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*Number 32 of 2021*

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**Climate Action and Low Carbon Development (Amendment) Act 2021**

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**CLIMATE ACTION AND LOW CARBON DEVELOPMENT (AMENDMENT) ACT  
2021**

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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, commencement, construction and collective citation
2. Definitions

PART 2

AMENDMENT OF PRINCIPAL ACT

3. Amendment of section 1 of Principal Act
4. Limitation of liability
5. National climate objective
6. Climate action plan and national long term climate action strategy
7. Amendment of section 5 of Principal Act
8. Amendment of section 6 of Principal Act
9. Carbon budgets
10. Amendment of section 9 of Principal Act
11. Amendment of section 11 of Principal Act
12. Amendment of section 12 of Principal Act
13. Amendment of section 13 of Principal Act
14. Amendment of section 10 of Principal Act
15. Climate reporting
16. Role of local authority
17. Amendment of section 15 of Principal Act
18. Miscellaneous amendments of Principal Act

## PART 3

### AMENDMENT OF OTHER ACTS

19. Amendment of section 10 of Planning and Development Act 2000
20. Amendment of section 37B of National Oil Reserves Agency Act 2007
21. Repeal of certain provisions of Act of 1960 and transitional provisions
22. Amendment of Electricity (Supply) (Amendment) Act 1954

ACTS REFERRED TO

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

Companies Act 2014 (No. 38)

Electricity (Supply) (Amendment) Act 1954 (No. 17)

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 (No. 33)

National Oil Reserves Agency Act 2007 (No. 7)

Petroleum and Other Minerals Development Act 1960 (No. 7)

Planning and Development Act 2000 (No. 30)





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*Number 32 of 2021*

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**CLIMATE ACTION AND LOW CARBON DEVELOPMENT (AMENDMENT) ACT  
2021**

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An Act 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, and just transition; 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; to provide for the repeal of certain provisions of the Petroleum and Other Minerals Development Act 1960; to amend the Electricity (Supply) (Amendment) Act 1954 to alter the borrowing powers of the Electricity Supply Board and its subsidiaries; and to provide for related matters.

[23rd July, 2021]

**Be it enacted by the Oireachtas as follows:**

PART 1

PRELIMINARY AND GENERAL

**Short title, commencement, construction and collective citation**

1. (1) This Act may be cited as the Climate Action and Low Carbon Development (Amendment) Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister for the Environment, Climate and Communications may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

- (3) The Principal Act and this Act, other than *sections 19, 20, 21 and 22*, shall be construed together as one Act and may be cited together as the Climate Action and Low Carbon Development Acts 2015 to 2021.
- (4) The Act of 1960 and *section 21* shall be construed together as one Act and may be cited together as the Petroleum and Other Minerals Development Acts 1960 to 2021.

## Definitions

2. In this Act—

“Act of 1960” means the Petroleum and Other Minerals Development Act 1960;

“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

3. Section 1 of the Principal Act is amended—

(a) by the insertion of the following definitions:

“ ‘administrative area’ has the meaning assigned to it by the Act of 2001;

‘annual report’ has the meaning assigned to it by section 12(1)(b);

‘approved climate action plan’ means a climate action plan approved by the Government under section 4(9);

‘approved national long term climate action strategy’ means a national long term climate action strategy approved by the Government under section 4(9);

‘biodiversity’ means the variability among living organisms from all sources including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species, between species and of ecosystems;

‘budget period’ has the meaning assigned to it by section 6A(1);

‘carbon budget’ means the total amount of greenhouse gas emissions that are permitted during the budget period;

‘carbon budget programme’ has the meaning assigned to it by section 6A(2);

‘climate action plan’ has the meaning assigned to it by section 4(1)(a);

‘climate neutral economy’ means a sustainable economy and society where greenhouse gas emissions are balanced or exceeded by the removal

of greenhouse gases;

‘joint committee’ has the meaning assigned to it by the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013;

‘national climate objective’ has the meaning assigned to it by section 3(1);

‘national long term climate action strategy’ has the meaning assigned to it by section 4(1)(b);

‘provisional carbon budget’ has the meaning assigned to it by section 6A(3);

‘sectoral emissions ceiling’ has the meaning assigned to it by section 6C(1);”,

(b) by the substitution of the following definition for the definition of “emissions”:

“ ‘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;”,

(c) by the substitution of the following definition for the definition of “removal”:

“ ‘removal’ means, in relation to greenhouse gases, the removal of those gases from the earth’s atmosphere through the use of natural or technological solutions, including the creation or enhancement of sinks, or a change of land use, in the State;”,

and

(d) by the deletion of the following definitions:

(i) “approved national mitigation plan”;

(ii) “national mitigation plan”;

(iii) “national transition objective”;

(iv) “sectoral mitigation measures”.

### **Limitation of liability**

4. The Principal Act is amended by the insertion of the following section after section 2:

#### **“Limitation of liability**

**2A.** For the avoidance of doubt no remedy or relief by way of damages or compensation is available with respect to or arising out of any failure, of whatever kind, to comply with any provision of this Act or any obligation or duty created thereunder.”.

