



**An Bille um Ghníomhú ar son na hAeráide agus
um Fhorbairt Ísealcharbóin (Leasú), 2021
Climate Action and Low Carbon Development
(Amendment) Bill 2021**

*Meabhrán Mínitheach
Explanatory Memorandum*



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EXPLANATORY MEMORANDUM

General

The purpose of this Bill is to provide for the approval of plans by the Government in relation to climate change for the purpose of pursuing the transition to a climate resilient, biodiversity rich and climate neutral economy by no later than the end of the year 2050 and to thereby promote climate justice; to make certain changes to the Climate Change Advisory Council; to provide for carbon budgets and a sectoral emissions ceiling to apply to different sectors of the economy; to provide for reporting by Ministers of the Government to a joint committee of the Houses of the Oireachtas; to provide for local authority climate action plans; for those and other purposes to amend the Climate Action and Low Carbon Development Act 2015; to provide that local authorities shall, when making development plans, take account of their climate action plans and, for that purpose to amend the Planning and Development Act 2000; to extend the purposes for which moneys may be paid out of the Climate Action Fund and, for that purpose to amend the National Oil Reserves Agency Act 2007; and to provide for related matters.

Provisions of the Act

Part 1

PRELIMINARY AND GENERAL

Short title, commencement, construction and collective citation

Section 1 is a standard, self-explanatory provision.

Definition

Section 2 contains a definition which is self-explanatory - “Principal Act” means the Climate Action and Low Carbon Development Act 2015.

Part 2

AMENDMENT OF PRINCIPAL ACT

Amendment of section 1 of Principal Act

Section 3 amends section 1 of the Principal Act by the insertion of, or the making of updates to, relevant definitions of words and phrases used in the Bill.

Limitation of liability

Section 4 inserts a new section 2A provides that there will be no entitlement to remedy or relief by way of damages or compensation for any failure to comply with the Act or any breaches of obligation thereunder.

National climate objective

Section 5 replaces section 3 of the Principal Act.

Subsection (1) provides for a ‘national climate objective’ which commits to pursue and achieve, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy.

Subsection (2) identifies specific mechanisms, plans and strategies that will be used by Government to deliver the national climate objective. These are: carbon budgets; sectoral emission ceilings; a climate action plan; a national long term climate action strategy; and a national adaptation framework.

Subsection (3) requires the Minister and Government, when carrying out functions to develop any of the specific mechanisms referred to in subsection 2, to do so in a manner consistent with Ireland’s international and EU obligations, and which takes account of the most recent national greenhouse gas emissions inventory and projections of future greenhouse gas emissions, prepared by the Environmental Protection Agency.

Subsection (4) and Subsection (5) provide that the Minister and Government shall consult with the Climate Change Advisory Council for the purpose of performing its functions in preparing and approving matters referred to in subsection 2, as appropriate.

Climate action plan and national long term climate action strategy

Section 6 replaces section 4 of the Principal Act.

Subsection (1) provides that the Minister shall prepare each year an update to the climate action plan and, not less frequently than once every 5 years, a national long term climate action strategy.

Subsection (2) sets out what will be included in each annual climate action plan. The plan must be consistent with the adopted carbon budget programme. It will contain a roadmap of actions to comply with the carbon budget and sectoral emissions ceilings for the period to which the plan relates. The plan will also include other actions and measures to support Government climate change policy, including measures to inform and promote public dialogue on the transition to a climate neutral economy. It also provides for consultation with the public and with other relevant Ministers, including Ministers responsible for sector specific actions, in the development of the plan.

Subsection (3) provides that the roadmap of actions will specify measures required for the first budget period of the carbon budget programme, an overview of the policies and, to the extent feasible, measures required for the second budget period, and also outline potential policies that may be required for the third period of the carbon budget programme.

Subsection (4) provides that the Minister will submit an update of the climate action plan to Government for approval each year, commencing in 2021.

Subsection (5) provides for the development of a national long term climate action strategy which will have a minimum of 30 years outlook, and outline how Government intends to achieve the national climate objective.

Subsection (6) provides that the strategy shall be consistent with the carbon budget programme, have regard to EU Regulation 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action and that there will be consultation with the public and other Ministers.

Subsection (7) provides that the Minister will submit a draft strategy to Government for approval.

Subsection (8) sets out matters that the Minister and Government will have regard to when preparing and approving plans and strategies under this section.

Subsections (9) and (10) provide for the approval of these plans and strategies by Government, and for the laying of these plans and strategies before the Houses of the Oireachtas.

