



Bille na gCuideachtaí (Tuairisciú ar Astaíochtaí), 2021
Companies (Emission Reporting) Bill 2021

Mar a tionscnaíodh

As initiated



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ACTS REFERRED TO

Climate Action and Low Carbon Development Act 2015 (No. 46)

Companies Act 2014 (No. 38)

Health Act 2004 (No. 42)



**BILLE NA gCUIDEACHTAÍ (TUAIRISCIÚ AR ASTAÍOCHTAÍ), 2021
COMPANIES (EMISSION REPORTING) BILL 2021**

Bill

entitled

An Act to require companies to make annual public disclosures in relation to the greenhouse gas emissions caused by their activities, to cause decreases in such emissions over time, to amend the Climate Action and Low Carbon Development Act 2015 and the Companies Act 2014, and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Short title, commencement, and collective citation

10

1. (1) This Act may be cited as the Companies (Emission Reporting) Act 2021.
- (2) This subsection, *section 13* and the Climate Action and Low Carbon Development Act 2015 may be cited together as the Climate Action and Low Carbon Development Acts 2015 to 2021.
- (3) This subsection, *section 14* and the Companies Act 2014 may be cited together as the Companies Acts 2014 to 2021. 15
- (4) This Act comes into operation six months after the date of its passing or on such earlier date as the Minister may appoint by order.

Interpretation

2. In this Act— 20

“company” means a company that is formed and registered under the Companies Act 2014;

“emissions” means, in relation to greenhouse gases, emissions of those gases into the earth’s atmosphere attributable to industrial, agricultural, energy or other anthropogenic activities in the State; 25

“Greenhouse gas” means—

- (a) carbon dioxide,
- (b) methane,
- (c) nitrous oxide,
- (d) hydrofluorocarbons, 30

- (e) perfluorocarbons,
- (f) sulphur hexafluoride, or
- (g) nitrogen trifluoride;

“Minister” means the Minister for Enterprise, Trade and Employment;

“public body” means—

- (a) a Department of State,
- (b) a regional assembly,
- (c) a local authority,
- (d) the Garda Síochána,
- (e) any other person established by or under an enactment (other than under the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), 10
- (f) a person with whom the Health Service Executive has, under section 38 of the Health Act 2004, entered into an arrangement for the provision of a health or personal social service by that person on behalf of the Executive, 15
- (g) a company (within the meaning of the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act) a majority of the shares in which are held by or on behalf of a Minister of the Government, or
- (h) a subsidiary (within the meaning of section 7 of the Act of 2014) of a company referred to in *paragraph (g)*. 20

Obligation on companies to make a disclosure

3. A company operating within the State is required to make a disclosure annually to the Minister to be published publicly in relation to the greenhouse gas emissions caused by its activities within the State.

Application of section 3

4. (1) *Section 3* shall not apply to a company having fewer than 50 employees. 25
- (2) Subject to *subsection (4)*, *section 3* shall not apply to an employer having fewer than 250 employees until the first anniversary of the coming into operation of this Act.
- (3) Subject to *subsection (4)*, *section 3* shall not apply to an employer having fewer than 150 employees until the second anniversary of the coming into operation of this Act. 30
- (4) When this section applies to an employer referred to in *subsections (2) or (3)*, the section shall continue to apply to the employer except during such times (if any) as the employer falls within *subsection (1)*.
- (5) Notwithstanding *subsections (2), (3) and (4)*, if the company is a company to which this section does not apply, the company may make a voluntary disclosure to the Minister under this section in the form and manner prescribed under *section 3*. 35
- (6) Where a company wishes to make a disclosure under *subsection (5)*, the Minister shall

make arrangements to facilitate the making of such a disclosure and the dissemination of information relating to such disclosures, as if it was a disclosure required under this section.