**National climate objective**

5. The Principal Act is amended by the substitution of the following section for section 3:

**“National climate objective**

3. (1) The State shall, so as to reduce the extent of further global warming, 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 (in this Act referred to as the ‘national climate objective’).
- (2) For the purpose of enabling the State to pursue and achieve the national climate objective, the Minister shall make and submit to the Government for approval—
- (a) carbon budgets in accordance with sections 6B and 6D,
  - (b) a sectoral emissions ceiling in accordance with section 6C,
  - (c) a climate action plan in accordance with section 4,
  - (d) a national long term climate action strategy in accordance with section 4, and
  - (e) a national adaptation framework in accordance with section 5.
- (3) The Minister and the Government shall carry out their respective functions under sections 4, 5, 6, 6A, 6B, 6C and 6D in a manner—
- (a) that is consistent with the ultimate objective specified in Article 2 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, and:
    - (i) any mitigation or adaptation commitments entered into by the European Union in response or otherwise in relation to that objective;
    - (ii) the steps specified in Articles 2 and 4(1) of the Agreement done at Paris on 12 December 2015 to achieve that objective,
  - and
  - (b) which takes account of the most recent national greenhouse gas emissions inventory and projection of future greenhouse gas emissions, prepared by the Agency.
- (4) The Minister shall consult with the Advisory Council for the purpose of the performance, by him or her, of his or her functions under sections 4, 5 and 6.
- (5) The Government may consult with the Advisory Council for the purpose of the performance by them of their functions under sections 4 to 6D.”

**Climate action plan and national long term climate action strategy**

6. The Principal Act is amended by the substitution of the following section for section 4:

**“Climate action plan and national long term climate action strategy**

4. (1) The Minister shall, to enable the State to pursue and achieve the national climate objective—

(a) prepare an annual update to the Climate Action Plan 2019 to Tackle Climate Breakdown, published by the Minister on 17 June 2019 (in this Act referred to as a ‘climate action plan’), and

(b) prepare, not less frequently than once every 5 years, a national long term climate action strategy (in this Act referred to as a ‘national long term climate action strategy’).

(2) The Minister shall, when preparing a climate action plan under subsection (1)(a)—

(a) ensure that the plan is consistent with the carbon budget programme,

(b) set out a roadmap of actions, to include—

(i) sector specific actions that are required to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates,

(ii) sector specific actions that are required to address any failure, or projected failure, to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates, and

(iii) other actions and measures that are reasonably necessary to support Government policy on climate change, including measures to inform, and promote dialogue with, the public regarding the challenges and opportunities in the transition to a climate neutral economy,

and

(c) consult with—

(i) any other Minister of the Government as he or she considers appropriate, including each Minister of the Government who has responsibility for sector specific actions, and

(ii) the public and such persons as he or she considers appropriate.

(3) The roadmap of actions referred to in subsection (2)(b) shall—

(a) specify measures that, in the Minister’s opinion, will be required for the first budget period in a carbon budget programme,

- (b) set out an overview of the policies and, to the extent feasible, measures, that, in the Minister's opinion, will be required for the second budget period in a carbon budget programme, and
  - (c) outline potential policies that, in the Minister's opinion, may be required for the third budget period in a carbon budget programme.
- (4) The Minister shall, in each year, commencing with the year 2021, submit a draft of the climate action plan to the Government for approval.
- (5) The national long term climate action strategy shall specify the manner in which it is proposed to achieve the national climate objective and shall include—
- (a) projected reductions in greenhouse gas emissions and the enhancement of sinks, for a minimum period of 30 years,
  - (b) projected reductions in greenhouse gas emissions in each of the relevant sectors determined by the Government under section 6C and the enhancement of removals in such sectors, for a minimum period of 30 years, and
  - (c) an assessment of potential opportunities for achieving reductions in greenhouse gas emissions in the sectors referred to in paragraph (b).
- (6) When preparing the national long term climate action strategy the Minister shall—
- (a) ensure that the strategy is consistent with the carbon budget programme,
  - (b) have regard to Article 15 of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018<sup>1</sup> on the Governance of the Energy Union and Climate Action, and
  - (c) consult with—
    - (i) any other Minister of the Government as he or she considers appropriate, and
    - (ii) members of the public and such persons as he or she considers appropriate.
- (7) The Minister shall, as soon as may be after a draft national long term climate action strategy has been prepared, submit the draft national long term climate action strategy to the Government for approval.
- (8) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the following matters:

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<sup>1</sup> OJ No. L 328, 21.12.18, p. 1

- (a) the need to deliver the best possible value for money consistent with the sustainable management of the public finances and to maximise, as far as practicable, the net benefits to society taking into account the impact of greenhouse gas emissions;
- (b) the need to promote sustainable development and restore, and protect, biodiversity;
- (c) relevant scientific or technical advice;
- (d) climate justice;
- (e) any recommendations or advice of the Advisory Council;
- (f) the social and economic imperative for early and cost-effective action in relation to climate change;
- (g) 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;
- (h) the fact that the means of achieving a climate neutral economy and other measures to enable the State to pursue the national climate objective may not yet be fully identified and may evolve over time through innovation, evolving scientific consensus and emerging technologies;
- (i) the role of behavioural change on the part of individuals and different sectors of society in supporting the Government to pursue the national climate objective and the policies and measures required to effect such change;
- (j) the risk of substantial and unreasonable carbon leakage as a consequence of measures implemented by the State to pursue the national climate objective;
- (k) the requirement for a just transition to a climate neutral economy which endeavours, in so far as is practicable, to—
  - (i) maximise employment opportunities, and
  - (ii) support persons and communities that may be negatively affected by the transition;
- (l) the protection of public health;
- (m) the National Planning Framework (or, where appropriate, the National Spatial Strategy);
- (n) the special economic and social role of agriculture, including with regard to the distinct characteristics of biogenic methane;

- (o) where a national long term climate action strategy has been approved under this section, the most recent approved national long term climate action strategy;
  - (p) the 2019 Climate Action Plan or, where a climate action plan has been approved under this section, the most recent approved climate action plan;
  - (q) where a national adaptation framework has been approved under section 5, the most recent approved national adaptation framework;
  - (r) where sectoral adaptation plans have been approved under section 6, the most recent approved sectoral adaptation plans.
- (9) The Government may—
- (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,  
  
a climate action plan submitted to them under subsection (4) or a national long term climate action strategy submitted to them under subsection (7).
- (10) The Minister shall, as soon as may be, cause an approved climate action plan and an approved national long term climate action strategy to be laid before the Houses of the Oireachtas.
- (11) A Minister of the Government, shall, in so far as practicable, perform his or her functions in a manner consistent with the most recent approved climate action plan and the most recent approved national long term climate action strategy.
- (12) In this section—
- ‘carbon leakage’ means the transfer, due to climate policies, of production to other countries with less restrictive policies with regard to greenhouse gas emissions;
  - ‘National Planning Framework’ has the meaning assigned to it in section 20A of the Planning and Development Act 2000;
  - ‘National Spatial Strategy’ means the ‘National Spatial Strategy: 2002-2020’ published by the Government on 28 November 2002, or any document published by the Government which amends or replaces that Strategy.”.

