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**AN BILLE UM ÁIRITHIÚ FUINNIMH AGUS ATHRÚ  
AERÁIDE, 2012  
ENERGY SECURITY AND CLIMATE CHANGE BILL 2012**

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*Mar a tionscnaíodh  
As initiated*

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# BILL

5 *entitled*

AN ACT TO MAKE PROVISION FOR THE ADOPTION OF A NATIONAL POLICY AND THE MAKING OF PLANS BY THE GOVERNMENT IN ORDER FOR THE STATE TO REDUCE ENERGY DEMAND, DEPENDENCE ON NON-RENEWABLE ENERGY SOURCES, GREENHOUSE GAS EMISSIONS AND TO PROVIDE FOR ADAPTATION TO THE EFFECTS OF CLIMATE CHANGE; TO MAKE PROVISION FOR THE SETTING AND ACHIEVEMENT OF NATIONAL ENERGY DEMAND AND GREENHOUSE GAS EMISSION REDUCTION TARGETS; TO FURTHER TRANSITION TO AN ENERGY EFFICIENT, LOW CARBON, CLIMATE RESILIENT AND ENVIRONMENTALLY SUSTAINABLE SOCIETY; AND TO PROVIDE FOR RELATED MATTERS.

20 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—This Act may be cited as the Energy Security and Climate Change Act 2012. Short title.

2.—(1) In this Act— Interpretation.

“adaptation” means adjustment to—

- 25 (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;
- 30

“Commission” means the Commission on Energy Security and Climate Change;

35 “climate forcing agent” means greenhouse gases, aerosols and any other anthropogenic atmospheric emissions which contribute to the greenhouse effect;

“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;

“energy security” means reduced dependency on fossil fuels and increased resilience in human systems reliant on energy input, in response to the likelihood of increases in energy and other costs due to the long-term decline in non-renewable resources; 5

“greenhouse gas” means—

- (a) carbon dioxide,
- (b) methane, 10
- (c) nitrous oxide,
- (d) hydrofluorocarbons,
- (e) perfluorocarbons, or
- (f) sulphur hexafluoride;

“Minister” means the Minister for the Environment, Community and Local Government; 15

“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 plan” is the National Energy Security and Climate Change Plan as established in this Act; 20

“net emissions” means, in relation to a period of time, the amount of emissions of greenhouse gases less the amount of removals of such gases during that period;

“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; 25

“sectoral plan” shall be construed in accordance with *subsection (6) of section 5*;

“sink” means— 30

- (a) a process or activity (including photosynthesis), whether natural or anthropogenic, 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 anthropogenic), or part thereof, that contributes to, or assists in, the removal of one or more of such gases from the earth’s atmosphere. 35

(2) For the purpose of this Act the baseline year applicable to greenhouse gas emission reduction targets shall be 1990 for carbon dioxide, methane and nitrous oxide and 1995 for hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride. 40

3.—The purpose of this Act is to—

Purpose of this Act.

- (a) increase energy security,
- (b) reduce energy demand,
- (c) reduce fossil fuel dependency,
- 5 (d) reduce greenhouse gas emissions, and emissions of other climate forcing agents,
- (e) address the necessity of adaptation to climate change

10 in response to the likelihood of increases in energy and other costs due to the long-term decline in non-renewable resources as well as to the challenge of climate change, in a manner which facilitates and promotes a transition to an energy efficient, low carbon, climate resilient and environmentally sustainable society.

4.—(1) It is the duty of the Government to—

Greenhouse gas reduction targets.

- 15 (a) ensure the achievement of the greenhouse gas reduction targets in *subsection (2)*,
- (b) ensure the achievement of any additional greenhouse gas or climate forcing agent targets established under *subsection (4)*,
- 20 (c) ensure the achievement of the energy demand reduction targets established pursuant to *subsection (5)*,
- (d) ensure the achievement of the non-renewable energy use target in *subsection (6)*,
- (e) ensure the achievement any non-renewable energy use targets established pursuant to *subsection (7)*.

25 (2) For the purposes of the Act—

- (a) The emissions reduction target in the year 2030 shall be at least 40 per cent of the aggregate of net emissions of greenhouse gas emissions as compared to the baseline,
- 30 (b) The emissions reduction target in the year 2050 shall be 80 per cent of the aggregate of net emissions of greenhouse gas emissions compared to the baseline.

(3) The Minister may, after consultation with the Commission, make an order amending a percentage amount specified in *subsection (2)*.

35 (4) The Minister may, after consultation with the Commission, set targets for other climate forcing agents.