Content of disclosure

5. (1) A disclosure made under *section 3* shall state the annual quantity of emissions in tonnes of greenhouse gas from activities for which the company is responsible. 5
- (2) Notwithstanding the generality of *subsection (1)*, the disclosure shall make specific and separate reference to the quantity of emissions resulting from each of the following:
- (a) the combustion of fuel (to be known as “Scope 1 emissions”), 10
 - (b) the operation of any facility (to be known as “Scope 2 emissions”), and
 - (c) the company’s supply or value chain (to be known as “Scope 3 emissions”).
- (3) The company shall submit a statement to accompany the disclosure in which the company shall—
- (a) state the measures taken to reduce greenhouse gas emissions during the reporting period, 15
 - (b) state the measures planned to reduce greenhouse gas emissions during the proceeding reporting period, and with the exception of the first year that such a disclosure is made,
 - (c) compare the quantity of emissions with the corresponding quantities from the previous year(s) and provide an account of any changes thereof. 20
- (4) The disclosure shall also include the plans of the company to ensure that its business model and strategic planning is compatible with the principles of just transition and the limiting of global warming to 1.5°C in line with the Paris Agreement.
- (5) The disclosure shall also include information on the plans of the company to ensure that its business model and strategic planning actively promotes positive progress in relation to— 25
- (a) climate change mitigation,
 - (b) climate change adaptation,
 - (c) water and marine resources, 30
 - (d) pollution, and
 - (e) biodiversity and marine resources.
- (6) When preparing the disclosure and statement required under this section, a company shall use the global corporate accounting and reporting standard commonly known as the Greenhouse Gas Protocol (published by the World Resources Institute) when calculating the annual quantity of emissions in tonnes of greenhouse gas arising from their activities. 35
- (7) A disclosure made under this Act must be independently audited by a statutory auditor.

- (8) All information contained in disclosures to which this Act applies must be reported in a single electronic reporting format designated by the Minister under *section 7*.

Relationship to other enactments

6. An obligation to make a disclosure under this Act is without prejudice to an obligation to disclose information relating to greenhouse gas emissions arising under any other enactment, including— 5
- (a) the European Union (Disclosure of Non-Financial and Diversity Information by certain large undertakings and groups) Regulations 2017 (S.I. No. 360 of 2017), or
 - (b) a permit issued pursuant to the European Communities (Greenhouse Gas Emissions Trading) Regulations 2012 (S.I. No. 490 of 2012). 10

Regulations

7. (1) The Minister shall make regulations for the purpose of enabling this Act to have full effect.
- (2) The Minister shall make regulations to oblige public bodies to make disclosures in the form required under this Act, as if each public body was a company to which *section 3* applies. 15
- (3) Without prejudice to the generality of the foregoing, the Minister shall make regulations to provide for—
- (a) the manner and form in which the disclosure and statement under *section 3* is made, 20
 - (b) details relating to the relevant annual reporting period, including relevant dates,
 - (c) the publication of guidelines to aid compliance with this Act, which shall include—
 - (i) a designated electronic reporting format for disclosures under *section 3*, and 25
 - (ii) compliance standards to meet the requirements of *section 3*,
 - (d) the dissemination of information on available supports to assist companies in achieving emission reductions, including those companies to which this Act does not apply, and
 - (e) the manner and form in which information received under *section 3* shall be made publicly available. 30
- (4) In regulations under this section, the Minister may vary reporting requirements by company size and by the sector of the economy in which the company operates.
- (5) Before drafting regulations under this section, the Minister shall consult with—
- (a) the public, 35
 - (b) the Climate Action Council,
 - (c) relevant Joint Oireachtas Committees,

- (d) bodies representative of companies,
 - (e) bodies and persons with a special interest in, or knowledge of, matters relating to climate action and the environment,
 - (f) such other bodies (including public bodies) or persons that the Minister considers appropriate.
- 5