**Amendment of section 5 of Principal Act**

7. Section 5 of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (5):

“(5A) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the matters specified in section 4(8).”,

and

(b) by the deletion of subsections (7) and (9).

### **Amendment of section 6 of Principal Act**

**8.** Section 6 of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (1):

“(1A) The Government may request 2 or more Ministers of the Government to jointly make and submit a sectoral adaptation plan under subsection (1) (in this section referred to as a ‘joint sectoral adaptation plan’), in relation to a matter for which such Ministers of the Government share responsibility.”,

(b) in subsection (3)—

(i) by the substitution of “under subsection (1) or (1A) has been made” for “under subsection (1) is made”, and

(ii) by the deletion, in paragraph (c), of “and to paragraphs (a) to (h) of section 7(1)”,

(c) in subsection (4), by the substitution of “under subsection (1) or (1A)” for “under subsection (1)”,

(d) in subsection (5), by the substitution of “under subsection (1) or (1A)” for “under subsection (1)”,

(e) in subsection (7), by the substitution of “A Minister of the Government, or 2 or more Ministers of the Government in the case of a joint sectoral adaptation plan, may,” for “A Minister of the Government may,”,

(f) in subsection (10), by the substitution of “under subsection (1) or (1A)” for “under subsection (1)”, and

(g) by the insertion of the following subsections after subsection (10):

“(11) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the matters specified in section 4(8).

(12) A reference in this Act to a sectoral adaptation plan shall, where the context admits, be construed as a reference to a joint sectoral adaptation plan.”.

### **Carbon budgets**

**9.** The Principal Act is amended by the insertion of the following sections after section 6:

**“Preparation of carbon budgets**

- 6A.** (1) A carbon budget, consistent with furthering the achievement of the national climate objective, shall be proposed by the Advisory Council, finalised by the Minister and approved by the Government for the period of five years commencing on 1 January 2021 and ending on 31 December 2025 and for each subsequent period of five years (in this Act referred to as a ‘budget period’).
- (2) A carbon budget shall be made for three sequential budget periods so that, at any one time, there is a series of three carbon budgets which have effect under section 6B (in this Act referred to as a ‘carbon budget programme’).
- (3) The carbon budget relating to the third budget period in a carbon budget programme shall be made in draft form and may be amended in accordance with section 6B (in this Act referred to as a ‘provisional carbon budget’).
- (4) The Advisory Council shall prepare and submit a proposed carbon budget programme to the Minister as soon as may be after the coming into operation of *section 9* of the *Climate Action and Low Carbon Development (Amendment) Act 2021*.
- (5) The first two carbon budgets proposed by the Advisory Council shall provide for a reduction in greenhouse gas emissions such that the total amount of annual greenhouse gas emissions in the year ending on 31 December 2030 is 51 per cent less than the annual greenhouse gas emissions reported for the year ending on 31 December 2018, as set out in the national greenhouse gas emissions inventory prepared by the Agency.
- (5A) (a) The Government shall make regulations for determining the greenhouse gas emissions to be taken into account, and the manner of calculating and accounting for such emissions (including any reductions), for the purpose of—
- (i) the first 2 carbon budgets referred to in subsection (5), and
- (ii) every carbon budget thereafter.
- (b) The Government shall, when making regulations under paragraph (a), have regard to the rules applied by the European Union in relation to the matters referred to in paragraph (a).
- (5B) The Government may make regulations to specify the base year in relation to the reduction of greenhouse gas emissions for budget periods after 31 December 2030.
- (6) Not less than 12 months prior to the expiry of the first carbon budget in a carbon budget programme, the Advisory Council shall prepare and submit to the Minister—

- (a) a proposed carbon budget in respect of the budget period following the third budget period in the carbon budget programme, and
  - (b) proposed amendments, if any, to the provisional carbon budget.
- (7) The Advisory Council shall provide the reasons for its proposed carbon budget programme under subsection (4), a proposed carbon budget under subsection (6)(a) and any proposed amendments to a provisional carbon budget under subsection (6)(b), in writing to the Minister.
- (8) Not more than 30 days after submitting a proposed carbon budget programme, a proposed carbon budget or any proposed amendments to a provisional carbon budget to the Minister under this section, the Advisory Council shall publish the proposed carbon budget programme, the proposed carbon budget or any proposed amendments to the provisional carbon budget, as the case may be, in such manner as the Advisory Council considers appropriate.
- (9) The Advisory Council shall—
- (a) carry out its functions under this section in a manner—
    - (i) that is consistent with the ultimate objective specified in Article 2 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 and the matters specified in subparagraphs (i) and (ii) of section 3(3)(a), and
    - (ii) which takes account of—
      - (I) the most recent national greenhouse gas emissions inventory and projection of future greenhouse gas emissions, prepared by the Agency,
      - (II) relevant scientific advice, including with regard to the distinct characteristics of biogenic methane,
      - (III) international best practice on the reporting of greenhouse gas emissions and removal, and
      - (IV) 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,
  - (b) have regard to climate justice when carrying out its functions under this section, and
  - (c) the Advisory Council shall comply with regulations under subsection (5A) when carrying out its functions under this section.
- (10) (a) The Minister shall, when preparing a carbon budget and a sectoral emissions ceiling, recommend to Government to decide that a Minister of the Government may comply with the carbon budget,

and a sectoral emissions ceiling for which that Minister of the Government has responsibility, by the removal of greenhouse gas emissions.

