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*Number 46 of 2015*

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**Climate Action and Low Carbon Development Act 2015**

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**CLIMATE ACTION AND LOW CARBON DEVELOPMENT ACT 2015**

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*Number 46 of 2015*

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## **CLIMATE ACTION AND LOW CARBON DEVELOPMENT ACT 2015**

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An Act to provide for the approval of plans by the Government in relation to climate change for the purpose of pursuing the transition to a low carbon, climate resilient and environmentally sustainable economy; to establish a body to be known in the Irish language as An Chomhairle Chomhairleach um Athrú Aeráide or, in the English language, as the Climate Change Advisory Council; and to provide for matters connected therewith. [10th December, 2015]

**Be it enacted by the Oireachtas as follows:**

### **Interpretation**

1. In this Act—

“Act of 2001” means the Local Government Act 2001;

“Agency” means the Environmental Protection Agency;

“adaptation” means any adjustment to—

- (a) any system designed or operated by human beings, including an economic, agricultural or technological system, or
- (b) any naturally occurring system, including an ecosystem,

that is intended to counteract the effects (whether actual or anticipated) of climatic stimuli, prevent or moderate environmental damage resulting from climate change or confer environmental benefits;

“Advisory Council” has the meaning assigned to it by *section 8(2)*;

“approved national adaptation framework” means a national adaptation framework approved by the Government under *section 5* and includes any variation or revision of such framework made in accordance with that section;

“approved national mitigation plan” means a national mitigation plan approved by the Government under *section 4* and includes any variation or revision of such plan made in accordance with that section;

“approved sectoral adaptation plan” means a sectoral adaptation plan approved by the Government under *section 6* and includes any variation or revision of such sectoral adaptation plan made by the Government under *section 6(8)* or a variation or revision of such plan made in accordance with *section 6*;

“emissions” means, in relation to greenhouse gases, emissions of those gases into the earth’s atmosphere attributable to industrial, agricultural or other human activities in the State;

“establishment day” means the day appointed under *section 8(1)*;

“greenhouse gas” means—

- (a) carbon dioxide,
- (b) methane,
- (c) nitrous oxide,
- (d) hydrofluorocarbons,
- (e) perfluorocarbons,
- (f) sulphur hexafluoride, or
- (g) nitrogen trifluoride;

“local authority” has the meaning assigned to it by the Act of 2001;

“Minister” means the Minister for the Environment, Community and Local Government;

“mitigation” means any human intervention aimed at reducing harmful influences on the earth’s climate system, including action aimed at reducing emissions and creating or enhancing sinks;

“national adaptation framework” has the meaning assigned to it by *section 5(1)*;

“national mitigation plan” has the meaning assigned to it by *section 4(1)*;

“national transition objective” has the meaning assigned to it by *section 3(1)*;

“periodic review” has the meaning assigned to it by *section 13*;

“periodic review report” shall be construed in accordance with *section 13(5)*;

“removal” means, in relation to greenhouse gases, removal of those gases from the earth’s atmosphere as a consequence of the creation or enhancement of sinks, or a change of land use, in the State;

“sectoral adaptation plan” shall be construed in accordance with *section 6(1)*;

“sectoral mitigation measures” shall be construed in accordance with *section 4(2)(d)*;

“sink” means—

- (a) a process or activity (including photosynthesis), whether natural or man made, that contributes to, or assists in, the removal of one or more greenhouse gases from the earth’s atmosphere, or
- (b) an ecosystem or a mechanism (whether natural or man made), or part thereof, that contributes to, or assists in, the removal of one or more of such gases from the earth’s atmosphere.

**Effect of Act**

2. Nothing in this Act, a national mitigation plan, national adaptation framework or a sectoral adaptation plan shall operate to affect—
- (a) existing or future obligations of the State under the law of the European Union, including—
    - (i) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001<sup>1</sup> on the assessment of the effects of certain plans and programmes on the environment,
    - (ii) Council Directive 92/43/EEC of 21 May 1992<sup>2</sup> on the conservation of natural habitats and of wild fauna and flora,
    - (iii) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003<sup>3</sup> establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, and
    - (iv) Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009<sup>4</sup> on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020,
  - (b) existing or future obligations of the State under any international agreement,
  - (c) any Act of the Oireachtas or instrument made thereunder that gives effect, or further effect, to any such obligation, or
  - (d) existing or future entitlements of the State or any person under the said law, any such agreement or any such Act of the Oireachtas or instrument.

