



## **The Climate Action and Low Carbon Development Bill 2015 and the Recommendations of the Joint Committee on the Environment, Culture and the Gaeltacht**

### **Background**

Despite international obligations to limit and reduce greenhouse gas emissions for more than twenty years, Ireland has so far failed to do its fair share to tackle climate change. Ireland has the fourth highest level of greenhouse gas emissions per person in the EU<sup>1</sup> and according to the EPA is off-track to meet its EU 2020 target of reducing greenhouse gas emissions by 20%.<sup>2</sup> Even more worryingly, on current trends, Ireland's emissions would actually rise by 12% in the period up to 2030.<sup>3</sup> Our last National Climate Change Strategy expired at the end of 2012 and has yet to be replaced. We currently have no plan for climate action.

In 2012, then Minister for the Environment, Phil Hogan TD, published a work programme for the development of climate policy and legislation. This included a public consultation, Heads of Bill, consideration by the Joint Committee on Environment, Culture and the Gaeltacht and finalising the introduction of climate legislation by the end of 2013. The public consultation received over 600 submissions, the results of which show that 90% of respondents want to see climate targets enshrined in national law and 92% want to see an independent expert body established to advise the government.

In February 2013, a draft Heads of Bill was produced and was referred to the Joint Committee. The Joint Committee undertook a consultative process seeking public submissions and holding public hearings and on the basis of these published their report in November 2013. The report, welcomed by all stakeholders, recommended significant amendments to strengthen the Bill.

In April 2014 Minister Hogan published revised Heads of Bill. Most of the recommendations from the Joint Committee were not taken on board.

In January 2015, Minister Kelly published the full Bill. It is almost identical to Minister Hogan's Heads of Bill and similarly does not take on board the main recommendations of the Joint Committee.

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<sup>1</sup> CSO (2014) Environmental Indicators Ireland 2014. Dublin: Stationery Office.

<http://www.cso.ie/en/media/csoie/releasespublications/documents/environment/2014/eii2014.pdf>

<sup>2</sup> EPA (2014) Ireland's Greenhouse Gas Emission Projections 2013-2030.

[http://www.epa.ie/pubs/reports/air/airemissions/GHG\\_Emiss\\_Project\\_publication\\_2014\\_finalv2.pdf](http://www.epa.ie/pubs/reports/air/airemissions/GHG_Emiss_Project_publication_2014_finalv2.pdf)

<sup>3</sup> *ibid*

## **Weaknesses in the Climate Action Bill of January 2015**

### Targets or at least a definition of the 'low-carbon' objective in the Bill

The Bill fails to set a numeric target for emissions reductions for the future. This is a fundamental flaw, as it means there is little concrete direction for the coming years. Civil society organisations are not alone in calling for clear targets; businesses also point to the need for a target to provide confidence and drive investment.<sup>4</sup> Finland, Denmark and France have recently announced the introduction of climate and energy legislation, each setting clear targets for reducing greenhouse gas emissions. Finland's law sets an 80% target for 2050<sup>5</sup> while the Danish law sets a 40% target for 2020, double the EU 2020 target.<sup>6</sup> France's energy transition bill seeks to reduce greenhouse gas emissions by 40% by 2030 and by 75% by 2050.<sup>7</sup>

Given the resistance of some interest groups to a single national target, the compromise proposed by the Oireachtas committee is to define what is meant by "low carbon", which would at least provide some clarity on the objective of the Bill. Minister Hogan set out a definition during his appearance before the Joint Committee in July 2013<sup>8</sup> and the Committee recommended that this be incorporated into the Bill. The Government refined the definition and formally adopted it as national policy in April 2014, but it was not included in the Heads of Bill. As a consequence, while some Departments like Agriculture have been referring to it, others such as Transport have been ignoring it. Only putting the definition in the Bill will ensure that all Departments give it due consideration.

### Independence of the Climate Change Advisory Council

The Bill proposes the establishment of a 'National Expert Advisory Council on Climate Change' tasked with giving advice to government on climate change matters. The Joint Committee recommended that the Climate Change Advisory Council be modelled on the Fiscal Advisory Council in that its independence should be prescribed in the Bill and its members should be independent of State or stakeholder interests. Instead the Bill provides for a body of no more than 11 members, 4 of whom represent state bodies in an ex-officio capacity (EPA, SEAI, Teagasc and ESRI). The Bill does not specify that the Council must be independent in the exercise of its functions as is the case for the Fiscal Advisory Council. While the Bill provides for the Advisory Council to publish its reports, the time period is anything from 30-90 days which is too long a period for the purposes of public debate and transparency.