40 (5) The Minister shall, after consultation with the Commission, make an order setting targets for the reduction of energy demand in response to the likelihood of increases in energy and other costs due to the long-term decline in non-renewable resources.

(6) The non-renewable energy use reduction target in the year 2050 shall be a reduction by 95 per cent of fossil fuel use in 1990.

(7) The Minister may, after consultation with the Commission, make an order setting non-renewable energy use targets for interim periods.

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(8) Whenever an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

National energy security and climate change plan.

5.—(1) The Minister shall— 10

(a) not later than 12 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, a plan, which shall be known as a National Energy Security and Climate Change Plan (in this Act referred to as a “national plan”). 15

(2) A national plan shall specify the policy measures that, in the opinion of the Government, would be required in order to—

(a) meet the purposes of this Act specified in *section 3*,

(b) achieve the targets specified in accordance with *section 4*.

(3) Notwithstanding *subsection (2) of section 4*, in relation to the first national plan made in accordance with this section, the emission reduction targets for 2020 shall be the target specified in Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009<sup>1</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. 20 25

(4) The Government may—

(a) approve, or

(b) approve, subject to such modifications as they consider appropriate, 30

a national plan submitted to them under this section.

(5) The Government may vary or revise a national plan approved by them under this section.

(6) The Government shall request such Ministers of the Government as they consider appropriate to make, and submit to the Government, plans (in this Act referred to as “sectoral plans”) specifying the measures, in relation to the matters for which they have responsibility, that they propose to adopt for the purpose of— 35

(a) meeting the purposes of this Act specified in *section 3*,

(b) achieving the targets specified in accordance with *section 4*. 40

<sup>1</sup>OJ No L140 of 5.6.2009, p.136

(7) Where the Government make a request under *subsection (6)*, the Minister of the Government to whom the request is made shall, not later than the expiration of such period as the Government specify, make, and submit to the Government, a sectoral plan.

5 (8) The Government may—

(a) approve,

(b) approve, subject to such modifications as they consider appropriate, or

10 (c) refuse to approve, a sectoral plan submitted to them under this section.

(9) The Minister and the Government shall consult with the Commission when performing functions under this section, and shall take account of any recommendations or advice of the Commission.

15 (10) A national plan and a sectoral plan made in accordance with *subsection (6)* shall be laid before each House of the Oireachtas and shall not come into effect until a resolution approving of the national plan or sectoral plan has been passed by each such House.

(11) The Minister may, for the purposes of *subsection (1)* or *subsection (2)*, make three separate plans—

20 (a) one of which shall specify the policy measures to which *paragraphs (a), (b) and (c) of section 3* apply and may be referred to as the National Energy Security Plan, and

25 (b) one of which shall specify the policy measures to which *paragraph (d) of section 3* applies, and may be referred to as the National Climate Change Mitigation Plan, and

(c) one of which shall specify the policy measures to which *paragraph (e) of section 3* applies, and may be referred to as the National Climate Change Adaptation Plan,

30 and references in this Act to a national plan shall be construed as including a reference to a plan referred to in *paragraphs (a), (b) or (c)* of this subsection.

(12) The Minister shall, before making a national plan—

35 (a) publish, in such manner as he or she considers appropriate, a draft of the national plan that he or she proposes to make,

40 (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 plan within such period (not less than eight weeks from the date of the publication of the notice) as may be specified in the notice,

and

45 (c) have regard to any submissions made pursuant to, and in accordance with, a notice under *paragraph (b)*.

(13) A Minister of the Government shall, in the performance of his or her functions, implement the national plan approved by the Government under this section.

Annual transition statement.

6.—(1) The Minister shall, not later than 31 December in each year following approval by the Government, present a statement in writing (in this Act referred to as an “annual transition statement”) to Dáil Éireann which shall— 5

(a) record the policy measures adopted to—

(i) meet the purposes of this Act specified in *section 3*,

(ii) achieve the targets specified in accordance with *section 4*, 10

and

(b) contain an assessment of the effectiveness of the measures referred to in *paragraph (a)* in the achievement of their purpose. 15

(2) An annual transition statement shall—

(a) include an inventory and analysis of emissions in respect of the year immediately preceding the presentation of the statement to Dáil Éireann,

(b) include an inventory and analysis of the total energy use in respect of the year immediately preceding the presentation of the statement to Dáil Éireann, and 20

(c) where an assessment referred to in *subsection (1)* is that the measures concerned have not been effective or sufficiently effective in the achievement of their purpose, include a statement of additional measures that, in the opinion of the Government, are required to achieve that purpose. 25

Commission on energy security and climate change.

