medium-term targets called carbon budgets. Each carbon budget provides a statutory cap on economy-wide greenhouse gas emissions over a period of five years. The time span and the economy-wide scope provide the flexibility to accommodate fluctuations across time and space. Set 12 years in advance, sequential carbon budgets define a cost-effective but progressive path towards the 2050 objective.
- **Continual adaptation planning:** The Act prescribes a continuous approach to adaptation. There is a five-year cycle that begins with a comprehensive Climate Change Risk Assessment (CCRA), which is followed by a National Adaptation Programme (NAP), before the cycle starts again.
- **An independent advisory body:** A key feature of the Act is the creation of a powerful, independent advisory body, the Committee on Climate Change (CCC). The CCC effectively functions as the custodian of UK climate policy and the long-term objectives set in the Act. Like the Act itself, it covers both mitigation and adaptation, the latter through its Adaptation Sub-Committee.
- **Mandatory progress monitoring and accountability:** Regular government reporting to

Figure 1

# How does the UK Climate Change Act work?

## Carbon budgets

What and how?	Outcomes
Sequence of 5-year targets	Basis for concrete policy
Recommended by Committee on Climate Change (CCC)	Long-term target translated into near-term actions
Debated and legislated by Parliament	Flexibility built in
Set 12 years ahead	Progressive, ratcheted emissions cuts



## Long-term target to 2050

What and how?	Outcomes
Reduce emissions by at least 80% on 1990 levels	Long-term direction of travel
Covers the whole economy and all greenhouse gases	Defines the UK's contribution to solving climate change



## Continual adaptation planning

What and how?	Outcomes
5-year cycles of adaptation programmes and risk assessments	Introduced climate change risk into public and private sector decision-making
Scrutinised by CCC	Prepares for the now unavoidable impacts



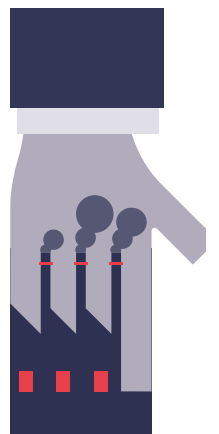
## Independent advisory body

What and how?	Outcomes
Committee on Climate Change: experts and secretariat	Independent, objective analysis
Recommends carbon budgets	Long-term consistency in approach across government
Monitors progress on emissions reduction and climate resilience	Transparency and legitimacy
	More informed decision-making



## Duties and powers to deliver

What and how?	Outcomes
Government is accountable to Parliament to deliver	Assigns clear responsibilities
Government obliged to produce plans to meet budgets	Holds government accountable
CCC provides annual progress reports to Parliament	Enables public scrutiny
Judicial review if non-compliant	Provides basis for policy implementation



## Differences made by the Act



1 A better political debate on climate change



2 The climate consensus has held



3 International leadership, inspiring others to act



4 Share of low-carbon power up from 20-45% by 2016

Sources for carbon budget data: Committee on Climate Change, 2017 (targets); Department for Business, Innovation & Skills, 2017 (actual emissions)

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## “In designing the Climate Change Act certain choices had to be made on the scope and legislative philosophy of this law”

Parliament and the public keeps climate policy on the agenda and ensures transparency and accountability for progress. The Act also mandates the Committee on Climate Change to produce an annual progress report, in which it details the extent to which the government is on track to meet the carbon budgets. Adaptation progress is reported biannually. The reports are debated in Parliament and the government has a statutory obligation to respond.

Box 1 (p5) details some of the enabling factors in the passage of the Act.

### Fundamental choices in designing the Climate Change Act

The key components of the Climate Change Act described above create a coherent climate change framework. However, in designing the Act certain choices had to be made on the scope and legislative philosophy of this law. They are worth highlighting as legislators in other countries may come to different conclusions.

Four choices stand out:

- **The focus of the Act:** Law-makers can either focus narrowly on climate change or embed climate change into wider sustainable development objectives. The UK’s Act, like most climate laws, does the former.
- **The scope of the Act:** Law-makers can choose between a predominantly domestic outlook and anchoring climate policy in the context of the Paris Agreement. The

UK’s Act predates Paris and all of its objectives are unilateral. However, the international context is crucial, and an explicit consideration when setting targets.

