



## **Testimony to Joint Committee on Climate Action**

### **Pre-Legislative Scrutiny of the Climate Action and Low Carbon Development (Amendment) Bill 2020**

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#### **Opening Statement**

A Chathaoirligh, members of the Committee, thank you for the invitation to contribute to the Committee's pre-legislative scrutiny of the Climate Action and Low Carbon Development (Amendment) Bill 2020.

I am an Associate Professor in the School of Law and Government at Dublin City University specialising in climate change governance. Along with Dr. Áine Ryall and others, I was a member of the Expert Advisory Group to the Citizens' Assembly 2016–18 for its deliberations on the topic of climate change. The origins of the legislation you are scrutinising today can be traced back to the Assembly's first recommendation on the topic of climate change. It is to be welcomed that the Assembly's recommendation is being acted upon.

The draft Bill published last week by Government represents an important milestone Ireland's approach to climate change. However, it was regrettable that a consolidated version of the legislation, showing the 2015 Act with the proposed amendments included, was not published alongside the draft amending legislation. Even for someone such as myself with expertise in this area, it was challenging to piece together its implications by reading it alongside the 2015 Act.

It is important to acknowledge that the Bill represents, already in its current draft, a significant strengthening of the 2015 legislation that it seeks to amend. It enshrines in law a quantitative target for decarbonisation for the first time, and a process of setting intermediate quantitative targets through a system of carbon budgets. The Bill elaborates a more robust planning process involving a National Long Term Climate Action Strategy and an annually

updated Climate Action Plan. There is also a strengthened role for the Climate Change Advisory Council. All of these developments are to be welcomed. Nonetheless, in my judgement there are a number of weaknesses in the current draft that ought to be addressed before the Bill is passed into law. In my opening remarks I wish to focus on four specific areas.

First, although under the Bill the state is required to “pursue the transition to a climate resilient and climate neutral economy by the end of the year 2050”, it is not required to achieve it. Both the 2015 Act and a General Scheme of the Climate Action Amendment Bill published by the outgoing Government in January of this year included an obligation on the state to “pursue and achieve” the national transition objective. The words “and achieve” disappeared from the draft published last week.

Second and related, although the Bill sets out a detailed and robust procedure for setting five-year carbon budgets, there is no clearly stated obligation on Government to comply with these carbon budgets. By contrast, the UK Climate Change Act, considered by many a leading example of framework climate change legislation, states unambiguously that “It is the *duty of the Secretary of State ... to ensure that the net UK carbon account for a budgetary period does not exceed the carbon budget*” (UK CCA S.4(1), emphasis added).

Third, the provisions regarding the setting of carbon budgets are lacking in precision. There appears to be no obligation on either the Climate Change Advisory Council to recommend, or Government to approve, carbon budgets that are consistent with the national 2050 climate objective. There is nothing in the Bill to stop Government from setting carbon budgets that are explicitly inconsistent with the 2050 objective. There is also nothing in the Bill to stop Government from setting carbon budgets that are explicitly inconsistent with the State’s obligations under EU and international law.

Fourth, the language regarding which greenhouse gases are covered by the carbon budgets is imprecise. In his opening statement to this committee yesterday, Mr. Brian Carroll, Assistant Secretary in the Department of the Environment, Climate and Communications, indicated that the carbon budgets will cover all greenhouse gases and all sectors of the economy. This may indeed be the Government’s intention, but the definitions section of the Bill states that “‘carbon budget’ means, *in relation to one or more greenhouse gases*, the total amount of greenhouse gas emissions that are permitted during the budget period” (emphasis added).

Finally, a Chathaoirligh, I would like to emphasise that the climate bill, no matter how strong, will not by itself deliver the transformational change required. Rather, it should be seen as one part of a much bigger jigsaw. It is an important start, but it needs to be accompanied by a wide range of other actions, including strong measures to ensure citizen participation and a just transition.

Thank you again for the opportunity to contribute to your discussions today. I would be happy to answer questions on these points or other aspects of the Bill.