



DÁIL ÉIREANN

AN BILLE UM DHÍFHEISTIÚ BREOSLA IONTAISE, 2016 FOSSIL FUEL DIVESTMENT BILL 2016

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM DHÍFHEISTIÚ BREOSLA IONTAISE, 2016 —ROGHCHOISTE

FOSSIL FUEL DIVESTMENT BILL 2016 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 3, to delete lines 13 to 29 and substitute the following:

“(a) by inserting the following new section after section 49:

“Investment in Fossil Fuel Businesses

49A. (1) In this section—

‘fellow subsidiary undertakings’, ‘higher holding undertaking’, ‘holding undertaking’ and ‘undertaking’ have the same meanings as they have, respectively, in section 275 of the Companies Act 2014;

‘fossil fuel’ means coal, oil, natural gas, peat or any derivative thereof intended for use in the production of energy by combustion;

‘fossil fuel business’ means an undertaking which is—

- (a) engaged, for the time being, in the exploration for or extraction or refinement of a fossil fuel where that activity is not an incidental or marginal part of the business of that undertaking, or
- (b) a holding undertaking or, as the case may be, a higher holding undertaking of an undertaking or undertakings of the kind referred to in paragraph (a) where the turnover of that undertaking or those undertakings comprises at least 15 percent of relevant turnover;

‘group of undertakings’ means an undertaking or undertakings of the kind referred to in part (a) of the definition of fossil fuel business together with its fellow subsidiary undertakings;

‘investment’ includes both debt-based and equity-based investment and cognate words shall be construed accordingly;

‘relevant turnover’ means the turnover of a group of undertakings in the most recently completed financial year of the holding undertaking or, as the case may be, of the higher holding undertaking thereof;

‘turnover’ in relation to an undertaking or a group of undertakings means the amounts of revenue derived from the provision of goods

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and services falling within the undertaking's or group of undertaking's ordinary activities, after deduction of—

- (a) trade discounts,
 - (b) value-added tax, and
 - (c) any other taxes based on the amounts so derived.
- (2) The definition of a fossil fuel business in subsection (1) may, by a regulation adopted by the Minister pursuant to this subsection, be expanded to include any type of activity engaged in by an undertaking that relates in any way to the use of a fossil fuel.
- (3) (a) The Agency shall endeavour to avoid the direct investment of the assets of the Fund in a fossil fuel business.
- (b) Where the assets of the Fund are directly invested in a business which is or becomes a fossil fuel business, the Agency shall divest itself of its investment in that business at the first point in time at which it becomes possible to do so without causing the Fund to incur a contractual penalty for doing so.
- (4) The Agency shall avoid making any investment of the assets of the Fund in a collective investment undertaking or investment product at any time after the commencement of this section unless, having exercised due diligence, it is satisfied that there is not a significant probability that the assets of the Fund will be invested in a fossil fuel business.
- (5) Notwithstanding subsections (3) and (4), the Agency may invest the assets of the Fund in a fossil fuel business or in a collective investment undertaking or investment product which thereafter invests its assets in a fossil fuel business, where—
- (a) the making of such an investment by the Agency contributes to the achievement by the State of the national transition objective as defined in section 3 of the Climate Action and Low Carbon Development Act 2015 (hereafter the 'national transition objective'), the implementation of any existing or future obligations of the State referred to in paragraphs (a) and (b) of section 2 of that Act (hereafter the 'State's climate change obligations') and the implementation of the policy of the Government on climate change,
 - (b) prior to the making of an investment pursuant to this section, the Agency conducts or procures the conducting of an assessment of the extent to which the making of such an investment would contribute to the achievement by the State of the national transition objective, the implementation of the State's climate change obligations and the policy of the Government on climate change or, where such an assessment has been conducted by the Department

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of Communications, Climate Action and the Environment, has regard to that assessment, and

(c) no later than two months prior to the making of an investment pursuant to this subsection, the Agency publishes on the internet the assessment referred to in paragraph (b).

(6) When publishing, in accordance with paragraph (c) of subsection (5), an assessment referred to in paragraph (b) of that subsection, the Agency may redact such part thereof as is necessary, and for such time as is necessary, to ensure the protection of commercially sensitive information or to ensure compliance by the Agency with any other provision of law for the time being in force.”.”.

—Thomas Pringle.

2. In page 3, line 13, to delete “section 2” and substitute “section 37”.

—An tAire Airgeadais.

3. In page 3, line 13, to delete “new definition” and substitute “definitions”.

—An tAire Airgeadais.

4. In page 3, line 14, to delete “enactment” and substitute “direction”.

—An tAire Airgeadais.

5. In page 3, line 16, to delete “partly” and substitute “mainly”.

—An tAire Airgeadais.

6. In page 3, lines 16 and 17, to delete “extraction, refining, processing or delivery” and substitute “extraction or refining”.

—An tAire Airgeadais.

7. In page 3, line 17, to delete “fuels (geological deposits);”,” and substitute “fuels;”.’.”.

—An tAire Airgeadais.

8. In page 3, between lines 17 and 18, to insert the following:

“ ‘fossil fuel’ means geological deposits of thermal coal and oil sands;

‘fossil fuel investment’ means an investment which is mainly in listed stocks and securities of a fossil fuel company;”,”.

—An tAire Airgeadais.

9. In page 3, line 21, to delete “(7) Nothing” and substitute “(6A) Nothing”.

—An tAire Airgeadais.

10. In page 3, lines 22 and 23, to delete “investment, direct or indirect,” and substitute “fossil fuel investment”.

—An tAire Airgeadais.

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11. In page 3, line 24, to delete “(8) Upon commencement of this subsection” and substitute “(6B) Upon the passing of the *Fossil Fuel Divestment Act 2018*”.

—An tAire Airgeadais.

12. In page 3, lines 25 and 26, to delete “, directly or indirectly,” and substitute “in a fossil fuel investment”.

—An tAire Airgeadais.

13. In page 3, in line 26 after “companies”, to insert the following:

“except for investments where the Agency determines that—

- (a) the relevant fossil fuel company is transitioning away from being a fossil fuel company,
- (b) the relevant fossil fuel company is not exploring, extracting, refining, processing or delivering fossil fuels for the ultimate purpose of combustion, or
- (c) the fossil fuel company is a micro, small or medium sized enterprise within the meaning of Article 2 of the Annex to the Commission Recommendation 2003/361/EC of 6 May 2003”.

—Michael McGrath.

14. In page 3, line 27, to delete “(9) The Agency” and substitute “(6C) The Agency”.

—An tAire Airgeadais.

15. In page 3, line 29, to delete “commencement of this subsection” and substitute “passing of the *Fossil Fuel Divestment Act 2018*”.

—An tAire Airgeadais.

16. In page 3, line 29, after “subsection”, to insert the following:

“except for where such divestment incurs costs or penalties for the breaching of the contractual obligations of the Agency or the Fund in which case the Agency shall divest from such investments at the first point in time at which it becomes possible to divest without incurring such costs or penalties”.

—Michael McGrath.

17. In page 3, between lines 29 and 30, to insert the following:

“(b) in section 49, by deleting the word “and” in paragraph (f), by deleting the full stop at the end of paragraph (g) and substituting “, and”, and by inserting the following new paragraph after paragraph (g):

“(h) measures taken or proposed to be taken in accordance with section 49A.”.”.

—Thomas Pringle.

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18. In page 3, line 6, to delete “instructing” and substitute “requiring”.

—Thomas Pringle.

19. In page 3, lines 7 and 8, to delete “companies within five years of the commencement of this Act” and substitute “businesses”.

—Thomas Pringle.