7.—(1) There shall stand established on the establishment day a body, which shall be known as the Commission on Energy Security and Climate Change (in this Act referred to as the “Commission”) to perform the functions assigned to it under this Act. 30

(2) The Commission shall consist of—

(a) a chairperson, and

(b) not fewer than 5 and not more than 7 ordinary members (including ordinary members to whom *subsection (3)* applies). 35

(3) Each of the following shall, *ex officio*, be ordinary members of the Commission Body:

(a) the Director General of the Environmental Protection Agency; and 40

(b) the Chief Executive Officer of the Sustainable Energy Authority of Ireland.

- (4) The chairperson and ordinary members (other than an ordinary member to whom *subsection (3)* applies) of the Commission shall be appointed by the Government, on the nomination of the Minister.
- 5 (5) (a) The chairperson of the Commission shall hold office for such period (not exceeding 3 years) from the date of his or her appointment as shall be prescribed by order made by the Minister.
- 10 (b) An ordinary member (other than an ordinary member to whom *subsection (3)* applies) of the Commission shall hold office for such period (not exceeding 3 years) from the date of his or her appointment as shall be prescribed by order made by the Minister.
- 15 (6) A member (other than an ordinary member to whom *subsection (3)* applies) of the Commission whose term of office expires by the efflux of time shall be eligible for reappointment to the Commission.
- 20 (7) A member of the Commission shall hold office upon such terms and conditions as may be determined by the Minister, with the consent of the Minister for Finance.
- (8) A member of the Commission 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.
- 25 (9) The Government may, at any time, remove the chairperson of the Commission from office if, in the opinion of the Government, the chairperson 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 Commission of its functions.
- 30 (10) The Minister may, at any time, remove an ordinary member (other than an ordinary member to whom *subsection (3)* applies) of the Commission from office if, in the opinion of the Government, the 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 Commission of its functions.
- 35 (11) The Commission may act notwithstanding one or more than one vacancy among its members.
- 40 (12) In appointing ordinary members (other than ordinary members to whom *subsection (3)* applies) of the Commission, 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 Commission.
- 45 (13) The Commission may establish a sub-committee consisting, in whole or in part, of persons who are members of the Commission to—
- 50 (a) assist and advise it in relation to the performance of any or all of its functions, and

(b) perform such functions of the Commission as it may, with the consent of the Minister, delegate to the sub-committee.

(14) The chairperson of a sub-committee established under *subsection (13)* shall be a member (other than an ordinary member to whom *subsection (3)* applies) of the Commission. 5

(15) The Minister shall fix the establishment day to which *subsection (1)* applies on a date not later than the 90th day after the promulgation of this Act.

General functions of the Commission.

**8.**—(1) The functions of the Commission shall be to advise and make recommendations to— 10

(a) the Government in respect of the setting of targets in accordance with *section 4*,

(b) the Minister in relation to the preparation of a national plan, 15

(c) a Minister of the Government in relation to the making by him or her of a sectoral plan,

(d) the Government in relation to the approval of a national plan,

(e) the Government in respect of any policy of the Government which could have an effect on— 20

(i) meeting the purposes of this Act specified in *section 3*; or

(ii) achieving the targets specified in accordance with in *section 4*. 25

(2) For the purposes of the performance of its functions, the Commission may, having regard to any advice given to it by the Director General of the Environmental Protection Agency or the Chief Executive Officer of the Sustainable Energy Authority of Ireland, may— 30

(a) gather such information, or request the Environmental Protection Agency or the Sustainable Energy Authority of Ireland to gather such information, as the Commission considers necessary or appropriate,

(b) request the Environmental Protection Agency or the Sustainable Energy Authority of Ireland to conduct such research as the Commission considers necessary or appropriate, or to arrange for such research to be conducted, and 35

(c) meet and consult with such persons (including members of the public) as it considers appropriate. 40

Annual report of the Commission.

**9.**—(1) The Commission shall, not later than 30 June each year, prepare, and submit to the Government, a report (in this section referred to as the “annual report”) on progress made in respect of—

(a) meeting the purposes of this Act specified in *section 3*, 45

(b) achieving the targets specified in accordance with *section 4*.