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<sup>4</sup><http://www.corporateleaders.ie/sites/default/files/Corporate%20Leaders'%20submission%20to%20the%20public%20consultation%20on%20climate%20policy%20and%20legislation,%20April%202012.pdf>

<sup>5</sup> For more information see [http://www.ym.fi/en-US/Latest\\_news/Press\\_releases/Government\\_approves\\_proposal\\_for\\_a\\_climate%2829845%29](http://www.ym.fi/en-US/Latest_news/Press_releases/Government_approves_proposal_for_a_climate%2829845%29). Also

<http://www.rtcc.org/2014/06/06/finland-reveals-new-climate-change-laws/>

<sup>6</sup> For more information see <http://www.kebmin.dk/en/news/helveg-denmark-is-taking-responsibility-the-climate>. Also <http://www.rtcc.org/2014/06/10/denmark-set-to-approve-new-climate-change-law/>

<sup>7</sup> <http://www.euractiv.com/sections/energy/french-energy-transition-debate-heats-308920>

<sup>8</sup><http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/ENJ2013071000003?opendocument#B00100>

## Climate Justice

The Bill does not provide for the inclusion of climate justice. Ireland has a responsibility to the poorest people in developing countries who are already feeling the impacts of climate change – a crisis they played no part in creating. The Climate Bill is about mapping out a strong and sustainable future for Ireland. It is also about ensuring that Ireland lives up to its global responsibilities. As a nation that has benefited from our own development to date, we need to do our fair share. The Government has repeatedly stated its commitment to climate justice as a principle guiding its engagement with climate change. Provision for the principle of climate justice in the legislation provides an opportunity to realise this.

## Timing, content and adoption of the National Mitigation Plan

### *Timing*

Ireland's last 5-year action plan on climate change expired at the end of 2012, just as our EU 2020 targets came into force. The Heads of Bill published in April 2014 envisaged that the first National Mitigation Plan would be adopted within 12 months of enactment of the legislation. The Bill now envisages a period of up to 24 months for adoption of the Mitigation Plan. That would mean that Ireland's plan for reducing emissions for the period 2013 to 2020 would not be adopted until 2017, which is patently absurd.

Given the fact that the preparation of the National Mitigation Plan has been progressing in parallel to the development of the legislation which is long overdue, we recommend that the period allowed for should be 6 months. And that the National Mitigation Plan be finalised and adopted before the UN climate summit in Paris in December 2015.

### *Content*

The previous 5 year-action plan (the National Climate Change Strategy) covered the Kyoto commitment period of 2008 to 2012 and made it clear that the measures contained in it were designed to meet Ireland's Kyoto commitment of limiting total emissions in the period covered to 314 million tonnes of CO<sub>2</sub> equivalent.

All future 5-year action plans should equally indicate the total projected national emissions in the period covered under the plan.

Given the significant potential already recognised for climate mitigation by management of the carbon in Irish soils, particularly in wetlands, the Bill should include soil carbon management in the considerations to be taken account of in the National Mitigation Plan.

### *Adoption*

One of the purposes of the Bill is to provide a platform for as much cross-party (and independent) support for climate action as possible, given the scale of the transformation needed in coming decades to contain climate change. Therefore the 5-year action plans should not only be adopted by Government but should be approved by a resolution of both houses after a debate in each chamber.

## Comparison of the Committee’s recommendations and the provisions of the Bill

Only 3 of the 10 recommendations from the Committee which required changes to the Bill from the draft Heads supplied to the Committee have been acted on, as the table below demonstrates.