Subsection (11) provides that a Minister will carry out his or her functions, in so far as practicable, in a manner consistent with the most recent approved climate action plan and national long term climate action strategy.

Subsection (12) contains relevant self-explanatory definitions.

Amendment of section 5 of Principal Act

Section 7 amends section 5 of the Principal Act to provide that the Minister and Government will have regard to the matters listed under section 4(8) when performing functions under this section.

Amendment of section 6 of Principal Act

Section 8 amends section 6 of the Principal Act to provide that the Government may request two or more Ministers to jointly submit a sectoral adaptation plan, for matters which they have shared responsibility. It also provides that the Minister and Government will have regard to the matters listed under section 4(8) when performing functions under this section.

Carbon budgets

Section 9 inserts new sections 6A to 6D, after section 6 of the Principal Act, which set out the process for developing, approving and revising carbon budgets and sectoral emission targets.

New section 6A provides for the preparation of carbon budgets.

Subsections (1) to (6) provide that a carbon budget, consistent with furthering the achievement of the national climate objective, will be proposed by the Climate Change Advisory Council (CCAC), finalised by the Minister and approved by Government. Carbon budgets will be considered as a grouping of three five-year budgets, known as a 'carbon budget programme', with the third budget made as a 'provisional budget' which can be amended as provided subsection 6(b). The first carbon budget programme will be for the period 2021 to 2025, 2026 to 2030, and 2031 to 2035. The first two carbon budgets proposed by the Climate Change Advisory Council should provide for a total reduction of 51% in greenhouse gas emissions over the period to 2030, relative to a baseline of 2018. The Climate Change Advisory Council will propose any subsequent carbon budget or proposed amendment to the provisional carbon budget to the Minister 12 months before the expiry of the first carbon budget.

Subsections (7) to (9) provide that, when proposing a carbon budget, the Climate Change Advisory Council will provide the reasons to the Minister for its proposed carbon budget or any proposed amendments to a provisional carbon budget. Not more than 30 days after submitting a proposed carbon budget or any proposed amendments to a provisional

carbon budget to the Minister, they will make arrangements to publish it. They will ensure consistency with Ireland's international and EU climate obligations. They will take account of the most recent national greenhouse gas emissions inventory and projections, prepared by the Environmental Protection Agency; relevant scientific advice, including the distinct characteristics of biogenic methane; international best practice on the reporting of greenhouse gas emissions and removals and, in so far as practicable, the need to maximise employment, the attractiveness of the State for investment and the long term competitiveness of the economy. They will also have regard to climate justice.

New section 6B sets out the process for approval by Government and the Oireachtas of carbon budgets.

Subsection (1) provides that the Minister will, within a four month period, on receiving a proposed carbon budget from the Climate Change Advisory Council, consult with the Oireachtas, with other Ministers and with the public, in order to finalise the carbon budget, present it to Government for approval and lay the approved budget before both Houses of the Oireachtas.

Subsections (2) and (3) sets out that the Dáil may refer the carbon budget to a joint committee which may then provide a report containing its recommendations to the Houses, within two months from when the proposed carbon budget was presented to the Dáil by the Minister. The joint committee can request the Minister to attend and to provide information on the carbon budget, as it may require.

Subsections (4) to (7) provides that the Minister will consult with other relevant Ministers and with the public when finalising a carbon budget. If the Climate Change Advisory Council's carbon budget is amended, the Minister must provide reasons when submitted to Government for approval. The carbon budget will take effect when a motion is passed by both Houses.

Subsections (8) to (11) provides that should either House not approve the motion, the Minister will within a two month period, consult further with the Climate Change Advisory Council and other Ministers, amend the carbon budget if appropriate, and present a final carbon budget to Government for approval. This approved carbon budget will take effect after it is laid before each House. The Minister must set out the reasons if the carbon budget has not been amended. No further motion will apply.

Subsection (12) provides that the carbon budget will be published not more than 30 days after it takes effect.

Subsection (13) provides that a Minister will carry out his or her functions, in so far as practicable, in a manner consistent with the adopted carbon budget under this section.

Subsection (14) clarifies that the carbon budget approval process under this section will apply for the first carbon budget programme and any subsequent carbon budget to be approved, including any amendments to a provisional carbon budget.

New section 6C outlines the process for preparation and approval of sectoral emissions ceilings.