**Low carbon transition**

3. (1) For the purpose of enabling the State to pursue, and achieve, the transition to a low carbon, climate resilient and environmentally sustainable economy by the end of the year 2050 (in this Act referred to as the “national transition objective”) the Minister shall make and submit to the Government for approval—
- (a) a national mitigation plan, and
  - (b) a national adaptation framework.
- (2) When considering a plan or framework, referred to in *subsection (1)*, for approval, the Government shall endeavour to achieve the national transition objective within the period to which the objective relates and shall, in endeavouring to achieve that objective, ensure that such objective is achieved by the implementation of measures that are cost effective and shall, for that purpose, have regard to—

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1 OJ No. L197, 21.07.2001, p.30

2 OJ No. L206, 22.07.1992, p.7

3 OJ No. L275, 25.10.2003, p.32

4 OJ No. L140, 05.06.2009, p.136

- (a) the ultimate objective specified in Article 2 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 and any mitigation commitment entered into by the European Union in response or otherwise in relation to that objective,
- (b) the policy of the Government on climate change,
- (c) climate justice,
- (d) any existing obligation of the State under the law of the European Union or any international agreement referred to in *section 2*, and
- (e) the most recent national greenhouse gas emissions inventory and projection of future greenhouse gas emissions, prepared by the Agency.

#### **National low carbon transition and mitigation plan**

#### **4. (1) The Minister shall—**

- (a) not later than 18 months after the passing of this Act, and
- (b) not less than once in every period of 5 years,

make, and submit to the Government for approval, a plan, which shall be known as a national low carbon transition and mitigation plan (in this Act referred to as a “national mitigation plan”).

#### **(2) A national mitigation plan shall—**

- (a) specify the manner in which it is proposed to achieve the national transition objective,
- (b) specify the policy measures that, in the opinion of the Government, would be required in order to manage greenhouse gas emissions and the removal of greenhouse gas at a level that is appropriate for furthering the achievement of the national transition objective,
- (c) take into account any existing obligation of the State under the law of the European Union or any international agreement referred to in *section 2*, and
- (d) specify the mitigation policy measures (in this Act referred to as the “sectoral mitigation measures”) to be adopted by the Ministers of the Government, referred to in *subsection (3)(a)*, in relation to the matters for which each such Minister of the Government has responsibility for the purposes of—
  - (i) reducing greenhouse gas emissions, and
  - (ii) enabling the achievement of the national transition objective.

#### **(3) For the purpose of including, in the national mitigation plan, the sectoral mitigation measures to be specified for the different sectors in accordance with *subsection (2)(d)*—**

- (a) the Government shall request such Ministers of the Government they consider appropriate to submit to the Minister, within a specified period, the sectoral



mitigation measures that each such Minister of the Government proposes to adopt in relation to the matters for which each such Minister of the Government has responsibility,

- (b) a Minister of the Government to whom a request under *paragraph (a)* is made shall submit the sectoral mitigation measures to be adopted by him or her to the Minister within the period specified by the Government and where such request is made to the Minister, the Minister shall prepare the sectoral mitigation measures to be adopted by him or her within the period specified by the Government,
  - (c) the Minister shall, on receipt of the sectoral mitigation measures submitted to him or her in accordance with *paragraph (b)*, include the sectoral mitigation measures submitted by each Minister of the Government in the national mitigation plan, and in the case of the sectoral mitigation measures prepared by the Minister, the Minister shall include those measures in the national mitigation plan,
  - (d) a Minister of the Government referred to in *paragraph (b)* shall, in relation to the sectoral mitigation measures to be adopted by him or her and before submitting the sectoral mitigation measures to the Minister—
    - (i) consult with the Minister and any other Minister of the Government as the Minister may specify and where a request referred to in *paragraph (b)* is made to the Minister, the Minister shall consult with such other Ministers of the Government as he or she considers appropriate,
    - (ii) take account of the matters referred to in—
      - (I) *paragraphs (a), (b) and (c) of subsection (2), and*
      - (II) *paragraphs (a), (b), (c), (d), (e), (f), (h) and (i), of subsection (7),*and
    - (iii) consult with the Advisory Council,and
  - (e) the Government shall, when specifying the period referred to in *paragraph (a)*, have regard to the period specified in *subsection (1)*.
- (4) The Government may—
- (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,
- a national mitigation plan submitted to them under this section.
- (5) The Minister may, after the submission to the Government of a periodic review report in accordance with *section 13* and having had regard to that report, make and submit to the Government for approval a plan (in this Act also referred to as a “national mitigation plan”) varying, revising or replacing an approved national mitigation plan.