Recommendations from the Environment Committee on the Climate Bill (published November 2013 and available on page 16-18 <a href="#">here</a> )	Status
4.1.1 That Ireland’s existing annual emission limits as agreed in March 2013 under the European Union Effort Sharing Decision, or any further modification of these, should constitute the required mitigation objectives of the Bill for the period 2013– 2020.	Accepted by Government in April 2014, but no change required to Bill
4.1.2 That Ireland’s annual emission limits for the periods 2030, 2040 and 2050 should be as ultimately agreed by Member States under the European Union Roadmap 2050, or any future burden sharing arrangement which is agreed at European Union level. The Joint Committee notes that the European Union Commission’s framework for climate and energy policy is intended to be finalised before the end of 2013 and considers compliance with this, and further milestones for 2040 and 2050 as agreed with the European Union Commission, will satisfy the objectives of the Bill.	Accepted by Government in April 2014, but no change required to Bill
4.2.1 That the intervals between proposed national roadmaps for emission reductions should be not greater than 5 years.	YES
4.2.2 That the preparation of sectoral roadmaps for emission reductions should be subsequent to the publication of the national roadmap for the relevant period, and, in aggregation, consistent with the prior targets established by the national roadmap.	YES, Sectoral mitigation now integrated with National Mitigation Plan
4.3.1 That, conscious of the strategic national importance of the agricultural sector, and mindful of the probability that better prospects for major reductions in emissions exist in other sectors, national policy for future agricultural emissions to 2050 should be predicated on the basis of zero emissions growth relative to 2013 levels.	NO
4.3.2 That, conscious of the desirability of supporting rain-fed / grass-based agriculture as opposed to more intensive, less sustainable forms of agriculture, the Joint Committee recommend that the Department of Agriculture, Fisheries and Food investigate non-national-based emission management strategies at European Union level, such as an agricultural emissions trading scheme, in which efficient and sustainable Irish agriculture practices would be rewarded with increased emission quotas.	NO

<p>4.3.3 That, in preparing the sectoral roadmap for agriculture, a target of carbon-neutrality be established for 2050, with measurable progress towards this scheduled for 2020, 2030 and 2040. In establishing a methodology for the quantification of carbon sinks for this process, only acceptable criteria agreed under the prevailing Land Use, Land-Use Change and Forestry rules shall be permitted.</p>	<p>Partially accepted by Government but no change required in the Bill</p>
<p>4.4.1 For the purposes of the Bill, ‘Low Carbon Development’ shall be interpreted as near zero emissions for 2050 in the energy, buildings and transport sectors, and carbon neutrality in the agricultural sector. Any subsequent agreement by the Government of the day to adopt specific targets under the European Union Roadmap 2050 shall supersede this definition.</p>	<p>NO</p>
<p>4.5.1 That, recognising that the proposed legislation should incorporate principles of climate justice, the Bill should provide for the establishment of a national Green Climate fund ring-fenced within, or separate to, the Environment Fund. This would be used to support climate mitigation and adaptation in developing countries and constitute Ireland’s contribution to the international Green Climate Fund established under the United Nations Framework Convention on Climate Change. It should receive monies from present and future carbon taxes, emissions trading profits and other environmental taxation sources, and would not receive funds from the existing overseas aid budget.</p>	<p>NO</p>
<p>4.6.1 The Advisory Council shall consist of a Chairperson and not more than five other members, all of whom shall be independent of State or stakeholder interests. It shall be supported by a Technical Secretariat composed of the Director /Director General / Chief Executive Officer of the Environmental Protection Agency, the Sustainable Energy Authority of Ireland, Teagasc – the Irish Agriculture and Food Development Authority and the Economic and Social Research Institute. Up to two other members may be co-opted at the request of the Advisory Council where it requires particular expertise.</p>	<p>NO</p>
<p>4.6.2 The Advisory Council shall exercise its functions independently and obtain the assistance of the Technical Secretariat in acquiring and processing data relevant to its activities.</p>	<p>NO</p>
<p>4.6.3 The Advisory Council shall be empowered to publish its Annual Reports subsequent to submitting them to the Minister and to the Joint Oireachtas Committee on Environment, Culture and the Gaeltacht.</p>	<p>YES</p>
<p>4.6.4 The Annual Transition Report to Dáil Éireann shall be concluded by a statement from the Taoiseach as Chair of the Cabinet Committee on Climate Change detailing the progress made in emission reductions in the preceding year and outlining the programme for achieving the required reductions in each sector for the forthcoming year.</p>	<p>NO</p>

## **Proposed Amendments to the Climate Action and Low Carbon Development Bill 2015**

### **Include a definition of low carbon in the Bill**

The Oireachtas Committee recommended that the Government's definition of "low-carbon" should be included in the Bill for clarity. That definition is laid out as a national objective in the National Policy Position on Climate Action adopted by Government and published in April 2014. It amounts to an 80% reduction in emissions from electricity, buildings and transport and carbon neutrality in agriculture and land use. The Government's definition should be included in the Bill in the way proposed by the Oireachtas Committee, as follows:

- S.3 should include the following sentence: 'In pursuit of a low-carbon Ireland by 2050 the government shall endeavour to secure an aggregate reduction in carbon dioxide (CO<sub>2</sub>) emissions of at least 80% (compared to 1990 levels) by 2050 across the electricity generation, built environment and transport sectors; and in parallel, an approach to carbon neutrality in the agriculture and land-use sector, including forestry, which does not compromise capacity for sustainable food production'
- S.1 should also include this elaboration of low carbon as a definition/interpretation, just as other concepts such as 'adaptation' have been defined under this head.