Subsections (1) to (8) provides that the Minister will prepare, within the limits of the carbon budgets, sectoral emissions ceilings for different sectors of the economy. Different ceilings can apply to different sectors. The Minister will consult with other relevant Ministers, as appropriate, in preparing the sectoral emissions ceilings. These will be presented

to Government for approval after the carbon budget takes effect. The Government will determine the sectors to which sectoral emissions ceilings shall apply. If a provisional carbon budget is amended under section 6B, or a carbon budget is revised under section 6D, the relevant sectoral emissions ceilings can also be revised as appropriate, in consultation with other Ministers and with approval from Government.

Subsection (9) provides that a Minister will, in so far as practicable, in the performance of their functions, comply with the sectoral emissions ceiling that applies to the sector which they have responsibility.

Subsection (10) provides that the Minister and the Government will have regard to matters (a) to (n) of section 4(8) when performing functions under this section.

New section 6D provides for revisions to the carbon budget.

Subsection (1) provides that the Minister may revise a carbon budget under circumstances set out in subsection 2, 4 or 5.

Subsection (2) provides that the Minister may revise an adopted carbon budget where new obligations are imposed on the State under EU law or through a relevant international agreement, or if there are significant developments in scientific knowledge in relation to climate change.

Subsection (3) sets out that the Environmental Protection Agency will provide the national greenhouse gas inventory for the preceding budget period to the Minister as soon as it is finalised after each carbon budget period.

Subsection (4) provides that, where greenhouse gas emissions are less than the carbon budget for that period, the Minister may carry forward any overachievement to the next budget period, which will be increased accordingly.

Subsection (5) provides that where a carbon budget is exceeded, the Minister shall carry forward the excess greenhouse emissions to the next budget period, which will be reduced accordingly.

Subsections (6) and (7) provide that the Minister will consult with the Climate Change Advisory Council to revise a carbon budget, after which it will be submitted to Government for approval.

Subsections (8) to (9) provide that the revised carbon budget will take effect on approval of the Government and must be published not more than 30 days after it takes effect.

Amendment of section 9 of Principal Act

Section 10 amends section 9 of the Principal Act in relation to the nomination and appointment of members of the Climate Change Advisory Council and aspects of its operation. It also confirms a member holding office immediately before commencement of this section will continue to hold office until their term expires.

Subsection (1) is amended to increase the Climate Change Advisory Council membership to 13 ordinary members.

Subsection (2) is amended to provide there will be three ex-officio members on the Climate Change Advisory Council: the Director General of the Environmental Protection Agency; the Director of Teagasc, the Food Development Authority and the Director of the Irish National Meteorological Service, Met Éireann.

Subsection (4) is amended to provide for consideration of the relevant expertise in the Climate Change Advisory Council membership. The

Minister and Government will also have to be satisfied when appointing members of the Climate Change Advisory Council that they have knowledge or expertise in one or more of the following ten areas: (i) climate science; (ii) adaptation policy; (iii) transport policy; (iv) energy policy; (v) agricultural policy; (vi) behavioural and communication science; (vii) biodiversity and ecosystem services; (viii) economics; (ix) finance; and (x) political sociology or ethics in relation to climate. There is also provision to ensure greater gender balance in future Climate Change Advisory Council membership.

Subsection (5) is amended to provide for staggered appointments and terms of office, and that some members will serve for 5 years while others will serve for 3 years.

Subsection (6) and (7) is amended to provide that the chairperson and ordinary members are eligible for reappointment, provided the total duration of membership does not exceed 10 years. If their term expires and they are not reappointed, they may continue as a member until the vacancy is filled.

New subsections (14A) – (14D) provide that another member can chair a meeting in the absence of the chairperson, clarifies that each member will have a vote with decisions taken by majority, and that the quorum for a meeting will be 7 members.

New subsection (16A) requires the Climate Change Advisory Council to establish a permanent advisory committee in relation to adaptation to be known as the Adaptation Committee.

Amendment of section 11 of Principal Act

Section 11 amends section 11 of the Principal Act to provide that the Climate Change Advisory Council will be given new functions to propose to the Minister a series of carbon budgets. The amendments also update the list of plans, strategies or frameworks that the Climate Change Advisory Council can provide advice and recommendations on to the Minister, to other Ministers and to the Government.

Amendment of section 12 of Principal Act

Section 12 amends section 12 of the Principal Act to require the Climate Change Advisory Council to prepare its annual report by 15 September each year and to broaden the list of matters to be contained in the report. The report shall also review compliance with the carbon budget and with each sectoral emissions ceiling for that period, and provide recommendations the Climate Change Advisory Council considers necessary to comply with the sectoral emissions ceiling. The review of progress on carbon budgets and sectoral emission ceilings and any such recommendation on these matters will not commence until 2022.