- (b) Where the Government approves the recommendation of the Minister under paragraph (a), the Minister of the Government concerned shall, when complying with the carbon budget and the sectoral emission ceiling for which that Minister of the Government has responsibility, comply with regulations made by the Government under subsection (11).
- (11) (a) The Government shall make regulations for the purpose of—
- (i) determining how the removal of greenhouse gas emissions may be taken into account, and in particular the method of calculating and accounting for such removals, including the base year to be applied to such removals, when complying with a carbon budget and a sectoral emissions ceiling,
  - (ii) specifying which removals may be used for the purposes referred to in subparagraph (i), and
  - (iii) determining the mechanism by which such removals are to be effected.
- (b) When making regulations under paragraph (a) the Government shall have regard to the rules applied by the European Union in respect of the matters specified in subparagraphs (i) to (iii) of paragraph (a).

#### **Approval of carbon budget**

- 6B.** (1) The Minister, within four months of the receipt of a carbon budget under section 6A, shall—
- (a) cause a copy of the carbon budget to be presented to both Houses of the Oireachtas,
  - (b) consider the carbon budget,
  - (c) amend, if appropriate, and finalise the carbon budget,
  - (d) submit the carbon budget to the Government for approval in accordance with subsection (6), and
  - (e) lay a copy of the carbon budget before both Houses of the Oireachtas for approval in accordance with subsection (7).
- (2) Dáil Éireann may refer a carbon budget to a joint committee which shall consider the carbon budget and provide a report in writing containing its recommendations to both Houses of the Oireachtas within two months from the date it is presented to Dáil Éireann under subsection (1)(a).

- (3) The Minister shall, at the written request of the joint committee to which a carbon budget has been referred under subsection (2), attend before it and provide such information in relation to the carbon budget as the joint committee may reasonably require.
- (4) When finalising a carbon budget, the Minister shall consult with—
  - (a) any other Minister of the Government as he or she considers appropriate, and
  - (b) members of the public and such persons as he or she considers appropriate.
- (5) Where the Minister amends the carbon budget proposed by the Advisory Council, the Minister shall set out his or her reasons for doing so.
- (6) The Government may—
  - (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,a carbon budget submitted to them under subsection (1)(d).
- (7) Where the carbon budget is approved by the Government under subsection (6), the Minister shall cause a copy of the carbon budget to be laid before each House of the Oireachtas, which shall consider the carbon budget as soon as may be, and the carbon budget shall have effect from the date on which a motion approving the carbon budget has been passed by the second such House.
- (8) Where the motion is not approved by both Houses of the Oireachtas under subsection (7), the Minister shall within a period of two months—
  - (a) consult with any other Minister of the Government as he or she considers appropriate,
  - (b) consult with the Advisory Council,
  - (c) amend the carbon budget, if appropriate, and
  - (d) submit the carbon budget to the Government for approval to lay the budget before each House of the Oireachtas in accordance with subsection (11).
- (9) Where the Minister does not amend the carbon budget under subsection (8)(c), the Minister shall, in submitting the carbon budget to the Government under subsection (8)(d), set out the reasons for his or her decision.
- (10) The Government may—

- (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,  
a carbon budget submitted to them under subsection (8)(d).
- (11) Where a carbon budget is approved by the Government under subsection (10), the Minister shall, as soon as may be, cause a copy of the carbon budget to be laid before each House of the Oireachtas and it shall have effect from the date on which it is laid before the Houses, or the second such House if it is laid before the Houses on different dates.
  - (12) Not more than 30 days after a carbon budget takes effect under subsection (7) or (11), as the case may be, the Minister shall publish the carbon budget in such manner as the Minister considers appropriate.
  - (13) A Minister of the Government shall, in so far as practicable, perform his or her functions in a manner consistent with a carbon budget that has effect under subsection (7) or (11), as the case may be.
  - (14) This section applies to the first carbon budget programme and to an amendment to a provisional carbon budget in the same manner as it applies to a carbon budget, and a reference in this section to a carbon budget shall, where the context admits, be construed as a reference to the first carbon budget programme or to an amendment to a provisional carbon budget, as the case may be.

**Sectoral emissions ceiling**

- 6C.** (1) The Minister shall prepare, within the limits of the carbon budget, the maximum amount of greenhouse gas emissions that are permitted in different sectors of the economy during a budget period (in this Act referred to as a ‘sectoral emissions ceiling’) and different ceilings may apply to different sectors.
- (2) The sectors of the economy to which each sectoral emissions ceiling shall apply shall be determined from time to time by the Government.
  - (3) The Minister shall, when preparing a sectoral emissions ceiling, consult with such Ministers of the Government as he or she considers appropriate.
  - (4) The Minister shall, as soon as may be after a carbon budget takes effect under section 6B, finalise and submit each sectoral emissions ceiling to the Government for approval.
  - (5) The Government may—
    - (a) approve, or

- (b) approve, subject to such modifications as they consider appropriate,  
a sectoral emissions ceiling.
- (6) Where a provisional carbon budget is amended under section 6B or a carbon budget is revised under section 6D, the Minister shall—
  - (a) consult with such Ministers of the Government as he or she considers appropriate, and
  - (b) revise, if appropriate, a sectoral emissions ceiling for the budget period concerned.
- (7) Where the Minister revises a sectoral emissions ceiling under subsection (6)(b), he or she shall, as soon as may be, submit the revision to the sectoral emissions ceiling to the Government for approval.
- (8) The Government may—
  - (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,  
the revision to the sectoral emissions ceiling.
- (9) A Minister of the Government shall, in so far as practicable, in the performance of his or her functions, comply with the sectoral emissions ceiling that applies to the sector for which that Minister of the Government has responsibility.
- (10) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the matters specified in paragraphs (a) to (n) of section 4(8).