- **Policy design:** Broadly speaking, there is a choice between an approach to climate policy based on government planning and intervention and one that focuses on markets and individual choice. The UK’s Act contains a mix of both approaches. Although the Act is heavily target-oriented, markets play an important role.
- **Devolution:** Law-makers have to decide the extent to which responsibility for climate policy is devolved to the sub-national level. The Paris Agreement explicitly recognises the important role played by sub-national actors. The UK is a fairly centralised country, but the Act recognises the role and collective responsibilities of the devolved administrations in Scotland, Wales and Northern Ireland, which contribute actively to the UK’s overall decarbonisation target.

### Areas of success achieved by the Climate Change Act

There are a number of areas, described below, in which the Act has, on most measures, been a success. Its main achievements have been institutional and political. They relate to the way climate change policy is conducted and discussed in the UK. However, ultimately what counts is the impact of the Act on climate change outcomes.

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## **Box 1: Key features that enabled the passage of the Act**

Source: Authors, based on interviews

### **Domestic momentum**

Climate change had been a prominent political issue in the UK since the G8 summit in Gleneagles in 2005, where Prime Minister Tony Blair put it on the international agenda. Research has shown that hosting an international summit on climate change often prepares the ground for subsequent domestic legislation (Fankhauser et al., 2015).

### **International momentum**

The passage of climate change legislation peaked globally during 2008–09, a period when many industrialised countries were enacting initial laws in anticipation of the UN climate summit in Copenhagen at the end of 2009 (Averchenkova et al., 2017). Although the UK Act was world-leading, Britain was not acting alone.

### **A supportive opposition**

In May 2005 the Conservatives launched an early-day motion with over 400 signatories calling for a Climate Change Act. David Cameron became leader of the Conservative Party in December 2005 and saw progressive environmental policy as a way to make his party more electable (a factor highlighted by several respondents, all political insiders). As the Climate Change Bill went through Parliament, this “competitive consensus” among the major parties (Carter, 2014) ensured that key provisions were strengthened rather than watered down (as remembered by a journalist respondent).

### **An ambitious Secretary of State**

Work on the Act was spearheaded by an up-and-coming politician in his first senior ministerial role. The Labour government’s Environment Secretary, David Miliband, felt his department was not delivering on climate change (according to a respondent who was a civil servant at the time) and was set on making his mark. He convinced his colleagues, including a reluctant Tony Blair, that the government had to give its support. (By the time the Act received royal assent on 26 November 2008, Miliband’s brother Ed had become Secretary of State for Climate Change.)

### **Proactive stakeholders**

Non-governmental organisations (NGOs) were instrumental in creating momentum for a climate change bill (Rutter et al., 2012). For example, the Big Ask campaign, orchestrated by Friends of the Earth, collected some 130,000 signatures in support of such a bill. Campaigners were actively engaged in shaping the law as it went through Parliament. Industry stakeholders, including Respondent 22, also lent their support, recognising the importance of the issue and appreciating the clarity that the Act would provide.

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“The Act was one of the first comprehensive climate laws adopted globally and became the basis of a sustained international campaign on climate change by the Foreign Office”

Four achievements stand out:

- **The political debate on climate change has improved:** One of the main achievements of the Act is how it has transformed the way in which the political debate on climate change is conducted. The Act has created a routine of target setting, parliamentary scrutiny and reporting. Through the reports of the Committee on Climate Change it has established an agreed empirical evidence base.
- **The climate consensus has held:** The adoption of the Act was enabled by strong cross-party political consensus. Commitment to particular climate policies has waxed and waned over 10 years of political and economic turbulence. However, the Act has helped to preserve the political consensus on the need for climate action and the UK’s long-term ambition.
- **The UK’s international standing has grown:** The Act was one of the first comprehensive climate laws adopted globally and became the basis of a sustained international campaign on climate change by the Foreign Office. That engagement was one of the unexpected successes of the Act, helping the UK to play a leadership role in negotiating the Paris Agreement and inspiring other countries to take action.
- **The power sector has been transformed:** Over the past 10 years the UK power sector has changed radically and the transformation is ongoing.

The Act was a major driver of this transformation, which has helped the UK to meet its first two carbon budgets and decouple greenhouse gas emissions from GDP.

### Aspects of the Climate Change Act that could be improved

There are some areas in which the high expectations of lawmakers have not been fully met, although as with the successes, the disappointments are relative. There are no outright failures and often the problems are not with the Act itself, but with the way policymakers have acted under the framework it created.