- (6) The Government may vary or revise a national mitigation plan approved by them under this section.
- (7) The Minister and the Government shall take account of the following matters when performing functions under this section:
- (a) the need to have regard to—
    - (i) any existing obligation of the State under the law of the European Union or any international agreement referred to in *section 2*,
    - (ii) likely future mitigation commitments of the State and the economic imperative for early and cost-effective action, and
    - (iii) the requirement to be able to act quickly in response to economic and environmental occurrences and circumstances;
  - (b) the need to promote sustainable development;
  - (c) the need to take advantage of environmentally sustainable economic opportunities both within and outside the State;
  - (d) the need to achieve the objectives of a national mitigation plan at the least cost to the national economy and adopt measures that are cost-effective and do not impose an unreasonable burden on the Exchequer;
  - (e) relevant scientific or technical advice;
  - (f) the findings of any research on the effectiveness of mitigation measures and adaptation measures;
  - (g) the sectoral mitigation measures included in the national mitigation plan pursuant to *subsection (2)(d)* that are to be adopted by each Minister of the Government in relation to the matters for which each such Minister of the Government has responsibility;
  - (h) where a national mitigation plan has been approved by the Government, the most recent approved national mitigation plan;
    - (i) any recommendations or advice of the Advisory Council;
    - (j) mitigation measures, specified in a notification to the Minister or the Government under *subsection (13)*; and
  - (k) the protection of public health.
- (8) The Minister shall, before making a national mitigation plan—
- (a) publish, in such manner as he or she considers appropriate, a draft of the national mitigation plan that he or she proposes to make,
  - (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed national mitigation plan within such period (not exceeding 2 months from the date of the publication of the notice) as may be specified in the notice, and

- (c) have regard to any submissions made pursuant to, and in accordance with, a notice under *paragraph (b)*.
- (9) (a) The Government may consult with the Advisory Council for the purpose of the performance by them of their functions under this section.  
(b) The Minister shall consult with the Advisory Council for the purpose of the performance by him or her of his or her functions under this section.
- (10) A national mitigation plan shall be laid before each House of the Oireachtas as soon as may be after it is approved by the Government.
- (11) A national mitigation plan shall not be implemented unless it has been approved by the Government in accordance with this section.
- (12) A Minister of the Government shall, in the performance of his or her functions, have regard to a national mitigation plan approved by the Government under this section.
- (13) A local authority may notify the Minister or the Government in writing of—
  - (a) its intention to adopt, or
  - (b) its having adopted,such mitigation measures as are specified in the notification concerned in relation to that local authority's administrative area.

#### **National climate change adaptation framework**

5. (1) (a) The Minister shall, not later than 24 months after the passing of this Act, make, and submit to the Government for approval, a plan, which shall be known as a national climate change adaptation framework (in this Act referred to as a "national adaptation framework").
- (b) The Minister—
- (i) shall review a national adaptation framework approved by the Government under this section not less than once in every period of 5 years, and
  - (ii) may, having regard to that review and the requirements of adaptation in relation to the effects of climate change, make and submit to the Government for approval, a national adaptation framework.
- (2) A national adaptation framework shall—
- (a) specify the national strategy for the application of adaptation measures in different sectors and by a local authority in its administrative area in order to—
    - (i) reduce the vulnerability of the State to the negative effects of climate change, and
    - (ii) avail of positive effects of climate change that may occur,and

- (b) take into account any existing obligation of the State under the law of the European Union or any international agreement, referred to in *section 2*.
- (3) The Minister shall, before submitting a national adaptation framework to the Government for approval—
  - (a) publish, in such manner as he or she considers appropriate, a draft of the national adaptation framework that he or she proposes to make,
  - (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed national adaptation framework within such period (not exceeding 2 months from the date of the publication of the notice) as may be specified in the notice, and
  - (c) have regard to any submissions made pursuant to, and in accordance with, a notice under *paragraph (b)*.
- (4) The Government may—
  - (a) approve, or
  - (b) approve, subject to such modification as they consider appropriate, a national adaptation framework submitted to them under this section.
- (5) The Government may, at any time, vary or revise a national adaptation framework approved by them under this section.
- (6) A national adaptation framework shall be laid before each House of the Oireachtas as soon as may be after it is approved by the Government.
- (7) A national adaptation framework shall not be implemented unless it has been approved by the Government in accordance with this section.
- (8) A Minister of the Government shall, in the performance of his or her functions, have regard to a national adaptation framework approved by the Government under this section.
- (9) In this section, “administrative area” has the meaning assigned to it by the Act of 2001.

