



**AN BILLE UM AN ATHRÚ AERÁIDE 2010
CLIMATE CHANGE BILL 2010**

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As initiated*

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AN BILLE UM AN ATHRÚ AERÁIDE 2010
CLIMATE CHANGE BILL 2010

BILL

entitled

5 AN ACT TO SET A TARGET FOR THE YEAR 2050 FOR THE
REDUCTION OF GREENHOUSE GAS EMISSIONS; TO
ESTABLISH THE DEPARTMENT OF THE TAOISEACH
AS THE CO-ORDINATING DEPARTMENT UNDER THE
ACT; TO CONFER POWERS ON THE TAOISEACH TO
10 MAKE REGULATIONS; TO PROVIDE FOR CARBON
BUDGETS; TO ESTABLISH AN OFFICE OF CLIMATE
CHANGE AND RENEWABLE ENERGY AND A
CLIMATE CHANGE COMMISSION; TO AMEND THE
CARBON FUND ACT 2007; TO PUT IN PLACE A FRAME-
15 WORK AND ENABLING PROVISIONS TO MEET EURO-
PEAN UNION AND INTERNATIONAL COMMITMENTS
ON CLIMATE CHANGE; AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

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PART 1

PRELIMINARY AND GENERAL

1.—This Act may be cited as the Climate Change Act 2010.

Short title and
commencement.

2.—(1) In this Act:

Interpretation.

25 “the 1990 baseline” means the amount of net emissions of green-
house gases for the year 1990;

“annual equivalent” in relation to the carbon budget for a period
means the amount of the carbon budget for the period divided by
the number of years in the period;

30 “budgetary period” means each succeeding period of five years
beginning with the period from the 1st day of January 2008 to the
31st day of December 2012;

“carbon budget” means the amount set for the net carbon account
for a budgetary period;

“carbon unit” means a unit of the kind specified in the European Union Emissions Trading Scheme and representing—

- (a) a reduction in an amount of greenhouse gas emissions,
- (b) a removal of an amount of greenhouse gas from the atmosphere, or 5
- (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions;

“the Commission” means the Commission on Climate Change established under *section 9*; 10

“emissions” in relation to a greenhouse gas means emissions of that gas from sources in the State;

“greenhouse gas” means—

- (a) carbon dioxide (CO₂),
- (b) methane (CH₄), 15
- (c) nitrous oxide (N₂O),
- (d) hydrofluorocarbons (HFCs),
- (e) perfluorocarbons (PFCs),
- (f) sulphur hexafluoride (SF₆), and
- (g) any other gas designated as a greenhouse gas under *sub-section (2)*; 20

“net carbon account” in relation to a period means the amount of net emissions of greenhouse gases for the period—

- (a) reduced by the amount of carbon units credited to the net carbon account for the period in accordance with regulations, and 25
- (b) increased by the amount of carbon units that in accordance with those regulations are to be debited from the net carbon account for the period;

“net emissions” for a period in relation to a greenhouse gas means 30 the amount of emissions of that gas for the period reduced by the amount for the period of removals of that gas;

“non-traded sector” means those sectors not covered by the European Union Emission Trading Scheme;

“the Office” means the Office of Climate Change and Renewable 35 Energy established under *section 8*;

“period after 2012” means the period commencing on the 1st day of January 2013;

“public body” has the meaning assigned to it by *Schedule 5*;

“removals” in relation to a greenhouse gas means emissions of that 40 gas from sources in the State.

5 (2) The Taoiseach may by regulations amend the definition of “greenhouse gas” in *section 2(1)* by adding to the gases listed in that definition any gas which it appears to the Taoiseach has been recognised by agreement or arrangement at European Union or international level to contribute to climate change.

10 (3) (a) For the purposes of this Act greenhouse gas emissions, reductions of such emissions and removals of greenhouse gas from the atmosphere shall be measured or calculated in tonnes of carbon dioxide equivalent; “tonne of carbon dioxide equivalent” means one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice);

15 (b) The Taoiseach shall publish guidance on the measurement or calculation of greenhouse gas emissions to assist the reporting under *section 17* by persons on such emissions from activities for which they are responsible;

20 (c) The provisions of this Act relating to emissions of greenhouse gases apply to emissions from sources or other matters occurring in, above or below—

(i) the territorial seas of the State, and

(ii) the exclusive economic zone of the State,

as they apply to emissions from sources or matters occurring in the State.

25 (4) A word or expression that is used in this Act and is also used in a relevant instrument of European Union or international law has, unless the context otherwise requires, the same meaning in this Act as it has in the instrument concerned.

30 **3.—(1)** The purpose of this Act is to limit insofar as is reasonably practicable the inevitable and harmful effects of global average temperature increases and to ensure that emissions of greenhouse gases in the State do not exceed the levels binding the State under European Union and international law. Purpose and Co-ordinating Department.

35 (2) It is the duty of the Government, the Office and the Commission and every public body and person concerned with the implementation of this Act to advance the purpose referred to in *subsection (1)*.

40 (3) The Department of the Taoiseach shall be the co-ordinating Department of State for the purposes of this Act and it shall be the duty of the Taoiseach to implement the provisions herein and to ensure compliance with those provisions by such other public bodies and persons as are concerned with advancing the purpose referred to in *subsection (1)*.

45 (4) *Schedule 4* has effect in relation to the functions of the Taoiseach with respect to public bodies.

PART 2

EMISSIONS AND EFFICIENCY TARGETS

Greenhouse Gas Emissions.

- 4.—(1) It is the duty of the Taoiseach to ensure that the State's net carbon account for the year 2050 is at least 80 per cent lower than the 1990 baseline. 5
- (2) (a) It is the duty of the Taoiseach to set an amount for the net carbon account for each budgetary period and to ensure that the net carbon account for a budgetary period does not exceed the carbon budget.
- (b) The Taoiseach shall set emissions reduction targets in accordance with the European Union Emissions Trading Scheme and the European Union Climate Policy targets established for the period 2008 to 2012, not later than one year from the coming into operation of this Act, and thereafter for the period 2013 to 2020. 10 15
- (c) Notwithstanding the targets set in each budgetary period, the overall target reduction in greenhouse gas emissions by 2020 shall be between 20 per cent to 30 per cent.
- (d) The Taoiseach shall provide for the implementation of measures and policies in respect of emissions reduction targets agreed at European Union level in the post-2012 period. 20

Energy Efficiency.