(2) The annual report shall contain—

5 (a) a summary of the findings and recommendations (if any) set out in the most recent national inventory prepared by the Environmental Protection Agency and communicated, in accordance with Article 12 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, to the Parties of the Conference established under Article 7 of that Convention,

10 (b) a projection of future greenhouse gas emissions and other climate forcing agents,

(c) an inventory and analysis of total energy use,

15 (d) a projection and analysis of future energy use,

(e) recommendations as to the best means to—

(i) meet the purposes of this Act specified in *section 3*, and,

20 (ii) achieve the targets specified in accordance with *section 4*,

(f) such other recommendations or advice as the Commission considers necessary or appropriate, and

(g) a summary of—

25 (i) the activities of the Commission under *subsection (2)* of *section 8*,

(ii) the activities of the Environmental Protection Agency or the Sustainable Energy Authority of Ireland pursuant to a request under that subsection,

30 (iii) any information gathered in accordance with that subsection, and

(iv) the findings made as a consequence of any research conducted in accordance with that subsection.

35 (3) The Commission shall publish an annual report before the 31st of July each year and it shall be laid before Dáil Éireann by the Government as soon as may be after it is published.

**10.—(1)** The Commission may, at any time that it considers Periodic review. appropriate having regard to—

(a) any significant developments relating to scientific knowledge in relation to climate change,

40 (b) any significant developments in the law or policy of the European Union or international law in relation to climate change,

- (c) any significant developments in the law or policy of the European Union in relation to energy, or
- (d) the need to maintain progress in achieving the purposes of this Act specified in *section 3*,

conduct a review (in this Act also referred to as a “periodic review”) 5  
in any or all of the following:

- (i) progress made in meeting the purposes of this Act specified in *section 3*,
- (ii) progress made towards achieving the targets specified set in *section 4*, 10
- (iii) the adequacy of the targets in *section 4*,
- (iv) the adequacy of the most recent national plan,
- (v) the adequacy of the implementation of the most recent national plan achieving the purposes of this Act specified in *section 3*. 15

(2) The Minister may request the Commission to conduct a periodic review in accordance with *subsection (1)*.

(3) The Commission shall, not later than 30 days after receiving a request under *subsection (2)*, either—

- (a) initiate a periodic review, or 20
- (b) where it is of the opinion that a periodic review is not necessary notify the Minister of its opinion and the reasons therefor.

(4) The Commission shall, not later than 30 days after the conduct of a periodic review, prepare and submit to the Government a report of its findings and recommendations consequent upon that review. 25

(5) A report under *subsection (4)* shall include—

- (a) where the report is prepared consequent upon a periodic review (other than a periodic review to which *subsection (1)* applies), a statement of the reason for the periodic review, 30
- (b) a consideration of the targets specified in *section 4* and any matters relating thereto that the Commission considers appropriate,
- (c) such advice or recommendations in relation to the targets specified in *section 4* as the Commission considers necessary or appropriate, 35
- (d) such advice or recommendations in relation to the national plan as the Commission considers appropriate, and
- (e) such other advice or recommendations as the Commission considers necessary or appropriate for the purpose of the achievement of the purposes of this Act set out in *section 3*. 40

(6) The Commission shall publish a report prepared pursuant to *subsection (5)* and it shall be laid before Dáil Éireann by the Government as soon as may be after it is published.

5 **11.—(1)** A public body shall, in the performance of its functions, have regard to— Duties of public bodies.

(a) the most recent national plan approved by the Government,

(b) any sectoral plan that has a bearing on such performance,

(c) the purposes of this Act as specified in *section 3*.

10 (2) The relevant Minister may, from time to time, give a direction to a public body requiring it to prepare, and submit to him or her, within such period as may be specified in the direction, a report specifying—

15 (a) the measures that the public body has adopted for the purposes of compliance by the public body with *subsection (1)*, and

(b) the progress made by the public body in the performance of its functions in the manner referred to in that subsection.

20 (3) The relevant Minister may, from time to time, give a direction to a public body requiring it to adopt such measures as are specified in the direction for the purposes of compliance by the public body with *subsection (1)*.

(4) A public body shall comply with a direction under this section.

25 (5) In this section—

“Act of 1997” means the Freedom of Information Act 1997;

“public body” has the same meaning as it has in the Act of 1997;

“relevant Minister” means, in relation to a public body—

30 (a) in the case of a Department of State, the Minister of the Government having charge of that Department of State,

(b) in the case of a public body to which subparagraph (2) of paragraph 1 of the First Schedule to the Act of 1997 applies, such Minister of the Government as the Government may designate in relation to that public body,

35 (c) in the case of a public body to which subparagraph (3) of that paragraph applies, the Minister,

(d) in the case of a public body to which subparagraph (4) of that paragraph applies, the Minister for Health,

40 (e) in the case of a public body to which subparagraph (5) of that paragraph applies—

- (i) the Minister of the Government whose consent to the prescribing of that public body was required under that subparagraph, or
- (ii) where no such consent was required, such Minister of the Government as the Government may designate 5 in relation to that public body.