### **Sectoral adaptation plan**

- 6. (1) The Government shall, within 3 months of the laying before each House of the Oireachtas of a national adaptation framework in accordance with *section 5(6)*, request such Ministers of the Government as they consider appropriate to submit to the Government, within a specified period, a plan (in this Act referred to as a “sectoral adaptation plan”) to be made by each such Minister of the Government to whom such request is made in relation to a matter for which each such Minister of the Government has responsibility.
- (2) A sectoral adaptation plan shall specify the adaptation policy measures the Minister of the Government concerned, having regard to the approved national adaptation framework, proposes to adopt for the purposes of—

- (a) enabling adaptation to the effects of climate change to be achieved in relation to the matter to which the sectoral adaptation plan relates, and
  - (b) enabling the achievement of the national transition objective.
- (3) A Minister of the Government to whom a request under *subsection (1)* is made shall, not later than the expiration of such period as the Government specify, make, and submit to the Government for approval, a sectoral adaptation plan and, in the preparation of such plan, each such Minister of the Government shall—
- (a) consult with any other Ministers of the Government as the Minister specifies under *subsection (4)*,
  - (b) consult with the Agency,
  - (c) have regard to the national adaptation framework approved by the Government and to *paragraphs (a) to (h)* of *section 7(1)*, and
  - (d) consult with the Advisory Council.
- (4) For the purposes of the consultation referred to in *subsection (3)(a)* to be carried out by a Minister of the Government to whom a request has been made under *subsection (1)*, the Minister shall specify one or more other Ministers of the Government with whom that Minister of the Government is to consult.
- (5) A Minister of the Government to whom a request has been made under *subsection (1)* shall, before submitting a sectoral adaptation plan to the Government—
- (a) publish, in such manner as he or she considers appropriate, a draft of the sectoral adaptation plan that he or she proposes to make,
  - (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed sectoral adaptation plan, as the case may be, within such period (not exceeding 2 months from the date of the publication of the notice) as may be specified in the notice, and
  - (c) have regard to any submissions made pursuant to, and in accordance with, a notice under *paragraph (b)*.
- (6) The Government may—
- (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,
- a sectoral adaptation plan submitted to them under this section.
- (7) A Minister of the Government may, at any time, make and submit to the Government for approval a plan (in this section also referred to as a “sectoral adaptation plan”) revising or replacing an approved sectoral adaptation plan.
- (8) The Government may vary or revise a sectoral adaptation plan approved by them under this section.

- (9) A sectoral adaptation plan shall not be implemented unless it has been approved by the Government in accordance with this section.
- (10) Where under *subsection (1)*, the Government requests the Minister to make a sectoral adaptation plan, for the purposes of *subsection (3)(a)*, the Minister shall consult with any other Minister of the Government as he or she considers appropriate.

**Matters of which account is to be taken, and consultation, for the purposes of sections 5 and 6**

7. (1) For the purposes of performing their functions under *sections 5 and 6*, the Minister and the Government shall take account of the following matters:
- (a) the need to have regard to—
    - (i) any existing obligation of the State under the law of the European Union or any international agreement referred to in *section 2*, and
    - (ii) any likely future adaptation commitments of the State;
  - (b) the need to promote sustainable development;
  - (c) the need to achieve the objectives of a national adaptation framework at the least cost to the national economy and adopt measures that are cost-effective and do not impose an unreasonable burden on the Exchequer;
  - (d) relevant scientific or technical advice;
  - (e) the findings of any relevant research on the effectiveness of mitigation measures and adaptation measures;
  - (f) where sectoral adaptation plans have been approved by the Government under *section 6*, the most recent approved sectoral adaptation plans;
  - (g) where a national adaptation framework has been approved by the Government under *section 5*, the most recent approved national adaptation framework; and
  - (h) any recommendations or advice of the Advisory Council.
- (2) (a) For the purposes of performing their functions under *sections 5 and 6*, the Government may consult with the Advisory Council.
- (b) For the purpose of performing his or her functions under *sections 5 and 6*, the Minister shall consult with the Advisory Council.

**Establishment of Climate Change Advisory Council**

8. (1) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.
- (2) There shall stand established, on the establishment day, a body which shall be known, in the Irish language, as An Chomhairle Chomhairleach um Athrú Aeráide or, in the English language, as the Climate Change Advisory Council (in this Act referred to as “Advisory Council”) to perform the functions assigned to it under this Act.