- 5.—(1) The Taoiseach shall by order set energy and electricity efficiency targets which meet the State's European Union obligations. 25
- (2) The Taoiseach may, having had regard to scientific evidence, technological developments and national energy policy, establish more stringent targets than the targets established by the European Union.
- (3) The Taoiseach may make regulations to implement the targets set out in *subsections (1) and (2)* and shall in establishing a target under *subsection (2)* obtain and have regard to the advice of the Office and have regard to the reports of the Commission laid before each House of the Oireachtas. 30

PART 3

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CLIMATE STRATEGY AND CARBON BUDGETING

Annual Climate Change Statement and Carbon Budget.

- 6.—(1) (a) The Taoiseach shall lay before each House of the Oireachtas in respect of each year, beginning with the year 2010, an annual climate change statement.
- (b) The annual climate change statement shall be prepared in conjunction with the Office and the Taoiseach shall, in the preparation of the statement, obtain and have regard to information and advice from the Office. 40

(c) *Schedule 1* applies and has effect in relation to the preparation and laying before each House of the Oireachtas of the annual climate change statement.

(2) (a) It is the duty of the Taoiseach—

5 (i) to set for each succeeding period of five years beginning with the period 2008 to 2012 an amount for the State’s net carbon account (“the carbon budget”), and

10 (ii) to ensure that the net carbon account for a budgetary period does not exceed the carbon budget.

(b) The carbon budget for a budgetary period may be set at any time after the commencement of this Part and must be set—

15 (i) for the periods 2008 to 2012, 2013 to 2017 and 2018 to 2022, before the 1st day of June on the first year of the coming into operation of this Act,

(ii) for any later period, not later than the 30th day of June in the 12th year after the beginning of the period in question.

20 (c) The carbon budget—

(i) for the budgetary period including the year 2022, shall be such that the annual equivalent for the period is at least 30 per cent lower than the 1990 baseline; and

25 (ii) for the budgetary period including the year 2050, shall be such that the annual equivalent of the carbon budget for the period is lower than the 1990 baseline by at least the percentage specified in *section 4*.

(d) The Taoiseach may by order amend the percentages set out in *section 6(2)(c)*—

30 (i) in circumstances in which scientific knowledge about climate change or European Union or international law or policy make it appropriate to do so, or

35 (ii) in connection with the making of a regulation under *section 2(1)* (designation of further greenhouse gases as targeted greenhouse gases).

(e) The Taoiseach shall set the carbon budget for a budgetary period by regulations and it shall be the aim of such regulations progressively to meet the target set out in *section 3* and the requirements of *section 6(2)*.

40 (f) The Taoiseach shall obtain and have regard to the advice of the Office when setting the carbon budget and shall also have regard to the reports of the Commission laid before each House of the Oireachtas.

7.—(1) The Taoiseach shall—

National Climate
Change Strategy.

- (a) on the coming into operation of this Act, prepare and implement a national climate change strategy for the five year period commencing in the year 2012, and
 - (b) prepare and implement a further national climate change strategy for each subsequent five year period. 5
- (2) (a) The Taoiseach shall, on the coming into operation of this Act give notice, by publication in two or more national newspapers, of his intention to prepare and implement a national climate change strategy for the five year period commencing in the year 2012. 10
- (b) Not later than three years following the making of the first national climate change strategy, the Taoiseach shall give notice, by publication in two or more national newspapers, of his intention to review the existing national climate change strategy. 15
- (c) A notice under *paragraph (a) or (b)* shall—
- (i) indicate that submissions or observations regarding the review of the existing strategy or the preparation of a new strategy (as the case may be) may be made in writing to the Department of the Taoiseach within a specified period (which shall not be less than 8 weeks), and 20
 - (ii) indicate times and places at which background papers or draft proposals (if any) regarding the review of the existing strategy and the preparation of a new strategy may be inspected. 25
- (3) The Taoiseach shall, not less than four years following the making of a national climate change strategy, bring the proposed successor national climate change strategy before each House of the Oireachtas and the Taoiseach shall, on approval of such strategy by a simple majority of each House of the Oireachtas, implement an approved strategy, by order, at the commencement of the next five year period. 30
- (4) A national climate change strategy shall—
- (a) provide for the making of a report on any observations or submissions received under *subsection (2)* and shall have regard to the report in the making of the strategy, 35
 - (b) identify the measures required to reduce greenhouse gas emissions in the non-traded sector,
 - (c) set out the proposals and policies of the Taoiseach for meeting the carbon budgets for the current and future budgetary periods covered by the period of the strategy, 40
 - (d) set out in particular how such proposals and policies will affect the traded and non-traded sectors,
 - (e) outline the implication of such proposals and policies as regards the crediting of carbon units to the net carbon account in each budgetary period covered by the strategy, 45
 - (f) identify each public body or agency responsible for implementing each measure set out in *section 7(3)*, and

(g) provide for funding allocations for the implementation of such measures.

(5) Each national climate change strategy shall be prepared—

(a) to meet the target set out in *section 3* and the requirements of *section 6(2)*, and

(b) to contribute to sustainable development and the development of the renewable energy sector.

(6) The Taoiseach shall obtain and have regard to the advice of the Office when preparing a national climate change strategy and shall also have regard to the reports of the Commission laid before each House of the Oireachtas.

(7) In preparing a national climate change strategy the Taoiseach shall have regard to the following:

(a) scientific knowledge about climate change;

(b) technology relevant to climate change;

(c) economic circumstances and in particular the likely impact of the strategy on the economy and the competitiveness of particular sectors of the economy;

(d) fiscal circumstances and in particular the likely impact of the strategy on taxation, public spending and public borrowing;

(e) social circumstances and in particular the likely impact of the strategy on poverty, including fuel poverty;

(f) energy policy and in particular the likely impact of the strategy on energy supplies; and

(g) related policy and developments at European Union and international level.