Amendment of section 13 of Principal Act

Section 13 amends the Principal Act to update the list of plans, strategies or frameworks and other matters, including consideration of the carbon budgets and sectoral emission ceilings, to be included in any periodic review prepared by the Climate Change Advisory Council.

Climate reporting

Section 14 inserts a new section 14A, to provide that the Minister and other relevant Ministers will give an account annually to a joint committee, following publication of the Climate Change Advisory Council annual report. However Ministerial accounts to a joint committee will not have to include compliance with carbon budgets, sectoral emissions ceilings and proposed measures to address failures to comply until 2022.

Subsection (1) provides that the Minister will annually give an account to a joint committee on: (a) national progress on the most recently approved climate action plan, including the policies and measures adopted under the plan; (b) whether there has been an increase or reduction in greenhouse emissions based on the Environmental Protection Agency's reports; (c) compliance with the carbon budget and any measures envisaged to address any failure to so comply; and (d) implementation of adaptation policy measures under the most recently approved national adaptation framework.

Subsections (2) and (3) provide that other Ministers, with responsibility for relevant sectors, will attend a joint committee to give an account to the committee on: (a) sector specific progress under the most recently approved climate action plan; (b) whether there has been an increase or reduction in greenhouse emissions based on the Environmental Protection Agency's reports; (c) compliance with sectoral emissions ceilings and any measures envisaged to address any failure to so comply; and (d) implementation of adaptation measures and measures envisaged where a sectoral adaptation plan has been prepared.

Subsections (4) and (5) provide that Ministers will have to respond to a report that a joint committee may prepare within 3 months of receipt of any such report.

Subsection (6) contains a relevant self-explanatory definition.

Role of local authority

Section 15 inserts a new section 14B setting out requirements for local authorities to prepare climate action plans for their respective administrative areas.

Subsections (1) to (3) outline, that within 18 months of the enactment of the Bill, the Minister will request each local authority to prepare, within a 12 month period, a local authority climate action plan, covering both mitigation and adaptation actions, and then subsequently at least once every five years. The local authority climate action plan will, in so far as practicable, be consistent with the most recent approved climate action plan and national adaptation framework. In making the local authority climate action plan, a local authority will have regard to the most recently approved national long term climate action strategy; sectoral adaptation plans and Government policy on climate change.

Subsections (4) and (5) provide that a local authority will, when preparing its plan and its measures, consult and coordinate with adjoining local authorities and with its Public Participation Network, hold a public consultation on a draft of the plan and have regard to submissions received.

Subsection (6) and (7) details how the plans will be adopted by each local authority. A plan shall have effect for a period of 5 years from date of approval.

Subsection (8) sets out that the Minister may issue guidelines to support the preparation of the plans which a local authority shall comply with

Subsection (9) and (10) provides that the local authority shall publish the plan not more than 30 days after it is approved, and may also revise an approved plan at any time.

Subsection (11) contains a relevant self-explanatory definition.

Amendment of section 15 of Principal Act

Section 16 amends section 15 of the Principal Act to require all relevant public sector bodies to perform their functions in a manner consistent with: the most recently approved national climate plan; other strategies and frameworks set out in the Act; the furtherance of the national climate objective; and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

Miscellaneous amendments of Principal Act

Section 17 provides for consequential amendments to the Principal Act. These include:

- Section 2 is amended to update the new plans and strategies that are in effect in the Act;
- Section 7 of the Principal Act is deleted as matters referred to under this section are included in amendments to section 5 and 6 of the Principal Act.
- Section 14 of the Principal Act is deleted and will be substituted by section 14A; and
- ‘national transitional objective’ will be replaced by ‘national climate objective’ throughout the Principal Act.

Part 3

AMENDMENT OF OTHER ACTS

Amendment of section 10 of Planning and Development Act 2000

Section 18 amends section 10(2) of the Planning and Development Act 2000 in paragraph (n) to provide that local authorities shall, in making a Development Plan, take account of its local authority climate action plan, where adopted.

Amendment of section 37B of National Oil Reserves Agency Act 2007

Section 19 amends section 37B of the National Oil Reserves Agency Act 2007 to broaden the type of projects that the Climate Action Fund may support using funds it receives from the National Oil Reserves Agency. These new projects relate to: increasing climate resilience; nature based projects that enhance biodiversity while supporting climate mitigation or increasing climate resilience; and innovative solutions or research in relation to climate resilience, climate mitigation or nature based solutions that enhance biodiversity while supporting climate mitigation or increasing climate resilience.

*An Roinn Comhshaoil, Aeráide agus Cumarsáide,
Márta, 2021.*