**Membership of Advisory Council and related matters**

9. (1) The Advisory Council shall consist of—
- (a) a chairperson, and
  - (b) not fewer than 8 and not more than 10 ordinary members (including ordinary members to whom *subsection (2)* applies).
- (2) Each of the following shall, *ex officio*, be ordinary members of the Advisory Council:
- (a) the Director General of the Agency;
  - (b) the Chief Executive of Sustainable Energy Ireland - The Sustainable Energy Authority of Ireland;
  - (c) the Director of Teagasc - The Agriculture and Food Development Authority; and
  - (d) the Director of the Economic and Social Research Institute.
- (3) The chairperson and ordinary members (other than an ordinary member to whom *subsection (2)* applies) of the Advisory Council shall be appointed by the Government, on the nomination of the Minister.
- (4) (a) In nominating the chairperson and the ordinary members (other than ordinary members to whom *subsection (2)* applies) of the Advisory Council, the Minister shall have regard to the range of qualifications, expertise and experience necessary for the proper and effective performance of the functions of the Advisory Council.
- (b) In appointing the chairperson and the ordinary members (other than ordinary members to whom *subsection (2)* applies) of the Advisory Council, the Government shall have regard to the range of qualifications, expertise and experience necessary for the proper and effective performance of the functions of the Advisory Council.
- (5) (a) The chairperson of the Advisory Council shall hold office for such period not exceeding 5 years as the Minister shall determine.
- (b) An ordinary member (other than an ordinary member to whom *subsection (2)* applies) of the Advisory Council shall hold office for such period not exceeding 5 years as the Minister shall determine.
- (6) Subject to *subsection (7)*, the chairperson and an ordinary member (other than an ordinary member to whom *subsection (2)* applies) of the Advisory Council whose term of office expires by the efflux of time shall be eligible for reappointment to the Advisory Council.
- (7) (a) A chairperson who has served 2 terms of office shall not be eligible for reappointment to the Advisory Council as chairperson or as an ordinary member.
- (b) An ordinary member of the Advisory Council (other than an ordinary member to whom *subsection (2)* applies) who has served 2 terms of office shall not be eligible for reappointment to the Advisory Council.

- (8) A member of the Advisory Council shall hold office on such terms and conditions (including terms and conditions in relation to allowances for expenses) as may be determined by the Minister with the consent of the Minister for Public Expenditure and Reform.
- (9) A member of the Advisory Council may resign from office by giving notice in writing to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.
- (10) The Government may, at any time, remove—
- (a) the chairperson, and
  - (b) an ordinary member (other than an ordinary member to whom *subsection (2)*) applies,
- of the Advisory Council from office if, in the opinion of the Government, the chairperson, or such ordinary member, has become incapable through ill health of effectively performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Government to be necessary for the effective performance by the Advisory Council of its functions.
- (11) If a member of the Advisory Council—
- (a) is nominated as a member of Seanad Éireann,
  - (b) is elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament, or
  - (d) becomes a member of a local authority,
- he or she thereupon ceases to be a member of the Advisory Council.
- (12) A person who is for the time being—
- (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
  - (b) a member of the European Parliament, or
  - (c) entitled under the standing orders of a local authority to sit as a member thereof,
- shall, while he or she is so entitled or is such a member, be disqualified from membership of the Advisory Council.
- (13) A member of the Advisory Council shall cease to be qualified for office and shall cease to hold office if he or she—
- (a) is adjudicated bankrupt,
  - (b) makes a composition or arrangement with creditors,
  - (c) is convicted of an indictable offence in relation to a company,



- (d) is convicted of an offence involving fraud or dishonesty, whether or not in connection with a company,
  - (e) is sentenced by a court of competent jurisdiction to a term of imprisonment, or
  - (f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014.
- (14) (a) If a member of the Advisory Council dies, resigns, ceases to be qualified for office and ceases to hold office or is removed from office, the Government may appoint a person to be a member of the Advisory Council to fill the casual vacancy so occasioned in the same manner as the member of the Advisory Council who occasioned the casual vacancy was appointed.
- (b) A person appointed to be a member of the Advisory Council pursuant to *paragraph (a)* shall hold office for that period of the term of office of the member who occasioned the casual vacancy concerned that remains unexpired at the date of his or her appointment and shall, subject to this section, be eligible for reappointment as a member of the Advisory Council on the expiry of such period.
- (15) The Advisory Council may act notwithstanding one or more than one vacancy among its members.
- (16) The Advisory Council may establish committees consisting, in whole or in part, of persons who are members of the Advisory Council to—
- (a) assist and advise it in relation to the performance of any or all of its functions, and
  - (b) perform such functions of the Advisory Council as it may, with the consent of the Minister, delegate to the committee.
- (17) The chairperson of a committee established under *subsection (16)* shall be a member (other than an ordinary member to whom *subsection (2)* applies) of the Advisory Council.
- (18) The Agency shall—
- (a) provide the Advisory Council with such services of a secretarial and administrative nature as is appropriate for the performance by the Advisory Council of its functions, and
  - (b) permit the Advisory Council to avail of the use of its premises, or such part of its premises as, following consultation between the Advisory Council and the Agency, is considered appropriate, for the purposes of the performance by the Advisory Council of its functions.