8.—(1) (a) The Taoiseach shall lay reports before each House of the Oireachtas containing an assessment of the risks for the State of the current and predicted impact of climate change.

National Climate
Adaptation
Strategy.

(b) The first report under this section must be laid before each House of the Oireachtas no later than three years after this section comes into force.

(c) Subsequent reports must be laid before each House of the Oireachtas no later than three years after this section comes into force.

(d) The Taoiseach may extend the period for laying any such report but must publish a statement setting out the reasons for the delay and specifying when the report will be laid before each House of the Oireachtas.

(e) Before laying a report under this section before each House of the Oireachtas the Taoiseach must take into account the advice of the Climate Change Commission.

- (2) (a) The Taoiseach shall lay programmes before each House of the Oireachtas setting out—
- (i) the objectives of the Government in relation to the adaptation to climate change,
 - (ii) the Government’s proposals and policies for meeting those objectives, and 5
 - (iii) the time-scales for introducing those proposals and policies, addressing the risks identified in the most recent report under *subsection (1)*.
- (b) The objectives, proposals and policies must be such as to contribute to sustainable development. 10
- (c) Each programme under this section must be laid before each House of the Oireachtas as soon as is reasonably practicable after the laying of the report under *subsection (1)* to which it relates. 15

PART 4

INSTITUTIONAL FRAMEWORK

Office of Climate Change and Renewable Energy.

9.—(1) There shall be established a body, to be known as An tOifig um Athrú Aeráide agus Fuinneamh Inathnuaite or, in the English language, the Office of Climate Change and Renewable Energy, to perform the functions assigned to it under this Act. 20

(2) The Office shall stand established on such day as the Taoiseach by order appoints. *Schedule 2* has effect in relation to the operation of the Office.

- (3) (a) The Office shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land, 25
- (b) The Office shall provide itself with a seal,
- (c) The seal of the Office shall be authenticated by the signature of the Director General or of some other director or of a person, being an employee of the Office, or a person whose services are availed of by, or supplied to, the Office and authorised by the Office to act in that behalf, 30
- (d) Judicial notice shall be taken of the seal of the Office and every document purporting to be an instrument made by the Office and to be sealed with the seal (purporting to be authenticated in accordance with *paragraph (c)*) of the Office shall be received in evidence and be deemed to be such instrument without proof, unless the contrary is shown. 35
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Climate Change Commission.

10.—(1) There shall be established a body, to be known as An Coimisiún um Athrú Aeráide or, in the English language, the Climate Change Commission, to perform the functions assigned to it under this Act.

(2) The Commission shall stand established on such day as the Taoiseach by order appoints.

(3) (a) The Commission shall be a body corporate with perpetual succession and an official seal and shall have power—

- 5 (i) to sue, and may be sued, in its corporate name,
- (ii) to acquire, hold and dispose of land or an interest in land, with the approval of the Taoiseach given with the consent of the Minister for Finance, and
- 10 (iii) to acquire, hold and dispose of any other property, with the approval of the Taoiseach given with the consent of the Minister for Finance.
- (b) Subject to this Act, the Commission shall be independent in the performance of its functions.

15 **11.**—(1) Policy direction in relation to the Carbon Fund shall, on the commencement of this section, be the responsibility of the Office. Carbon Fund Policy and Management.

(2) The Carbon Fund Act 2007 is amended as follows:

(a) in section 1 by inserting after the definition of “Kyoto unit” the following:

20 “ ‘the Office’ means the Office of Climate Change and Renewable Energy established under *section 8* of the *Climate Change Act 2010*”;

(b) by substituting in section 2(3) the words “the Director General of the Office” for “the Minister”, and

25 (c) by substituting in section 2(8) the words “the Taoiseach and the Office” for the words “the Minister and the Minister for Finance”.

12.—(1) There shall be a Climate Change Dividend Fund which will be co-ordinated by the Office for the purpose of determining the most efficient allocation of revenues accruing: Climate Change Dividend Fund.

30 (a) from the auctioning of European Union Emissions Trading Scheme allowances, and

(b) from a portion of the monies collected through carbon taxation and ring-fenced.

35 (2) The revenues accruing under *subsection (1)* shall be applied to meet—

(a) the target set out in *section 3* and the requirements of *section 6(2)*, and

(b) to provide for financial aid and programmes to combat climate change in developing countries.

40 (3) The Taoiseach may make provision by regulations for the Climate Change Dividend Fund and for any scheme of development aid provided for in *subsection (2)(b)*.

PART 5

SUPPORTING MEASURES

Incentives and grant support.

13.—(1) The Office shall prepare, implement and manage incentives schemes, and may offer grant support under such schemes, to meet the target set out in *section 3* and the requirements of *section 6(2)*. 5

(2) The Office shall prepare any scheme under *subsection (1)* in consultation with the Minister for Finance.

(3) The Taoiseach may provide by regulation for such schemes and shall have regard in the making of such provision to the advice of the Office and the Minister for Finance. 10

Framework conditions for emissions reduction and energy efficiency projects.

14.—(1) The Taoiseach may make provision by regulation for framework conditions for emissions reduction and energy efficiency projects in the non-traded sector.

(2) Under the framework the Office shall co-ordinate and support in particular initiatives which promote the accelerated deployment of electric vehicles, energy efficiency, renewable resources including wind, tidal, solar, ocean, biomass and biofuel energy. 15

(3) The Taoiseach in making such regulations shall obtain and have regard to the advice of the Office and the reports of the Commission laid before each House of the Oireachtas. 20

Carbon Offset schemes and initiatives.

15.—(1) The Taoiseach may make provision by regulation for a domestic carbon offset scheme and the promotion of voluntary carbon offset initiatives and shall in particular make provision for a carbon sequestration scheme based on afforestation. 25

(2) The Carbon Fund may acquire carbon units representing the emissions reductions secured under a scheme or initiative provided for under *section 14(1)*.