**Revision of carbon budgets**

- 6D.** (1) The Minister may revise a carbon budget in the circumstances set out in subsection (2), (4) or (5).
- (2) The Minister may revise a carbon budget where—
    - (a) new obligations are imposed on the State under the law of the European Union or any international agreement referred to in section 2, or
    - (b) there are significant developments in scientific knowledge in relation to climate change.
  - (3) As soon as may be after the end of each budget period, the Agency shall provide the greenhouse gas emissions inventory for that budget period to the Minister and the Minister shall review the greenhouse gas emissions during that budget period.

- (4) Where the total greenhouse gas emissions for a preceding budget period are less than the carbon budget for that period, the Minister may carry forward the surplus from the preceding budget period to the current budget period and the current carbon budget shall be increased by the surplus carried forward.
- (5) Where the total greenhouse gas emissions for a preceding budget period exceed the carbon budget for that period, the Minister shall carry forward the excess greenhouse gas emissions from the preceding budget period to the current budget period and the current carbon budget shall be decreased by the amount of greenhouse gas emissions that are carried forward.
- (6) The Minister shall consult with and consider the advice of the Advisory Council prior to requesting the approval of the Government in relation to a revision of a carbon budget under this section.
- (7) The Minister shall, as soon as may be, submit the revision to a carbon budget under subsection (2), (4) or (5) to the Government for approval and the Government may—
  - (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,  
  
the revision to a carbon budget submitted to them under this subsection.
- (8) A revision to a carbon budget under this section shall have effect from the date on which it is approved by the Government.
- (9) Not more than 30 days after a revision to a carbon budget takes effect under subsection (8), the Minister shall publish the revised carbon budget in such manner as the Minister considers appropriate.”.

**Amendment of section 9 of Principal Act**

**10.** (1) Section 9 of the Principal Act is amended—

- (a) by the substitution, in subsection (1)(b), of “13 ordinary members” for “10 ordinary members”,
- (b) in subsection (2)—
  - (i) by the deletion of paragraphs (b) and (d), and
  - (ii) by the insertion of the following new paragraph after paragraph (d):  
  
“(e) the Director of the Irish National Meteorological Service, Met Éireann.”,
- (c) by the substitution of the following subsection for subsection (4):

- “(4) In nominating and appointing the chairperson and the ordinary members under subsection (3), the Minister and the Government shall—
- (a) have regard to the range of qualifications, experience and competence necessary for the proper and effective performance of the functions of the Advisory Council and ensure that each member has knowledge of, or expertise in, at least one of the following areas:
    - (i) climate science;
    - (ii) adaptation policy;
    - (iii) transport policy;
    - (iv) energy policy;
    - (v) agricultural policy;
    - (vi) behavioural and communication science;
    - (vii) biodiversity and eco-system services;
    - (viii) economics;
    - (ix) finance;
    - (x) political sociology or ethics in relation to climate,and
  - (b) use their best endeavours to ensure that the membership of the Advisory Council has—
    - (i) an appropriate balance of knowledge of, and expertise in, the areas specified in subparagraphs (i) to (x) of paragraph (a), and
    - (ii) an equitable balance between men and women.”,
- (d) by the substitution, in subsection (5), of the following paragraph for paragraph (b):
- “(b) An ordinary member (other than an ordinary member to whom subsection (2) applies) of the Advisory Council shall hold office for such period as the Minister shall determine, provided that—
- (i) at least 2 such members shall hold office for a period of three years from the date of their appointment to such office, and
  - (ii) at least 3 such members shall hold office for a period of five years from the date of such appointment.”,
- (e) by the substitution of the following subsection for subsection (6):
- “(6) The chairperson and an ordinary member (other than an ordinary member to whom subsection (2) applies) of the Advisory Council

whose term of office expires by the efflux of time shall be eligible for reappointment to the Advisory Council, provided that a person's total period of membership of the Advisory Council does not exceed 10 years.”,

(f) by the substitution of the following subsection for subsection (7):

“(7) Where the term of office of the chairperson or an ordinary member (other than an ordinary member to whom subsection (2) applies) of the Advisory Council expires by the efflux of time and he or she is not reappointed, or by virtue of subsection (6) he or she is not eligible for reappointment, the chairperson or ordinary member may continue to hold office until the vacancy occasioned by him or her is filled by the appointment of another person.”,

(g) by the insertion of the following subsections after subsection (14):

“(14A) The chairperson shall chair meetings of the Advisory Council and in the event of the chairperson being unable to attend a meeting, or if the office of chairperson is vacant, the ordinary members who are present shall choose one of their number to chair the meeting.

(14B) Each member of the Advisory Council, including the chairperson, present at a meeting of the Advisory Council shall have a vote.

(14C) Every question at a meeting of the Advisory Council shall be determined by a majority of the votes of the members who are present and voting on the question, and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(14D) The quorum for a meeting of the Advisory Council shall be 7.”,

and

(h) by the insertion of the following subsection after subsection (16):

“(16A) Without prejudice to the generality of subsection (16), the Advisory Council shall establish, under that subsection, a committee to be known as the Adaptation Committee to assist and advise it in relation to the performance of any or all of its functions in relation to adaptation.”.