#### **Disclosure of interests**

- 10.** (1) Where at a meeting of the Advisory Council or a committee, a member of the Advisory Council present at the meeting who, otherwise than in his or her capacity as

such member, has a material interest in any matter which falls to be considered by the Council or the committee, such member shall—

- (a) at the meeting disclose to the Advisory Council, or the committee, the fact of such interest and the nature of such interest,
  - (b) neither influence nor seek to influence a decision to be made in relation to the matter,
  - (c) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
  - (d) take no part in any deliberation of the Advisory Council, or the committee, relating to the matter, and
  - (e) not vote on a decision relating to the matter.
- (2) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned.
  - (3) Where at a meeting of the Advisory Council a question arises as to whether or not a course of conduct, if pursued by a member of the Advisory Council, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may, subject to *subsection (4)*, be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.
  - (4) Where, at a meeting of the Advisory Council or a committee, the chairperson of the meeting is the member in respect of whom a question to which *subsection (3)* applies falls to be determined, then the other members of the Advisory Council attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.
  - (5) Where the Government is satisfied that a member of the Advisory Council has contravened *subsection (1)*, the Government may, if they think fit, remove that member from office and, in the case of a person removed from office pursuant to this subsection, he or she shall thenceforth be disqualified for membership of the Advisory Council.
  - (6) In this section—

“committee” means a committee referred to in *section 9(16)*;

“material interest” shall be construed in accordance with section 2(3) of the Ethics in Public Office Act 1995.

### **General functions of Advisory Council**

11. (1) The functions of the Advisory Council shall be to advise and make recommendations to—
  - (a) the Minister in relation to—
    - (i) the preparation of a national mitigation plan,

- (ii) the preparation of a national adaptation framework, and
  - (iii) compliance with any existing obligation of the State under the law of the European Union or any international agreement referred to in *section 2*,
- (b) a Minister of the Government in relation to—
- (i) the submission, to the Minister, of sectoral mitigation measures to be included in a national mitigation plan pursuant to *section 4(2)(d)*, and
  - (ii) the making by him or her of a sectoral adaptation plan,
- (c) the Government in relation to the approval of—
- (i) a national mitigation plan,
  - (ii) a national adaptation framework, and
  - (iii) a sectoral adaptation plan,
- and
- (d) the Government, the Minister and any other Minister of the Government in respect of any policy of the Government, or any policy that is proposed to be submitted to the Government for approval relating to—
- (i) the reduction of greenhouse gas emissions, and
  - (ii) adaptation to the effects of climate change in the State.
- (2) For the purposes of the performance of its functions, the Advisory Council may—
- (a) gather such information as it considers necessary or appropriate, and
  - (b) meet and consult with such persons (including members of the public) as it considers appropriate.
- (3) The Advisory Council shall be independent in the performance of its functions.

### **Annual review by, and annual report of, Advisory Council**

- 12.** (1) The Advisory Council shall—
- (a) conduct a review (in this section referred to as the “annual review”) in each year of the progress made during the immediately preceding year in achieving greenhouse gas emissions reductions, and furthering transition to a low carbon, climate resilient and environmentally sustainable economy, and
  - (b) not later than 30 days after the completion of the annual review, prepare and submit to the Minister a report (in this section referred to as the “annual report”) on its findings and recommendations consequent upon that annual review.
- (2) Without prejudice to the generality of *subsection (1)*, the annual report shall contain—
- (a) a summary of the findings set out in the most recent national greenhouse gas emissions inventory prepared by the Agency,

- (b) a summary of the most recent projection of future greenhouse gas emissions prepared by the Agency,
  - (c) such recommendations, as the Advisory Council considers necessary or appropriate, in relation to the most cost-effective manner of achieving reductions in greenhouse gas emissions in order to enable the achievement of the national transition objective,
  - (d) such recommendations as the Advisory Council considers necessary or appropriate, in relation to compliance with an existing obligation of the State under the law of the European Union or an international agreement referred to in *section 2*,
  - (e) such other recommendations or advice as the Advisory Council considers necessary or appropriate in order to enable the achievement of the national transition objective, and
  - (f) a summary of—
    - (i) the activities of the Advisory Council under *section 11(2)*, and
    - (ii) any information gathered in accordance with *section 11(2)*.
- (3) Not more than 30 days after submitting an annual report to the Minister under this section, the Advisory Council shall publish the annual report by such means as the Agency may advise.