(3) The Taoiseach in making such regulations shall obtain and have regard to the advice of the Office and the reports of the Commission laid before each House of the Oireachtas. 30

PART 6

FINAL PROVISIONS

Compliance with Post-2012 International Obligations.

16.—Following the conclusion in the period after 2012 of any European Union or international agreement on climate change to which the State is party, the Office shall set out for the approval of each House of the Oireachtas proposals for additional measures and schemes required by such agreement to ensure the State's compliance with its international treaty obligations. 35

Reports and Information from Public Bodies.

17.—Following the commencement of this section all public bodies shall— 40

5 (a) no later than March of any year publish an annual statement setting out the actions such authority or body intends to undertake to achieve those annual targets set out in the national climate change strategy for which the authority or body concerned is responsible or by which the authority or body concerned is impacted,

(b) respond to any request for information from the Office or the Commission as soon as is reasonably practicable, and

10 (c) have regard in relation to its annual targets to policy guidance issued to such authority or body by the Office.

15 **18.**—The Taoiseach shall make regulations for the implementation of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide following its transposition by way of primary legislation by both Houses of the Oireachtas. Directive 2009/31/EC implementation.

20 **19.**—The Taoiseach shall make regulations for the implementation of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources following its transposition by way of primary legislation by both Houses of the Oireachtas and shall prepare under such regulations a national energy efficiency plan. Directive 2009/28/EC implementation.

25 **20.**—The Taoiseach shall make regulations for the implementation of Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC following its transposition by way of primary legislation by both Houses of the Oireachtas so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community. Directive 2009/29/EC implementation.

30 **21.**—(1) The Taoiseach may make regulations in relation to any matter referred to in this Act as the subject of regulations or of orders to be made by the Taoiseach, and for the purposes of and to give full effect to this Act. Taoiseach's Powers.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Taoiseach to be necessary or expedient for the purposes of the regulations.

35 (3) Where the Taoiseach proposes to make regulations—

(a) he or she shall, before doing so, obtain and have regard to the advice of the Office and shall have regard to the reports of the Commission laid before each House of the Oireachtas,

40 (b) he or she shall cause to be laid before each House of the Oireachtas a draft of the regulations, the advice of the Office and, if the draft regulations propose to make provision different to that recommended by the Office, a statement setting out his or her reasons for proposing to make such different provision, and
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(c) a regulation shall not be made until a resolution approving of the draft has been passed by each such House.

Commencement.

22.—(1) *Parts 1* and *2* of this Act come into operation on the day this Act is passed.

(2) The remaining provisions of this Act come into operation on such day or days as may be fixed therefor by any order or orders of the Taoiseach, either generally or with reference to any particular purpose or provision or with reference to a particular area or areas, and different days may be so fixed for different purposes and different provisions of this Act and for different areas. 5

SCHEDULE 1

ANNUAL CLIMATE CHANGE STATEMENT

1. The annual climate change statement provided for in *section 5* shall set out:

- 5 (a) details of current and forecast greenhouse gas emissions in the traded and non-traded sectors of the economy, respectively,
- 10 (b) the success or failure of mitigation measures adopted to reduce greenhouse gas emissions and details in respect of any such success or failure,
- 15 (c) adaptations and variations to the national climate change strategy where such adaptations or variations are required to compensate in future periods for periods in which the net carbon account has exceeded the carbon budget,
- (d) the current and forecast activities of the Carbon and Climate Change Dividend Funds,
- (e) annual progress in meeting energy efficiency standards in the national building stock,
- 20 (f) a statement of schemes, incentives, projects and programmes to support and develop the renewable energy sector and details and progress in relation to same,
- 25 (g) a statement of policy and related developments at European Union and international level in relation to climate change, sustainability and renewable energy and technologies,
- 30 (h) a schedule listing the relevant and related reports submitted by the Taoiseach and the statutory bodies herein to the European Union and the United Nations and their agencies in the reporting period of each annual climate change statement.

Carbon Budgeting

2. In setting the carbon budget as required by the provisions of *section 6(2)* the Taoiseach shall, in having regard to the advice of the Office and the reports of the Commission laid before each House of the Oireachtas, consider the following—

- (a) scientific knowledge about climate change,
- (b) technology relevant to climate change,
- 40 (c) economic circumstances prevailing in the State and in particular the likely impact of the carbon budget on economic competitiveness,
- (d) fiscal conditions prevailing in the State and in particular the likely impact of the carbon budget on taxation, public spending and Exchequer borrowing requirements,

- (e) socio-economic circumstances and in particular the likely impact of the carbon budget on poverty, including fuel poverty,
 - (f) energy policy and in particular the likely impact of the carbon budget on energy supplies and security and the level of greenhouse gas emissions and energy use in the State, and 5
 - (g) climate change policy at European Union and international level.
3. As soon as is reasonably practicable after setting the carbon budget for a budgetary period, the Taoiseach shall lay before each House of the Oireachtas a report setting out— 10
- (a) for each year within the period, a range within which the Taoiseach expects the amount of the net carbon account for the year to fall, 15
 - (b) the proposals and policies of the Taoiseach for meeting the carbon budgets for the current and future budgetary periods up to and including that period.
4. The report referred to in *article 3* shall in particular—
- (a) set out the time-scales over which those proposals and policies are expected to take effect, and 20
 - (b) explain how the proposals and policies set out in the report affect different sectors of the economy,
 - (c) outline the implications of the proposals and policies as regards the crediting of carbon units to the net carbon account for each budgetary period covered by the report. 25
5. The proposals and policies referred to in *article 3(b)* shall—
- (a) be prepared with a view to meeting the target in *section 3*,
 - (b) taken as a whole, be such as to contribute to sustainable development. 30
6. In exercising functions involving consideration of how to meet—
- (a) the target in *section 3*, or
 - (b) the carbon budget for any period,
- the Taoiseach shall have regard to the need for sustained and concerted action within the State to achieve reductions in emissions of greenhouse gases or increases in removals of such gases, or both. 35
7. It is the duty of the Taoiseach to lay before each House of the Oireachtas in respect of each year, beginning with the year 2010, a statement containing the following information: 40
- (a) in respect of each greenhouse gas, a statement of the amount for the year of emissions, removals and net emissions of that gas and the methods used to measure or calculate those amounts, indicating whether any of those

amounts represents an increase or decrease compared to the equivalent amount for the previous year,