(2) A member of the Advisory Council (other than an ordinary member to whom section 9(2) of the Principal Act applies) holding office immediately before the coming into operation of this section shall, unless he or she sooner dies, resigns or otherwise ceases to hold office, continue to hold office until his or her current term of office expires.

#### **Amendment of section 11 of Principal Act**

**11.** Section 11 of the Principal Act is amended—

- (a) in subsection (1)—
- (i) in paragraph (a), by the substitution of the following subparagraphs for subparagraphs (i) to (iii):
- “(i) the preparation of a climate action plan,
  - (ii) the preparation of a national long term climate action strategy,
  - (iii) the preparation of a national adaptation framework,
  - (iv) the finalisation and revision of a carbon budget, and
  - (v) compliance with any existing obligation of the State under the law of the European Union or any international agreement referred to in section 2,”
- (ii) in paragraph (b), by the substitution of the following subparagraph for subparagraph (i):
- “(i) sector specific actions, within his or her responsibility, which are to be included in the climate action plan, and”,
- and
- (iii) in paragraph (c), by the substitution of the following subparagraphs for subparagraphs (i) to (iii):
- “(i) a climate action plan,
  - (ii) a national long term climate action strategy,
  - (iii) a national adaptation framework, and
  - (iv) a sectoral adaptation plan,”
- and
- (b) by the insertion of the following subsection after subsection (1):
- “(1A) The Advisory Council shall prepare and submit to the Minister—
- (a) a proposed carbon budget programme under section 6A(4),
  - (b) a proposed carbon budget under section 6A(6)(a), and
  - (c) proposed amendments, if any, to a provisional carbon budget under section 6A(6)(b).”.

**Amendment of section 12 of Principal Act**

**12.** (1) Section 12 of the Principal Act is amended—

- (a) in subsection (1)—
- (i) by the substitution of the following paragraph for paragraph (a):

“(a) conduct a review (in this section referred to as the ‘annual review’) by 30 October in each year of the progress made during the immediately preceding year in—

- (i) achieving reductions in greenhouse gas emissions,
  - (ii) complying with the carbon budget and each sectoral emissions ceiling for that period, and
  - (iii) furthering the achievement of the national climate objective,
- and”,

and

(ii) by the substitution, in paragraph (b), of “(in this Act referred to as the ‘annual report’)” for “(in this section referred to as the ‘annual report’)”,

and

(b) in subsection (2), by the insertion of the following paragraphs after paragraph (b):

“(ba) a projection of future greenhouse gas emissions in each sector of the economy to which a sectoral emissions ceiling applies,

(bb) such recommendations, as the Advisory Council considers necessary or appropriate, in relation to sector specific actions to be included under section 4(2)(b)(ii) to address any failure, or projected failure, to comply with a sectoral emissions ceiling.”.

(2) Notwithstanding section 12 of the Principal Act (as amended by this section)—

- (a) the Advisory Council shall not, until 2022, be required to conduct a review of the progress made in respect of the matter referred to in subparagraph (ii) of section 12(1)(a) of the Principal Act, and
- (b) the annual report shall not be required to contain the matters referred to in paragraphs (ba) and (bb) of section 12(2) of the Principal Act until 2022.

### **Amendment of section 13 of Principal Act**

**13.** Section 13 of the Principal Act is amended—

(a) in subsection (2), by the substitution of the following subparagraphs for subparagraphs (ii) and (iii):

“(ii) the most recent approved climate action plan, approved national long term climate action strategy, approved national adaptation framework, approved sectoral adaptation plans, the carbon budget programme or any sectoral emissions ceiling, and

(iii) the implementation of the plans, strategy, framework, budget or sectoral emissions ceiling referred to in paragraph (ii).”.

and

- (b) in subsection (7), by the substitution of the following paragraph for paragraph (d):

“(d) such advice or recommendations, as the Advisory Council considers appropriate, in relation to—

- (i) the climate action plan,
- (ii) the national long term climate action strategy,
- (iii) the national adaptation framework,
- (iv) a sectoral adaptation plan,
- (v) the carbon budget programme, and
- (vi) any sectoral emissions ceiling,

and”.

#### **Amendment of section 10 of Principal Act**

14. Section 10 of the Principal Act is amended in subsection (1) by the insertion of “or a committee” after “a member of the Advisory Council”.

#### **Climate reporting**

15. (1) The Principal Act is amended by the insertion of the following section after section 14:

##### **“Climate Reporting**

14A. (1) The Minister shall, in each year after the publication of the annual report and the Agency’s reports, at the written request of a joint committee, attend before it to give an account, for the period of the annual report, of the following matters:

- (a) progress under the most recent approved climate action plan, including the policies, mitigation measures and adaptation measures that have been adopted;
  - (b) whether there has been a reduction or increase in greenhouse gas emissions based on the Agency’s reports;
  - (c) compliance with the carbon budget and any measures envisaged to address any failure to so comply;
  - (d) the implementation of adaptation policy measures under the most recent approved national adaptation framework.
- (2) Each Minister of the Government shall, in each year after the publication of the annual report and the Agency’s reports, at the written request of a joint committee, attend before such committee to give an account of the matters specified in subsection (3).

