

Statement by John FitzGerald, Chairman of the Climate Change Advisory Council, to the Oireachtas Committee meeting on the Climate Action and Low Carbon Development (Amendment) Bill 2020

Personal capacity – Climate Council yet to formally review the Bill

I am grateful for the invitation to address the Committee.

I am speaking in a personal capacity, as the Climate Change Advisory Council has not yet had time to formally consider the draft legislation. When we do so next month, we will write to you and to the Minister setting out our advice. In addition to drawing on my experience as the Chair of the Council, my comments are also informed by our recent Annual Review Report and by my own involvement as a Board member of different public bodies, in serving on policy advisory groups, and in conducting policy-focused research.

I welcome the ambition and serious commitment to tackle climate change underpinning the Bill. I also welcome your deliberations as I feel that aspects of the Bill could do with greater clarity.

My comments today are confined to the issues of direct relevance to the work of the Climate Change Advisory Council.

In singling out particular elements for comment, I am concerned that this important legislation should offer mechanisms that will be practicable to operate and to ensure that, in the detail of the Bill, we don't tie ourselves up unnecessarily or bring about unintended consequences.

Key points

The key points I intend to make are:

1. The legislation should enshrine the national targets for net emissions, setting the parameters for the work of the Climate Change Advisory Council.
2. Carbon budgets need to be grounded in solid, thorough, research and analysis, so sufficient resources and time need to be given to the task.
3. It is important that the key issue of Adaptation is not side-lined.
4. The legislation should not be overly-prescriptive on the composition of the Council.
5. The legislation should not be over-prescriptive on additional functions for the Council that could serve to distract from or dilute its core mandate.

National Targets for Climate Change

Targets set out in EU legislation

EU legislation is the key framework within which we define our national targets and on how we successfully pursue ambitious climate action. While the EU defines our minimum national target, Ireland may choose to set a more ambitious one. I welcome the government's increased ambition, reflected in the establishment of more stringent targets in this Bill.

The EU is planning to raise our ambition as EU citizens for 2030 and to define the 2050 objective for the EU as net zero emissions. This could be very helpful, having a big impact on both our targets and on how we successfully pursue ambitious climate action.

Legislation to define our climate goals for 2030 and 2050

In the separation of policy-making and policy-advisory roles, the major strategic decision on the scale of our national climate goals for 2030 and 2050 should be determined by the Oireachtas in legislation. We need a clear and unambiguous definition of the targets for 2030 and 2050. The role of the Climate Change Advisory Council is to develop policy advice and carbon budgets within those clear parameters.

Separate 2050 targets for carbon, and for biogenic methane

The Climate Council has recommended a split national target for 2050 – net-zero emissions of long-lived gases and a separate target for biogenic methane. The targets set by the Oireachtas should be consistent with evolving EU legislation, and informed by the work of the Intergovernmental Panel on Climate Change (IPCC). The Council will then work within that essential framework.

Carbon Budgets

Resources and time to get carbon budgets right

The carbon budgets which will be adopted for Ireland will have far-reaching consequences, not only for the environment, but also for the economy, for different sectors, and for individuals and families. They will need to be based on detailed research and analysis that stands up to independent scrutiny, and the implications for sectors will have to be carefully teased out. That will require a much better-resourced secretariat, with the right range of expertise, and the time to do their work properly.

The expected timeline for development of carbon budgets is not practical. Looking at other jurisdictions, councils/committees were given in excess of a year to develop the first set of carbon budgets. Also, until the final provisions of the Bill as enacted are known, it is hard to determine the final resource requirement needed to draw up legally binding carbon budgets. The experience in other jurisdictions demonstrates the need to mobilise significant resources for the task of setting national carbon budgets and sectoral targets.

Drawing up carbon budgets requires the use of detailed models of the economy and of different sectors to explore the implications of different pathways, scenarios and policy interventions. A memorandum of understanding guaranteeing the Council's access to the necessary skills, expertise and models in Government Departments, Agencies and academia should be put in place before Christmas. This would be a prerequisite for the new Council to perform this statutory duty.

In developing the Council's advice on carbon budgets, it would be desirable that the Department and other bodies who will have to implement the budgets should participate in the research undertaken by the Council. This would in no way affect the Council's independence, but it would mean that the scientific basis for the Council's recommendations would be widely understood and be informed about the practicalities with regard to implementation.

Set key principles, not lengthy prescriptive criteria, for Carbon Budgets

The Bill should seek to identify the general set of principles which shall be taken into account, rather than listing a long list of possible issues which, might or might not be relevant.

The list of 25 criteria which the Council may or shall have regard to in making their deliberations is lengthy and would make Council deliberations very difficult. It would also take the Council beyond the appropriate remit of an advisory body and it could leave the Council's advice exposed to being embroiled in legal processes.

The Council should be required to frame its recommendations, including its recommendations on carbon budgets, taking full account of the legislated national targets for reducing greenhouse gas

emissions. However, it is essential to retain criterion (e), that would require the Council to consider the cost effectiveness of policies. Its exclusion would make it extremely difficult for the Council to make recommendations that were sensible or workable.

Climate justice – Oireachtas best placed to decide

Under the Bill, one of the criteria the Council “shall” take into account is “climate justice”. The Council has advised that climate justice and related issues are very important, and these should be addressed in the implementation of mitigation and adaptation actions. However, I believe that, while the Council may make recommendations on this issue, the details of these distributional issues are ultimately for the Oireachtas to consider and resolve.

In framing carbon budgets there will probably be implications for the distribution of resources in the economy. How exactly these should be dealt is appropriately the remit of the Oireachtas. The Council can consider these issues and make recommendations for options for dealing with them. However, I would be concerned that, if the legislation is not carefully drafted, recommendations by the Council could end up in the courts rather than being determined by the Oireachtas.

Adaptation

Climate resilience is an essential component of the proposed national objective for 2050. There is a danger that adaptation risks do not receive adequate attention if they are only considered in the National Adaptation Framework process, which takes place once every 5 years, rather than being an integral part of the other plans and processes and climate governance.

Composition of the Climate Change Advisory Council

I welcome the intent of the Bill to ensure a more diverse range of experience and expertise on the Council. In addition to any formal qualifications, members need to be people who have qualities of judgement and independence, who can make forthright and well-grounded contributions, and who are open-minded and who listen to others. It would also be valuable to have international expertise at the table.

While I acknowledge the Bill’s intentions in setting out a list of expertise required of Council members, the outcome could be exclusionary in practice. It also makes no reference to expertise in adaptation and resilience, nor indeed to possible future areas of relevant expertise. A more general formulation in the Bill itself, with more detail possibly fleshed out in the Explanatory Memorandum, would give some desirable flexibility.

Avoid overload that could dilute the Climate Change Advisory Council’s key function

The Climate Change Advisory Council needs to be strategic in achieving its key statutory functions of advising government on Climate Policy and in preparing carbon budgets. There are a number of additional tasks and processes implied in the bill that, unless carefully considered and sequenced, could overload the Council and dilute the impact of its work. I would therefore advise that the legislation should not be too prescriptive in overloading the Council with many additional obligatory functions that could dilute its core responsibilities.

Conclusion

I want to thank the Committee for inviting me and I will be happy to answer any questions.