- (b) the aggregate amount for the year of emissions, removals and net emissions of all greenhouse gases,
- 5 (c) if in accordance with international carbon reporting practice a change of method is such as to require adjustment of an amount for an earlier year in the same budgetary period, a statement of the adjustment required and the adjusted amount,
- 10 (d) if emissions of a greenhouse gas from international aviation or international shipping are not required to be included in the statement by virtue of *paragraph (c)*, a statement of any amounts relating to such emissions that the State is required to report for the year in accordance with international carbon reporting practice,
- 15 (e) the total amount of carbon units that have been credited to or debited from the net carbon account for the year, giving details of the number and type of those carbon units,
- 20 (f) the amount of the net carbon account for the year,
- (g) the amount of net emissions of each greenhouse gas for the year 1990, and
- (h) a baseline amount for each greenhouse gas, determined on such basis as the Taoiseach considers appropriate, being—
- 25 (i) the amount of net emissions of the gas for the year 1990 or a different year, or
- (ii) the average amount of net emissions of the gas for a number of years.
- 30 8. The statement required by *article 7* shall be laid before each House of the Oireachtas not later than the 31st day of March in the second year following that to which it relates.
9. (a) The Taoiseach may decide to carry back part of the carbon budget for a budgetary period to the preceding budgetary period, so that the carbon budget for the later period is reduced, and that for the earlier period increased, by the amount carried back.
- 35 (b) The amount carried back under *paragraph (a)* shall not exceed 1 per cent of the carbon budget for the later period.
- 40 (c) The Taoiseach may decide to carry forward the whole or part of any amount by which the carbon budget for a budgetary period exceeds the net carbon account for the period, so that the amount of the carbon budget for the next budgetary period is increased by the amount carried forward.
- 45 (d) Before deciding to carry an amount back or forward under this section, the Taoiseach shall obtain, and take into account, the advice of the Office.

- (e) A decision under this section shall be made no later than the 31st day of May in the second year after the end of the earlier of the two budgetary periods affected.

10. It is the duty of the Taoiseach to lay before each House of the Oireachtas in respect of each budgetary period a statement containing the following information: 5

- (a) in respect of each greenhouse gas, a statement of the final amount for the period of emissions, removals and net emissions of that gas, being the total of the amounts (or adjusted amounts) stated under *article 7* in respect of that gas for the years included in the period; 10
- (b) the final amount of carbon units that have been credited to or debited from the net carbon account for the period, with details of the number and type of those carbon units;
- (c) the final amount of the net carbon account for the period; 15
- (d) whether the Taoiseach has decided to carry an amount back under *article 9(a)* and, if so, what amount;
- (e) the amount of the carbon budget for the period, being the amount originally set, subject to any exercise of the powers conferred by *article 9(a)* and any alteration of the budget under this article. 20

11. (1) Whether the carbon budget for a period has been met shall be determined by reference to the figures given in the statement laid before each House of the Oireachtas under *article 10* in respect of that period. 25

(2) If the carbon budget for the period has not been met, the statement shall explain why it has not been met.

(3) The statement required by *article 10* shall be laid before each House of the Oireachtas not later than the 31st day of May in the second year following the end of the period to which it relates. 30

12. It is the duty of the Taoiseach to lay before each House of the Oireachtas in respect of the year 2050 a statement containing the following information:

- (a) in respect of each greenhouse gas, the amount for that year of emissions, removals and net emissions of that gas, being the amount stated for that year in respect of that gas under *article 10*; 35
- (b) the amount of carbon units that have been credited to or debited from the net carbon account for the year, with details of the number and type of those carbon units; 40
- (c) the amount of the net carbon account for that year.

13. (1) Whether the target in *section 3* has been met shall be determined by reference to the figures given in the statement laid before each House of the Oireachtas under *article 12*.

(2) If the target has not been met, the statement shall explain why it has not been met. 45

(3) The statement required by *article 12* shall be laid before each House of the Oireachtas not later than the 31st day of May 2052.

14. (1) Regulations setting the carbon budget for a budgetary period—

5 (a) may not be revoked after the date by which a budget for the period was required to be set;

(b) may be amended after the date by which a budget for the period was required to be set only if it appears to the Taoiseach that, since the budget was originally set (or previously altered), there have been significant changes affecting the basis on which the previous decision was made;

10 (c) may be amended after the period has begun only if it appears to the Taoiseach that there have been such changes since the period began.

(2) Regulations setting the carbon budget for a budgetary period may not be amended after the period has ended.

15 (1) The Taoiseach may make provision by regulations as to the manner of determining, in the case of a greenhouse gas other than carbon dioxide, the amount of net emissions for the year 1990.

(2) Regulations under this article may, in particular—

(a) designate a different base year, or

25 (b) designate a number of base years, and provide for the amount of net emissions of the gas for that year, or the average amount of net emissions of the gas for those years, to be treated for the purposes of this Act as the amount of net emissions of the gas for the year 1990.

16. (1) The Taoiseach may make provision by regulations for a scheme—

30 (a) for registering or otherwise keeping track of carbon units, or

(b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Taoiseach.

35 (2) The regulations may provide for an existing scheme to be adapted for these purposes and may, in particular, make provision—

(a) appointing a body to administer the scheme;

40 (b) establishing a body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise as the Taoiseach considers appropriate;

(c) conferring power on the Taoiseach to give guidance or directions to the body administering the scheme;

45 (d) conferring power on the Taoiseach to delegate the performance of any of the functions conferred or imposed on the Taoiseach by the regulations; and

(e) requiring the payment by persons using the scheme of charges (of an amount determined by or under the regulations) towards the cost of operating it.

17. (1) The Taoiseach shall make provision by regulations as to—

(a) the circumstances in which carbon units may be credited to the net carbon account for a period, 5

(b) the circumstances in which such units shall be debited from that account for a period, and

(c) the manner in which this is to be done.