Four issues are worth highlighting:

- **The Climate Change Act on its own is not sufficiently investible:** The Act was expected to provide long-term clarity about the UK’s climate ambition and direction of travel. This has been achieved only in part. Investors make a distinction between certainty about carbon targets, which the Act provides, and certainty about carbon policies that stem from the Act, which it does to a much lesser extent.
- **There may be insufficient protection against backsliding:** While the consensus on climate change has broadly held, there is concern that without enforcement action the gap will continue to widen between the emissions targets set in law and the policies put in place to deliver those targets. The coming years will test whether

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or not the Act is sufficiently strong to maintain the momentum in climate action as the focus shifts to sectors that will be more difficult to decarbonise.

- **Government buy-in is uneven across departments:** The Act was expected to put climate change on the agenda across government departments and to enable policymaking in the relevant sectors in line with the long-term climate objectives. This has happened only to a degree. The Act has informed many policy debates (for example, on airports, renewable energy, shale gas, flooding) but whether or not it changed their outcomes materially is less clear.
- **There has been more adaptation planning than adaptation action:** Compared with mitigation, the debate on adaptation has progressed more slowly and has received less attention. In part, this was dictated by the Act, but there have also been teething problems, for example with the first Climate Change Risk Assessment and National Adaptation Programme.

## Scope for reforming the Climate Change Act

The Act is widely viewed as still fit for purpose. However, being able to adapt to an evolving situation is an important feature of good climate governance. There are areas where the debate has moved on and lessons have been learned about effective climate governance. They suggest a need for targeted adjustments in the legal framework to make the

Act compatible with the Paris Agreement, prepare for Brexit and strengthen the safeguards against political backsliding. For the most part these changes can probably be made without the need for new primary legislation or a formal revision of the Act.

In particular, the following six reforms should be considered:

- **Alignment with the Paris Agreement:** The 2050 emissions target in the Act is technically consistent with the Paris Agreement but it could be tightened and supplemented by 2020 by a target for 'net zero' emissions.
- **Refining the carbon accounting rules:** Brexit provides an opportunity to revise carbon accounting rules, moving from net emissions accounting (which reflects carbon trades in the EU emissions trading system) to gross emissions accounting (which measures the UK's actual emissions performance). International shipping, and in due course aviation, should be brought into the accounting framework.
- **A statutory response time for carbon plans:** This introduction would close a loophole that allows the government to delay the formulation of its plan for achieving emissions reductions once a carbon budget has been passed.
- **Financial independence for the Committee on Climate Change:** A financial budget that is independent of government would be consistent with international good practice for the funding of independent bodies.

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“Lessons learned suggest a need for targeted adjustments in the legal framework to make the Act compatible with the Paris Agreement, prepare for Brexit and strengthen the safeguards against political backsliding”

- **Clearer criteria for assessing compliance:** Clearer criteria would make it easier to challenge non-compliance through judicial review.
- **Proactive communications:** A strong, proactive focus on engaging the general public on climate policy would help to strengthen the societal consensus on climate action.

## Political challenges for the next 10 years

The next 10 years are likely to be more difficult than the past 10. However, the key challenges are expected to be more political than legislative. Aside from the question of whether the Act should be reformed, the political task of making the Act work and deliver on its objectives remains. We highlight three important issues for the future:

- **Reinvigorating the climate consensus:** A good framework law does not guarantee automatic policy delivery. Climate action requires strong leadership. A key challenge for the next decade will be to reinvigorate the political and societal consensus on accelerated climate action, in line with the objectives of both the Climate Change Act and the Paris Agreement.
- **Closing the policy gap after the mid-2020s:** The UK is not currently on track to meet its statutory carbon targets for the mid-2020s and early 2030s (4th and 5th carbon budgets). The government's ability and willingness to close the gap between emissions targets and policy delivery is perhaps

the most tangible test of its commitment to climate change action.

- **A strong, trusted and independent Committee on Climate Change:** The CCC is the fulcrum of the UK climate change architecture. The stature and independence of the CCC has to be nurtured and supported in the same way as other essential independent institutions are, for example those that ensure macroeconomic stability.

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Read the full report at:  
[www.lse.ac.uk/GranthamInstitute/publication/10-years-climate-change-act/](http://www.lse.ac.uk/GranthamInstitute/publication/10-years-climate-change-act/)



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