- (3) For the purposes of subsection (2), each Minister of the Government shall, in relation to the sector for which the Minister of the Government has responsibility, give an account, for the period of the annual report, of the following matters:
    - (a) sector specific progress under the most recent approved climate action plan, including the policies and measures that have been adopted and any significant failure to implement such policies and measures, or to achieve sector specific targets;
    - (b) whether there has been a reduction or increase in greenhouse gas emissions based on the Agency's reports;
    - (c) compliance with the sectoral emissions ceiling and any measures envisaged to address any failure to so comply;
    - (d) the implementation of adaptation policy measures and any adaptation policy measures envisaged, where a sectoral adaptation plan has been prepared.
  - (4) The joint committee may, where it considers it appropriate, having received an account from the Minister under subsection (1) or a Minister of the Government under subsection (2), prepare a report on the recommendations of the committee with regard to any of the matters specified in paragraphs (a) to (d) of subsection (1) or in paragraphs (a) to (d) of subsection (3), as the case may be, and where the committee prepares such a report, it shall provide a copy of the report to the Minister of the Government concerned.
  - (5) A Minister of the Government shall consider any report provided to him or her under subsection (4) and that Minister shall provide a response in writing to the joint committee within a period of three months of the receipt of that report.
  - (6) In this section, 'the Agency's reports' means the national greenhouse gas emissions inventory and the projection of future greenhouse gas emissions prepared by the Agency."
- (2) Notwithstanding section 14A of the Principal Act (as amended by this section), a Minister of the Government shall not be required to give an account of the matters referred to in paragraph (c) of section 14A(1) or paragraph (c) of section 14A(3) of the Principal Act until 2022.

### **Role of local authority**

16. The Principal Act is amended by the insertion of the following section after section 14A:

#### **"Role of local authority**

- 14B. (1) Each local authority shall prepare and make a plan relating to a period of five years (in this section referred to as a 'local authority climate

action plan’) which shall specify the mitigation measures and the adaptation measures to be adopted by the local authority.

- (2) A local authority shall make a local authority climate action plan—
  - (a) in the case of the first such plan, within 12 months of the receipt of a request from the Minister, which request shall be made not later than 18 months after the coming into operation of *section 16* of the *Climate Action and Low Carbon Development (Amendment) Act 2021*, and
  - (b) in the case of each subsequent plan, not less than once in every period of five years.
- (3) A local authority climate action plan shall, in so far as practicable, be consistent with the most recent approved climate action plan and national adaptation framework, and in making a local authority climate action plan, a local authority shall have regard to—
  - (a) the most recent approved national long term climate action strategy,
  - (b) the most recent approved sectoral adaptation plans, and
  - (c) any policies of the Minister or the Government on climate change.
- (4) In making the local authority climate action plan, a local authority shall—
  - (a) consult and co-operate with adjoining local authorities,
  - (b) consult with the Public Participation Network in the administrative area of the local authority and such other persons as the local authority considers appropriate,
  - (c) co-ordinate, where appropriate, with adjoining local authorities in relation to the mitigation measures and adaptation measures to be adopted,
  - (d) consider any significant effects the implementation of the local authority climate action plan may have on adjoining local authorities, and
  - (e) consider any submissions made to it by an adjoining local authority under subsection (5)(c).
- (5) A local authority shall, before making a local authority climate action plan—
  - (a) publish, in such manner as the local authority considers appropriate, a draft of the proposed local authority climate action plan,
  - (b) publish a notice on the internet and in at least one newspaper circulating in the administrative area of the local authority inviting

members of the public and any interested parties to make submissions in writing in relation to the proposed local authority climate action plan within such period (not exceeding two months from the date of the publication of the notice) as may be specified in the notice, and

- (c) have regard to any submissions made pursuant to, and in accordance with, a notice under paragraph (b).
- (6) A local authority climate action plan shall be submitted to the members of the local authority concerned and those members shall, by resolution, within a period of six weeks—
  - (a) approve, or
  - (b) approve, subject to such modifications as they consider appropriate,  
the local authority climate action plan.
- (7) A local authority climate action plan shall have effect for a period of five years from the date on which it is approved by the members of the local authority concerned.
- (8) The Minister may issue guidelines, consistent with furthering the achievement of the national climate objective, to local authorities in respect of the content and preparation of a local authority climate action plan and a local authority shall comply with any such guidelines.
- (9) Not more than 30 days after a local authority climate action plan is approved under subsection (6), the local authority shall publish the local authority climate action plan in such manner as the local authority considers appropriate.
- (10) A local authority may, at any time, vary or revise a local authority climate action plan approved under this section, and this section applies to any such variation or revision in the same manner as it applies to a local authority climate action plan, subject to the modification that any such variation or revision shall have effect for the unexpired period of the local authority climate action plan under subsection (7), and to any other necessary modifications.
- (11) In this section, ‘adjoining local authority’ means, in relation to a local authority, a local authority whose administrative area adjoins the administrative area of the first mentioned local authority.”.

#### **Amendment of section 15 of Principal Act**

17. Section 15 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

- “(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—
- (a) the most recent approved climate action plan,
  - (b) the most recent approved national long term climate action strategy,
  - (c) the most recent approved national adaptation framework and approved sectoral adaptation plans,
  - (d) the furtherance of the national climate objective, and
  - (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.”.

### **Miscellaneous amendments of Principal Act**

#### **18.** The Principal Act is amended—

- (a) in section 2, by the substitution of “Nothing in this Act, a climate action plan, a national long term climate action strategy, a national adaptation framework, a sectoral adaptation plan, a carbon budget, a sectoral emissions ceiling or a local authority climate action plan” for “Nothing in this Act, a national mitigation plan, national adaptation framework or a sectoral adaptation plan”,
- (b) by the deletion of sections 7 and 14, and
- (c) by the substitution of “national climate objective” for “national transition objective” in each place where it occurs.

## PART 3

### AMENDMENT OF OTHER ACTS

#### **Amendment of section 10 of Planning and Development Act 2000**

#### **19.** Section 10(2) of the Planning and Development Act 2000 is amended in paragraph (n)—

- (a) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) reduce anthropogenic greenhouse gas emissions and address the necessity of adaptation to climate change, taking account of the local authority climate action plan (within the meaning of section 14B of the Climate Action and Low Carbon Development Act 2015), where such a plan has been made for the area in question;”.

and

- (b) by the deletion of subparagraph (iii).