(2) Regulations under *subarticle (1)* may include provision, in accordance with European Union and international law, for the crediting of carbon units to the net carbon account by means of their purchase from sources outside the State or the implementation of a greenhouse reduction project in a developing state. 10

(3) In setting a carbon budget for a budgetary period, the Taoiseach shall provide for no more than 40 per cent of the reduction in greenhouse gas emissions to be achieved through provisions referred to in this article. 15

SCHEDULE 2

OFFICE OF CLIMATE CHANGE AND RENEWABLE ENERGY

1. (1) The functions of the Office shall be to advise the Taoiseach, in relation to each budgetary period, on—

- 5 (a) the level of the carbon budget for the period,
- (b) the extent to which the carbon budget for the period should be met—
- (i) by reducing the amount of net emissions of greenhouse gases, or
- 10 (ii) by the use of carbon units that in accordance with regulations under *section 6* may be credited to the net carbon account for the period,
- and
- 15 (c) the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of greenhouse gases.

(2) Advice given by the Office under this article shall also contain the reasons for that advice.

20 (3) The Office shall give its advice under this article—

- (a) for the budgetary period 2008 to 2012, within eight months of the establishment day of the Office appointed by the Taoiseach,
- 25 (b) in respect of each succeeding budgetary period not less than six months before the last date for setting the carbon budget for the period.

(4) As soon as is reasonably practicable after giving its advice under this article, the Office shall publish that advice in such manner as it considers appropriate.

30 2. (1) It is the duty of the Office to lay before each House of the Oireachtas each year, beginning with the year 2010, a report setting out the Office's views on—

- 35 (a) the progress that has been made towards meeting the carbon budgets that have been set under this Act and the target in *section 3*,
- (b) the further progress that is needed to meet those budgets and that target, and
- (c) whether those budgets and that target are likely to be met.

40 (2) The Office's report in the second year after the end of a budgetary period shall also set out the Office's general views on—

- (a) the way in which the budget for the period was or was not met, and

- (b) action taken during the period to reduce net emissions of greenhouse gases.
- (3) The first report under this article shall be laid before each House of the Oireachtas not later than the 30th day of March 2011.
- (4) Each subsequent report under this article shall be laid before each House of the Oireachtas not later than the 30th day of June in the year in which it is made. 5
3. The Taoiseach shall lay before each House of the Oireachtas a response to the points raised by each report of the Office not later than the 15th day of October in the year in which the Office's report is made. 10
4. (1) The Office shall, at the request of the Taoiseach, provide advice, analysis, information or other assistance to the Taoiseach in connection with—
- (a) the Taoiseach's functions under this Act, 15
- (b) the progress made towards meeting the objectives set by or under this Act,
- (c) adaptation to climate change, or
- (d) any other matter relating to climate change.
- (2) In particular, the Office shall, at the request of the Taoiseach, assist the Taoiseach in connection with the preparation of statistics relating to greenhouse gas emissions. 20
5. (1) In performing its functions under this Act, the Office—
- (a) has all such powers as are necessary for or are incidental to the performance of those functions, 25
- (b) has the powers conferred by section 41 of the Environmental Protection Agency Act 1992 (which include the power to appoint committees and consultative groups and to delegate to such a committee any of its functions which, in its opinion, can be better or more conveniently performed by a committee), and 30
- (c) may in particular—
- (i) gather information and carry out research and analysis,
- (ii) commission others to carry out such activities, and 35
- (iii) publish the results of such activities carried out by the Office or others.
- (2) From time to time, and whenever so requested, the Director General of the Office shall account for the performance of the functions of the Office to a Committee of one or both Houses of the Oireachtas (including in particular any such Committee established to consider medium and long term climate change targets and the key measures needed to meet those targets) and shall have regard to any recommendations of such a Committee relevant to its functions. 40

(3) The Office shall have regard to the desirability of involving the public in the exercise of its functions.

6. It is the duty of the Office to advise the Taoiseach on the preparation of the national climate change strategy and, in so doing:

- 5 (a) the Office shall give its advice in relation to a report not later than six months before the last date for laying the report before each House of the Oireachtas;
- 10 (b) as soon as is reasonably practicable after giving its advice, the Office shall publish that advice in such manner as it considers appropriate;
- (c) each report of the Office shall contain an assessment of the progress made towards implementing the objectives, proposals and policies set out in the national climate change strategy;
- 15 (d) each report shall have regard to and report on the measures necessary—
- (i) to support the Taoiseach in climate change negotiations at European Union and international level;
- (ii) to monitor and report on greenhouse gas emissions;
- 20 (iii) to establish criteria to determine the extent to which the State should rely on clean development mechanisms and/or joint implementation projects in developing countries;
- (iv) to liaise with and co-ordinate the response of stakeholders to climate change;
- 25 (v) to co-ordinate research and development projects aimed at creating a low-carbon economy, and measures to give effect to the State's commitment to develop the renewable energy sector;
- 30 (vi) to advise the Commission for Energy Regulation on climate change and renewable energy; and
- (vii) to co-ordinate across all branches of Government and the public bodies listed in *Schedule 3* the implementation of the national climate change strategy.

35 7. (1) A Director General of the Office shall be appointed by the Government and shall report to the Taoiseach.

(2) The Director General shall be appointed in a wholetime capacity and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable.

40 (3) Subject to the provision of this section:

- (a) the term of office of the Director General shall be seven years,
- (b) the Director General may be reappointed by the Government for a second or subsequent term of office of seven years or less.
- 45

(4) The Director General shall be paid, out of monies at the disposal of the Office, such remuneration as the Taoiseach, with the consent of the Minister for Finance, may determine.