Reporting

8. (1) The Minister shall prepare an annual report in relation to information received under this Act and cause a copy of the report to be laid before each House of the Oireachtas.
- (2) The report prepared under *subsection (1)* shall publish the volume of greenhouse gas emissions disclosed to the Minister by every company to which this Act applies. 10
- (3) In addition to the information mentioned in *subsection (2)*, the report shall publish standardised information in relation to emissions organised by—
- (a) company size,
 - (b) sector of the economy concerned,
 - (c) adherence to relevant sectoral targets under national carbon budgets, and 15
 - (d) relevant information disclosed in accordance with *section 5*.
- (4) The report prepared under *subsection (1)* shall include a review of—
- (a) the operation of this Act and progress in relation to emission reductions by companies,
 - (b) additional measures that may be required to encourage further reductions in such emissions, and 20
 - (c) the supports available to companies to aid with compliance under this Act.
- (5) The Minister shall make a copy of all information and data relating to emissions received under this Act available for inspection by members of the public, without charge, on the Internet and other such physical spaces, as he or she considers appropriate, during normal working hours. 25
- (6) The Minister for Public Expenditure and Reform shall prepare and publish a report in relation to all information and data received by public bodies in accordance with *section 7(2)*, as if the report was a report required under this section.

Offences 30

9. (1) If a company fails to make a disclosure required under *section 3*, the company is guilty of an offence.
- (2) If a company in any return, statement, financial statement or other document required by or for the purposes of this Act makes a statement that is false in any material particular, the company shall be guilty of an offence. 35
- (3) A company guilty of an offence under this Act shall be liable—
- (a) on summary conviction to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €50,000.

Offences by body corporate

10. (1) Where an offence under *section 9* is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any willful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person shall, as well as the body corporate, be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 5
- (2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate. 10

Prosecution of offences

11. (1) An offence under this Act may be prosecuted summarily by the Office of the Director of Corporate Enforcement. 15
- (2) Notwithstanding *subsection (1)*, the Minister may, by regulations, provide that an offence under this Act, specified in the regulations, may be prosecuted summarily by such person (including the Minister) as may be so specified.
- (3) Notwithstanding the provisions of any other enactment, summary proceedings for an offence under this Act may be commenced— 20
- (a) at any time within twelve months from the date on which the offence was committed, or
- (b) at any time within six months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge, 25
- whichever is the latter.

Fines

12. (1) An obligation shall exist on companies to which *section 3* applies to achieve reductions in the greenhouse gas emissions arising from their activities, having regard to the emissions ceilings set out for their respective sectors in carbon budgets under the Climate Action and Low Carbon Development Act 2015. 30
- (2) The Office of the Director of Corporate Enforcement may decide to impose a fine on a company that does not make reasonable efforts to reduce the amount of greenhouse gas emissions arising from their activities, in accordance with their obligations under *subsection (1)*. 35
- (3) When the Agency decides to impose a fine on a company, the amount of the fine concerned shall not exceed €7,500 or one per cent of the company's annual turnover, whichever is the lower.

Amendment of section 15 of Climate Action and Low Carbon Development Act 2015

13. The Climate Action and Low Carbon Development Act 2015 is amended in section 15 by the insertion of the following subsection after subsection (4):

“(4A) *Section 3 of the Companies (Emission Reporting) Act 2021* shall apply to a relevant body as if the body were a company to which that section applies, notwithstanding its inclusion or exclusion in the definition of ‘public body’ in *section 2* of that Act.”. 5

Amendment of section 325 of Companies Act 2014

14. The Companies Act 2014 is amended in section 325(1) by the insertion of the following paragraph after paragraph (e): 10

“(f) information disclosed in accordance with the *Companies (Emission Reporting) Act 2021*.”.

Bille na gCuideachtaí (Tuairisciú ar
Astaíochtaí), 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht dá cheangal ar chuideachtaí nochtaí poiblí bliantúla a dhéanamh i ndáil leis na hastaíochtaí gás ceaptha teasa arb iad a ngníomhaíochtaí is cúis leo, do chur faoi deara laghduithe a dhéanamh ar na hastaíochtaí sin le himeacht aimsire, do leasú an Achta um Ghníomhú Aeráide agus um Fhorbairt Ísealcharbóin, 2015 agus Acht na gCuideachtaí, 2014, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Na Seanadóirí Lynn Ruane, Prionsias Ní Dhuibhe,
Eileen Flynn agus Alice-Mary Higgins a thug
isteach,*

30 Meán Fómhair, 2021

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*Introduced by Senators Lynn Ruane, Frances Black,
Eileen Flynn and Alice-Mary Higgins,*

30th September, 2021

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