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

**20.** Section 37B of the National Oil Reserves Agency Act 2007 is amended—

(a) in subsection (9)—

(i) by the insertion of the following paragraphs after paragraph (c):

“(ca) to support projects that seek to increase climate resilience in the State;

(cb) to support nature based projects that enhance biodiversity and seek to reduce, or increase the removal of, greenhouse gas emissions or support climate resilience in the State;”;

(ii) by the substitution, in paragraph (d), of the following subparagraphs for subparagraph (iii):

“(iii) increase energy efficiency in the State,

(iv) increase climate resilience in the State,

(v) increase the removal of greenhouse gas in the State,

(vi) enhance biodiversity through nature based projects that seek to reduce, or increase the removal of, greenhouse gas emissions or support climate resilience in the State;”;

and

(iii) by the substitution, in paragraph (e), of the following subparagraphs for subparagraph (iii):

“(iii) increasing energy efficiency in the State,

(iv) increasing climate resilience in the State,

(v) increasing the removal of greenhouse gas in the State,

(vi) enhancing biodiversity through nature based projects that seek to reduce, or increase the removal of, greenhouse gas emissions or support climate resilience in the State;”;

and

(b) by the substitution of the following subsection for subsection (15):

“(15) In this section—

‘Act of 2015’ means the Climate Action and Low Carbon Development Act 2015;

‘biodiversity’ has the same meaning as in the Act of 2015;

‘financial year’ means the financial year of the Climate Action Fund;

‘greenhouse gas’ has the same meaning as in the Act of 2015;

‘nature based project’ means a solution that is inspired and supported by the process and functioning of nature, which is cost-effective and provides environmental, social and economic benefits and helps to build resilience;

‘removal’ has the same meaning as in the Act of 2015.”.

### **Repeal of certain provisions of Act of 1960 and transitional provisions**

- 21.** (1) Subject to *subsections (2) to (6)*, the following provisions of the Act of 1960 are repealed:
- (a) section 7 (other than subsection (4) of that section);
  - (b) section 8;
  - (c) section 9;
  - (d) section 10 (other than subsection (4) of that section);
  - (e) section 13.
- (2) Where, prior to the commencement of this section, the Minister has entered into an undertaking with a person under section 7 of the Act of 1960, the Minister may:
- (a) grant an exploration licence under section 8 of the Act of 1960 to the person concerned;
  - (b) grant a petroleum prospecting licence under section 9 of the Act of 1960 to the person concerned;
  - (c) enter into an undertaking under section 10 of the Act of 1960 with the person concerned.
- (3) Where, prior to the commencement of this section or by virtue of this section, the Minister has granted an exploration licence to a person under section 8 of the Act of 1960, the Minister may:
- (a) grant a petroleum prospecting licence under section 9 of the Act of 1960 to the person concerned;
  - (b) enter into an undertaking under section 10 of the Act of 1960 with the person concerned;
  - (c) grant a petroleum lease under section 13 of the Act of 1960 to the person concerned.
- (4) Where, prior to the commencement of this section or by virtue of this section, the Minister has entered into an undertaking with a person under section 10 of the Act of 1960, the Minister may:
- (a) grant a petroleum prospecting licence under section 9 of the Act of 1960 to the person concerned;

- (b) grant a petroleum lease under section 13 of the Act of 1960 to the person concerned.
- (5) Where, prior to the commencement of this section or by virtue of this section, the Minister has granted a petroleum lease to a person under section 13 of the Act of 1960, the Minister may grant a petroleum prospecting licence under section 9 of the Act of 1960 to the person concerned.
- (6) The repeal of the sections referred to in *subsection (1)* shall not affect—
  - (a) an undertaking entered into under section 7 of the Act of 1960,
  - (b) an exploration licence granted under section 8 of the Act of 1960,
  - (c) a petroleum prospecting licence granted under section 9 of the Act of 1960,
  - (d) an undertaking entered into under section 10 of the Act of 1960, or
  - (e) a petroleum lease granted under section 13 of the Act of 1960.

#### **Amendment of Electricity (Supply) (Amendment) Act 1954**

**22.** Section 4 of the Electricity (Supply) (Amendment) Act 1954 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) Subject to subsection (5), the Board or an Irish subsidiary may, with the consent of the Minister, given with the approval of the Minister for Public Expenditure and Reform and the Minister for Finance, and subject to any conditions imposed by the Minister, borrow money (including money in a currency other than the currency of the State), whether by means of the issue of debentures (or other debt security) or otherwise, from any person.”,

- (b) by the deletion of subsection (2),

- (c) by the substitution of the following subsection for subsection (4):

“(4) The aggregate amount at any one time of moneys borrowed by the Board and the subsidiaries, and of any advances under section 5, which have not been repaid shall not exceed €12,000,000,000 and for the purposes of this subsection moneys borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed, such equivalent being calculated according to the rate of exchange at the time of the borrowing for that currency and the currency of the State.”,

and

- (d) by the insertion of the following subsections after subsection (4):

“(5) The consent of the Minister shall not be required under subsection (1) in respect of moneys borrowed by—

- (a) the Board from a subsidiary,
  - (b) an Irish subsidiary from the Board, or
  - (c) an Irish subsidiary from a subsidiary.
- (6) The limit specified in subsection (4) shall not apply to moneys borrowed by—
- (a) the Board from a subsidiary,
  - (b) a subsidiary from the Board, or
  - (c) a subsidiary from a subsidiary.
- (7) In this section—
- ‘Irish subsidiary’ means a subsidiary that is incorporated in the State;
- ‘subsidiary’ means a subsidiary (within the meaning of section 7 of the Companies Act 2014) of the Board.”.