(5) Subject to the provisions of this section, the Director General shall hold office on such terms and conditions (including terms relating to allowances for expenses) as the Taoiseach, with the consent of the Minister for Finance, may determine. 5

(6) The Director General may be removed from office by the Government if, in its opinion, he or she has become incapable through ill-health of effectively performing his or her duties, or for stated misbehaviour, or if his or her removal appears to the Government to be necessary or desirable for the effective performance by the Office of its functions and, in case the Director General is removed from office under this subsection, the Government shall cause to be laid before each House of the Oireachtas a statement in writing of the reasons for the removal. 10 15

8. (1) The staff of the Office shall be drawn where possible from the existing staffs of the Environmental Protection Agency and the Sustainable Energy Authority of Ireland and the Taoiseach may, from time to time, following consultation with the Office and any other Minister of the Government who in the opinion of the Minister is concerned, request a public authority to designate for employment by the Office employees of that authority whose principal duties relate to a function assigned or transferred to the Office under this Act, or to be so assigned or transferred to the Office, and the authority shall comply with such request. 20 25

(2) The Office shall liaise with the Environmental Protection Agency and the Sustainable Energy Authority of Ireland in respect of such budgetary provision as require to be made out of their funding for the remuneration of the staff of the Office. 30

(3) The Office may, if necessary and having regard to the need to source to the greatest extent possible its staff from the public bodies mentioned in this article, appoint such persons to be employees of the Office as it may determine subject to the consent of the Minister and the Minister for Finance as to numbers and grading. 35

(4) An employee of the Office referred to in *subarticle (3)* shall hold his or her employment on such other terms (including terms specifying the duration of such employment) and conditions as the Office, with the consent of the Minister and the Minister for Finance, may determine. 40

9. (1) The governing body of the Office shall hold such and as many meetings as may be necessary for the performance of its functions.

(2) The Minister may, in consultation with the Director General of the Office, fix the date, time and place of the first meeting of the governing body of the Office. 45

SCHEDULE 3

CLIMATE CHANGE COMMISSION

1. The functions of the Climate Change Commission shall be as follows—

5 (a) to prepare within a year of the coming in operation of this Schedule an assessment of the potential impact on the State of climate change and review such assessment annually thereafter; and

10 (b) to set out on foot of the impact assessment referred to at *paragraph (a)* the adaptation and other mitigation measures required by climate change.

2. The Commission shall:

15 (a) research climate change issues and prepare and issue reports and conclusions on, *inter alia*, the State's performance in achieving the target set out in *section 3*;

(b) lay its report before each House of the Oireachtas; and

20 (c) be available to provide, and shall provide when requested by the Taoiseach, such expert advice as the Taoiseach shall require in respect of achieving the targets set out in *section 3*.

3. (a) The Commission shall consist of a chairperson and a board of four other expert members.

25 (b) The Government shall, on the request of the Taoiseach made by him following consultation with the Minister for the Environment, Heritage and Local Government, nominate the five members who on the establishment day are to comprise the Commission.

30 (c) The Taoiseach shall designate a member of the Commission as chairperson and shall, in appointing a chairperson, have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the Commission.

(d) The term of office of the chairperson of the Commission shall be five years.

35 (e) The chairperson of the Commission may at any time resign his or her office as chairperson by letter sent to the Taoiseach and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of the Commission held next after the Commission has been informed by the Taoiseach of the resignation.

40 (f) The chairperson of the Commission shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *paragraph (c)* or *(d)*, hold office until the expiration of his or her period of membership of the Commission and, if he or she is re-appointed as a member of the Commission, he or she shall be eligible for re-appointment as chairperson of the Commission.

45

4. The Taoiseach shall in the making of appointment to the board of the Commission have regard:
- (a) to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the Commission, and 5
 - (b) to the desirability of an equitable balance between men and women in the composition of the committee.
5. (a) The Commission shall hold such and as many meetings as may be necessary for the performance of its functions.
- (b) The Taoiseach may, in consultation with the chairperson of the Commission, fix the date, time, quorum and place of the first meeting of the Commission. 10
 - (c) At a meeting of the Commission—
 - (i) the chairperson of the Commission shall, if present, be the chairperson of the meeting, and 15
 - (ii) if and so long as the chairperson of the Commission is not present or if the office of chairperson is vacant, the members of the Commission who are present shall choose one of their number to be the chairperson of the meeting. 20
 - (d) Each member of the Commission (including the chairperson of the meeting concerned) present at a meeting shall have a vote.
 - (e) Subject to this Act, the Commission shall regulate, by standing orders or otherwise, the procedure and business of the Commission. 25
6. (1) The Commission may establish committees—
- (a) to assist and advise the Commission on matters relating to any of its functions or on such matters as the Commission may from time to time determine, or 30
 - (b) to perform such functions of the Commission as may be delegated by it from time to time.
- (2) A committee shall consist of a chairperson and such number of other members as the Commission may determine and may include persons who are not members of the Commission or of its staff. 35
- (3) The chairperson and other members of a committee shall be appointed by the Commission.
- (4) The Commission, when appointing a member of a committee, shall— 40
- (a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the function of the committee,
 - (b) have regard to the desirability of an equitable balance between men and women in the composition of the committee, 45

(c) fix the member's period of membership, and

(d) fix the terms of his or her membership.

5 (5) The members of a committee may be paid by the Commission such fees as the Commission may determine, subject to the consent of the Taoiseach and the Minister for Finance.

(6) A member of a committee may be removed at any time from membership of the committee by the Commission.

(7) The Commission may at any time dissolve a committee.

10 (8) The Commission may regulate the procedure and business of a committee but, subject to any such regulation, a committee may regulate its own procedure and business.

(9) A committee may act notwithstanding a vacancy or vacancies in its membership.