#### **Periodic review by Advisory Council**

- 13.** (1) The Advisory Council shall, not later than 18 months after the establishment day, conduct a review (in this Act referred to as a “periodic review”) of—
- (a) progress made in meeting the obligations of the State under Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020, and
  - (b) progress made in furthering the achievement of the national transition objective.
- (2) The Advisory Council may, at any time it considers appropriate having regard to—
- (a) any significant developments relating to scientific knowledge in relation to climate change,
  - (b) any significant developments in the law of the European Union or international law relating to the control and reduction of emissions of greenhouse gases or adaptation to the effects of climate change, or
  - (c) the need to maintain progress to enable the achievement of the national transition objective,
- conduct a review (in this Act also referred to as a “periodic review”) of—
- (i) progress made in furthering the achievement of the national transition objective,

- (ii) the most recent approved national mitigation plan, approved national adaptation framework and approved sectoral adaptation plans, and
  - (iii) the implementation of the plans and framework referred to in *paragraph (ii)*.
- (3) The Minister may request the Advisory Council to conduct a periodic review of the matters referred to in *paragraphs (i), (ii) and (iii) of subsection (2)* and when conducting that review to have regard to *paragraphs (a), (b) and (c) of that subsection*.
- (4) The Advisory Council shall, not later than 30 days after receiving a request under *subsection (3)*, either—
- (a) initiate a periodic review, or
  - (b) where it is of the opinion that a periodic review is not necessary having regard to *paragraphs (a), (b) and (c) of subsection (2)*, notify the Minister of its opinion and the reasons for it.
- (5) The Advisory Council shall, not later than 30 days after the completion of a periodic review, prepare and submit to the Minister a report (in this Act referred to as a “periodic review report”) of its findings and recommendations consequent on that review.
- (6) The Minister shall, as soon as may be after receiving a periodic review report, cause the report to be submitted to the Government.
- (7) A periodic review report shall include—
- (a) where it is prepared consequent upon a periodic review under *subsection (2) or (3)*, a statement of the reason for conducting the periodic review,
  - (b) a consideration of the national transition objective and any matter relating to that objective as the Advisory Council considers appropriate,
  - (c) in relation to an existing obligation of the State under the law of the European Union or an international agreement referred to in *section 2*—
    - (i) a consideration of compliance with such obligation and any matters relating to such obligation as the Advisory Council considers appropriate, and
    - (ii) such advice or recommendations in relation to such compliance as the Advisory Council considers appropriate,
  - (d) such advice or recommendations, as the Advisory Council considers appropriate, in relation to—
    - (i) the national mitigation plan, and
    - (ii) the national adaptation framework or a sectoral adaptation plan,and
  - (e) such other advice or recommendations as the Advisory Council considers necessary or appropriate—

- (i) for the purposes of the development and implementation of the national policy regarding climate change, and
  - (ii) in relation to likely future obligations of the State under the law of the European Union or an international agreement.
- (8) Not more than 30 days after submitting a periodic review report to the Minister in accordance with this section, the Advisory Council shall publish the report by such means as the Agency may advise.

#### **Presentation of annual transition statement to each House of the Oireachtas**

14. (1) An annual transition statement shall, in accordance with this section, be presented to each House of the Oireachtas not later than 12 months after the passing of this Act, and not later than each subsequent anniversary of such passing.
- (2) An annual transition statement shall comprise, in relation to the year immediately preceding the year in which the statement is presented—
- (a) a statement (in this Act referred to as an “annual national transition statement”) to be presented to each House of the Oireachtas by the Minister and such statement shall include the matters specified in *subsection (4)(a)*,
  - (b) a statement (in this Act referred to as an “annual sectoral mitigation transition statement”) to be presented to each House of the Oireachtas by each Minister of the Government to whom *subsection (3)* applies and each such statement shall include the matters specified in *subsection (4)(b)*, and
  - (c) if a request under *subsection (5)* is made, a statement (in this Act referred to as an “annual sectoral adaptation transition statement”) to be presented to each House of the Oireachtas by each Minister of the Government to whom such request is made and each such statement shall include the matters specified in *subsection (4)(c)*.
- (3) For the purposes of *subsection (2)(b)*, this subsection applies to each Minister of the Government who has, in accordance with *section 4(3)(b)*, submitted sectoral mitigation measures to the Minister that are included, pursuant to *section 4(2)(d)*, in the most recent approved national mitigation plan.
- (4) For the purposes of *subsection (2)*—
- (a) an annual national transition statement shall include—
    - (i) an overview of the mitigation policy measures adopted to reduce emissions of greenhouse gases in order to enable the achievement of the national transition objective,
    - (ii) an overview of the adaptation policy measures that have been adopted in order to enable the State to adapt to the effects of climate change and to enable the achievement of the national transition objective,
    - (iii) a record of emissions of greenhouse gases set out in the most recent national greenhouse gas emissions inventory prepared by the Agency,