### **Ensure the Advisory Council is independent**

The Oireachtas Committee recommended that the expert advisory body should be modelled on the Irish Fiscal Advisory Council. Specifically they proposed that the body should be composed exclusively of independent members. They would be supported by a technical secretariat composed of ex-officio representatives from ESRI, EPA, SEAI and Teagasc, who would not sit on the Council itself. To move the expert body closer to the Fiscal Advisory Council model the following amendments are required:

- S.8 should include a new subhead which establishes the independence of the advisory body on a statutory basis, as is the case for the Fiscal Advisory Council. The wording could be modelled on Section 8.1 of the Fiscal Responsibility Act 2012 to state: 'The Climate Change Advisory Council shall be independent in the performance of its functions'.
- S.8(2) The National Expert Advisory Council on Climate Change should be renamed the 'Climate Change Advisory Council' for clarity and simplicity.
- S.9 should be amended to state that the four ex-officio members are part of a Technical Secretariat which supports the Advisory Council, and are not ordinary members of the Advisory Council.

### **Ensure timely publication of the Advisory Council's reports**

In order to facilitate public debate and for the purposes of transparency, there should be no lengthy delays in the publication of the Advisory Council's reports. Within 30 or 90 days is

too long. There is no need for the delay to be longer than the 10 days allowed for the Fiscal Advisory Council in the Fiscal Responsibility Act.

- S.12(3) should be amended to ensure the annual report is made available not more than *10 days* after it has been submitted to the Minister
- S.13(8) should be amended to ensure periodic reviews are made available not more than *10 days* after they have been submitted to the Minister

### **Include the principle of climate justice**

The Oireachtas Committee recommended the legislation should incorporate the principle of climate justice. The Government has voiced support for the concept of climate justice at the UN and co-hosted a conference on the issue with Mary Robinson as part of Ireland's EU presidency. There is no reason not to include it in the Bill as follows:

- S.3(2) should include a new paragraph (d) stating 'the principle of climate justice'.
- S.4(7)(a) should include a new paragraph stating 'the principle of climate justice'.

This will ensure climate justice is a principle that Ministers must have regard to when designing roadmaps.

### **Provide for the rapid adoption of the first National Mitigation Plan under the Act**

The first National Mitigation Plan should be adopted within 6 months of the passing of the Act.

- S.4(1)(a) should provide for a period of 6 months not 24 months for the adoption of the first National Mitigation Plan under the Act.

### **Provide for the inclusion of "projected total national emissions" in the National Mitigation Plan for the 5-year period covered.**

Section 4(2), which reads "A national mitigation plan shall" should include a new sub-section (e) which reads

- S.4(2)(e) specify the projected total national emissions for the period of the plan after all the policy measures specified in the plan.

### **Recognize the potential of soil carbon management**

The Bill should recognise the significant potential for sequestering and storing carbon in Irish soils, particularly in wetlands, and therefore should include this in the considerations to be taken account of in the National Mitigation Plan.

- S.4(7)(f) (referring to "the findings of any relevant research on the effectiveness of mitigation measures and adaptation measures") should be amended to add "including the management of soil carbon and the protection and rewetting of wetlands."

**Provide for the adoption of National Mitigation Plans by both houses of the Oireachtas**

Each five-year National Mitigation Plan should be adopted by way of a resolution in both houses of the Oireachtas.

- S.5(10) should provide for the national mitigation plan to be approved by a resolution in both houses of the Oireachtas rather than simply laid before the Dáil as is currently proposed in that subsection.

***Stop Climate Chaos is a coalition of civil society organizations campaigning to ensure Ireland plays its part in preventing runaway climate change. It was launched in 2007 and is the largest network of organisations campaigning for action on climate change in Ireland.***

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The members of Stop Climate Chaos are: Afri, BirdWatch Ireland, Christian Aid Ireland, Comhlámh, Community Workers' Cooperative, Concern, Cultivate, Dublin Friends of the Earth, Eco Congregation Ireland, ECO UNESCO, Feasta, Friends of the Earth, Gorta, Just Forests, Kimmage Development Studies Centre, Latin America Solidarity Centre (LASC), Liberia Solidarity Group, Methodist Church of Ireland – Council of Social Responsibility, Mountmellick Environmental Group (MEG), National Youth Council of Ireland, Oxfam Ireland, Presentation Ireland, Progressio Ireland, Sustain West Cork, Trócaire, An Taisce, VITA and VOICE.