SCHEDULE 4

FUNCTIONS OF THE TAOISEACH RELATIVE TO PUBLIC BODIES

1. The Taoiseach may issue guidance to public bodies in relation to—
 - (a) assessing the current and predicted impact of climate change in relation to their functions, 5
 - (b) preparing proposals and policies for adapting to climate change in the exercise of their functions, and
 - (c) co-operating with other public bodies for that purpose.
2. (1) The Taoiseach may direct a public body to prepare a report containing any of the following: 10
 - (a) an assessment of the current and predicted impact of climate change in relation to its functions;
 - (b) a statement of the body's proposals and policies for adapting to climate change in the exercise of its functions and the time-scales for introducing those proposals and policies; 15
 - (c) an assessment of the progress made by the body towards implementing the proposals and policies set out in its previous reports. 20
- (2) The Taoiseach may direct two or more public bodies to prepare a joint report.
- (3) The Taoiseach may give directions about—
 - (a) the time within which a report shall be prepared, and
 - (b) its content, and may, in particular, require it to cover a particular geographical area. 25
3. (1) A public body shall comply with any directions under *article 2*.
- (2) Where two or more public bodies are directed to prepare a joint report, they shall take reasonable steps to co-operate with each other for that purpose. 30
- (3) In preparing a report, a public body shall have regard to the following, so far as relevant:
 - (a) its most recent national climate change statement;
 - (b) the most recent national climate change strategy. 35
- (4) The public body shall send a copy of the report to the Taoiseach and the Taoiseach shall cause a copy of that report to be laid before each House of the Oireachtas.

SCHEDULE 5

PUBLIC BODIES

5 A body (which includes a body of which there is one or are more than one member and whether established as a body corporate or otherwise) listed, referred to or encompassed in or by one or more of the following paragraphs, is a public body for the purposes of this Act:

- 10 (1) a Minister of the Government having charge of a Department of State, including any office or body not otherwise specified in this Schedule of such Department in relation to which functions are vested in the Minister, whether or not referred to as the Minister, the Department or that office or body;
- (2) the Attorney General;
- 15 (3) the Comptroller and Auditor General;
- (4) the Ombudsman;
- (5) the Central Bank of Ireland;
- (6) the Central Statistics Office;
- (7) the Chief State Solicitor;
- 20 (8) the Public Appointments Service;
- (9) the Director of Public Prosecutions;
- (10) the Houses of the Oireachtas Commission;
- (11) the Office of the President;
- (12) the Revenue Commissioners;
- 25 (13) any public office staffed by persons who are either civil servants of the Government or civil servants of the State;
- (14) the Health Service Executive;
- (15) the Garda Síochána;
- 30 (16) the Defence Forces;
- (17) a local authority;
- (18) any body established—
 - (a) by or under any enactment other than the Companies Acts, or
 - 35 (b) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of monies provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;
- 40

- (19) a company, 25 per cent of the shares in which are held by or on behalf of a Minister of the Government;
- (20) a body appointed by the Government or a Minister of the Government;
- (21) a body, the chairperson, some or more of the members or the chief executive officer of which is appointed by the Government or the Taoiseach; 5
- (22) a body that receives monies directly from the Taoiseach of the Government, the Central Fund or a public body (within the meaning of this Schedule), where the aggregate of the amounts so received constitutes 25 per cent or more of the current expenditure of that body in a financial year; 10
- (23) any other body on which functions in relation to the general public or a class of the general public stand conferred by or under any enactment; 15
- (24) a subsidiary of a body specified in any of the foregoing provisions of this Schedule.



**AN BILLE UM AN ATHRÚ AERÁIDE 2010
CLIMATE CHANGE BILL 2010**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to make provisions, including, where appropriate, framework or enabling provision, for Ireland to achieve a long-term goal of reducing greenhouse gas (GHG) emissions to at least 80% below 1990 levels by 2050.

Its main elements are:

Setting multi-annual GHG emission reductions targets in line with the EU's commitment to reduce emissions in the non-traded sector by at least 20% with reference to a 2005 baseline by 2020 (and by 30% if there is global agreement for the period post-2012).

Setting energy and electricity efficiency targets also taking into account decisions taken at EU level.

The setting up of an Office of Climate Change and Renewable Energy under the auspices of the Department of the Taoiseach. The Office will be responsible for policy formulation and implementation, including for example the setting of policy in relation to Ireland's Carbon Fund.

The preparation of a National Climate Change Strategy (NCCS) based on scientific evidence and economic and social factors. The NCCS will be reviewed by the Oireachtas annually with reference to the Annual Climate Change Statement to be made by the Taoiseach. This statement will be supported by the adoption of an Annual Carbon Budget.

The setting up of a Climate Change Commission (CCC), a new independent body with an advisory mandate.

New reporting arrangements, including annual reports from the CCC, to cover *inter alia* Ireland's distance to target, progress in introducing the measures set out in the NCCS, EU and international developments on climate change, new scientific evidence, and the purchasing strategy of Ireland's Carbon Fund.

Subject to the opinion of the CCC, the introduction of domestic offset and other schemes, including forest carbon offsets, to increase the policy options available to Government in relation to emissions from the non-traded sector. These schemes will be administered by the Office of Climate Change and Renewable Energy.

The carrying out by the CCC, in consultation with other stakeholders and experts, every five years of an impact assessment of the risks for Ireland arising from climate change and the introduction of supporting measures, domestic, EU and international that should be introduced in the light of this assessment.

Requiring all significant public authorities and bodies to adopt a climate change statement which will set out the actions they will take to achieve the annual targets set in the NCCS.

Setting framework conditions for the introduction of incentives to assist Ireland become a Low Carbon Economy.

Determining the broad criteria for the allocation of revenue from the auctioning of ETS allowances and a portion of carbon tax revenue to the priority measures set out in the NCCS to reduce GHG emissions in the non-traded sector. These resources will be distributed through a Climate Change Dividend Fund under the auspices of the Office of Climate Change and Renewable Energy.

The introduction of penalties for operators in the non-traded sector who fail to meet GHG emission reduction targets.

Setting framework conditions for the deployment of electric vehicles, the installation of smart meters and energy efficiency retrofitting programmes.

The implementation of the EU Directives on carbon capture and storage, on the promotion of the use of energy from renewable sources, and EU ETS where there is a shared competence.

The criteria that should be used to determine the Government's approach to the use of CDM and Joint Implementation.

The introduction of new measures and policies that may be agreed at international level post-2012.

The provisions of the Bill are consequential upon, and seek to give effect to, the fourth and fifth reports of the Oireachtas Joint Committee on Climate Change and Energy Security, which reports should be read in conjunction with this Explanatory Memorandum.

*Deputy Liz McManus,
December, 2010.*