- (iv) a projection of future greenhouse gas emissions prepared by the Agency, and
  - (v) a report on compliance, by the State, with any existing obligation of the State under the law of the European Union or an international agreement referred to in *section 2*,
- (b) an annual sectoral mitigation transition statement shall include—
- (i) a record of the sectoral mitigation measures adopted by the Minister of the Government presenting the annual sectoral mitigation transition statement concerned, and
  - (ii) an assessment of the effectiveness of the sectoral mitigation measures referred to in *subparagraph (i)* in the achievement of their purpose,
- and
- (c) an annual sectoral adaptation transition statement shall include—
- (i) a record of the adaptation policy measures adopted by the Minister of the Government presenting the annual sectoral adaptation statement concerned, and
  - (ii) an assessment of the effectiveness of the adaptation policy measures referred to in *subparagraph (i)* in the achievement of their purpose.
- (5) Where, having regard to the requirements of adaptation in relation to the effects of climate change and the furthering of the national transition objective, the Minister considers it appropriate, the Minister may, in any year, request a Minister of the Government—
- (a) to whom a request under *section 6(1)* has been made to make a sectoral adaptation plan, or
  - (b) who has, in accordance with *section 6*, made a sectoral adaptation plan,
- to present to each House of the Oireachtas an annual sectoral adaptation transition statement.
- (6) Where—
- (a) a request under *section 6(1)* has been made to the Minister to make a sectoral adaptation plan or the Minister has, in accordance with *section 6*, made a sectoral adaptation plan, and
  - (b) the Minister, having regard to the requirements of adaptation in relation to the effects of climate change and the furthering of the national transition objective, considers it appropriate,
- the Minister may, in any year, present to each House of the Oireachtas an annual sectoral adaptation transition statement and references in this section to a request under *subsection (5)* shall be construed as including a sectoral adaptation plan presented in accordance with this subsection.

**Duties of certain bodies**

15. (1) A relevant body shall, in the performance of its functions, have regard to—
- (a) the most recent approved national mitigation plan,
  - (b) the most recent approved national adaptation framework and approved sectoral adaptation plans,
  - (c) the furtherance of the national transition objective, and
  - (d) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.
- (2) The relevant Minister may, from time to time, give a direction to a relevant body requiring it to prepare, and submit to him or her, within such period as may be specified in the direction, a report specifying—
- (a) the measures that the relevant body has adopted for the purposes of compliance by that relevant body with *subsection (1)*, and
  - (b) the progress made by the relevant body in the performance of its functions in the manner referred to in that subsection.
- (3) The relevant Minister may, from time to time, give a direction to a relevant body requiring it to adopt such measures as are specified in the direction for the purposes of compliance by the relevant body with *subsection (1)*.
- (4) A relevant body shall comply with a direction under this section.
- (5) In this section—
- “Act of 2014” means the Freedom of Information Act 2014;
- “prescribed body” has the same meaning as it has in the Act of 2014;
- “public body” has the same meaning as it has in the Act of 2014;
- “relevant body” means—
- (a) a prescribed body, and
  - (b) a public body;
- “relevant Minister” means, in relation to a relevant body that is—
- (a) a public body—
    - (i) referred to in section 6(1)(a) of the Act of 2014, the Minister of the Government having charge of the Department of State concerned,
    - (ii) referred to in section 6(1)(b) of the Act of 2014, such Minister of the Government as the Government may designate in relation to that public body,
    - (iii) referred to in section 6(1)(c) of the Act of 2014 that was established or appointed by—



- (I) the Government, such Minister of the Government as the Government may designate in relation to that public body, or
  - (II) a Minister of the Government, the Minister of the Government who established or appointed the public body concerned,
  - (iv) referred to in paragraph (d) or (e) of section 6(1) of the Act of 2014, such Minister of the Government as the Government may designate in relation to that public body,
  - (v) referred to in section 6(1)(f) of the Act of 2014, that is directly or indirectly controlled by—
    - (I) a public body to which *subparagraph (ii)* or *(iv)* relates, such Minister of the Government as the Government may designate in relation to that public body,
    - (II) a public body to which *subparagraph (iii)(I)* relates, such Minister of the Government as the Government may designate in relation to that public body, or
    - (III) a public body to which *subparagraph (iii)(II)* relates, the Minister of the Government who established or appointed the public body referred to in section 6(1)(c) of the Act of 2014,
  - (vi) referred to in section 6(1)(g) of the Act of 2014, the Minister for Education and Skills,
  - (vii) referred to in section 6(1)(h) of the Act of 2014 (other than a public body referred to in *subparagraphs (i)* to *(iv)*), such Minister of the Government as the Government may designate in relation to that public body, and
  - (viii) referred to in paragraph (a) or (b) of section 6(2) of the Act of 2014 (other than a public body referred to in *subparagraphs (i)* to *(iv)*), such Minister of the Government as the Government may designate in relation to that public body,
- and
- (b) a prescribed body, such Minister of the Government as the Government may designate in relation to that public body.

**Short title**

**16.** This Act may be cited as the Climate Action and Low Carbon Development Act 2015.