

CLIMATE CHANGE THINGS ARE HOTTING UP!

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Introduction

- Climate Action and Low Carbon Development Act 2015
- Friends of the Irish Environment v The Government of Ireland & Ors [2020] IESC 49
- Climate Action and Low Carbon Development (Amendment) Bill 2020
- Climate Action and Low Carbon Development (Amendment) Bill 2021
- Observations / Criticisms
- What happens next?

Climate Action and Low Carbon Development Act 2015

- “The Principal Act”
- Commenced on 10 December 2015
- Long title:

“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 low carbon, climate resilient and environmentally sustainable economy; to establish a body to be known ... as the Climate Change Advisory Council; and to provide for matters connected therewith.”

Climate Action and Low Carbon Development Act 2015

What did the 2015 Act do?

- Ireland's first overarching piece of climate change legislation
- National Transition Objective: see long title
- Tools and structures for transition
 - a national mitigation plan
 - a national adaptation framework and
 - tailored sectoral plans.
 - Climate Change Advisory Council
- Failed to clearly identify specific (mitigation) targets and failure to set out a concrete path to reach these targets.

Friends of the Irish Environment v The Government of Ireland & Ors [2020] IESC 49

- Judgment of the Supreme Court on 31 July 2020
- “Landmark decision” – David R Boyd, UN Special Rapporteur
- Quashed the Government’s National Mitigation Plan under the 2015 Act
- Plan fell “*well short of the level of specificity required to provide transparency and comply with section 4 of the 2015 Climate Act*”
- Section 4 - Stipulates that a Plan must “specify” the manner in which it is proposed to achieve the national transition objective and the policy measures required to achieve same

Climate Action and Low Carbon Development (Amendment) Bill 2020

Key Elements:

1. Legal obligation on the State to pursue the transition to a climate-neutral economy by the end of 2050.
2. Successive 5-year, economy-wide carbon budgets starting in 2021
3. Strengthens the role of the Climate Change Advisory Council
4. Requirement to annually revise the Climate Action Plan

Climate Action and Low Carbon Development (Amendment) Bill 2020

Key Elements:

5. Requirement to prepare a National Long Term Climate Action Strategy at least every decade
6. Requirement for all Local Authorities to prepare individual Climate Action Plans which will include both mitigation and adaptation measures.
7. Stronger oversight role for Ireland's houses of parliament through a dedicated Oireachtas Committee.

Climate Action and Low Carbon Development (Amendment) Bill 2021

Key Elements:

1. Places on a statutory basis a 'national climate objective
2. Embeds the process of carbon budgeting into law
3. Actions for each sector will be detailed in the Climate Action Plan, updated annually
4. National Long Term Climate Action Strategy will be prepared every five years
5. Government Ministers will be responsible for achieving the legally-binding targets for their own sectoral
6. Strengthens the role of the Climate Change Advisory Council

Climate Action and Low Carbon Development (Amendment) Bill 2021

Key Elements:

7. Provides that the first two five-year carbon budgets proposed by the Climate Change Advisory Council should equate to a total reduction of 51%
8. Expands the Climate Change Advisory Council from eleven to fourteen members
9. Introduces a requirement for each local authority to prepare a Climate Action Plan
10. Public Bodies will be obliged to perform their functions in a manner consistent with national climate plans and strategies, and furthering the achievement of the national climate objective e.g. An Bord Pleanála.
11. Statutory effect to ending the issuing of new licenses for the exploration and extraction of gas

Observations

- If ratified, Ireland on a similar footing to countries such as the UK, Sweden, France, Denmark, New Zealand and Japan who have enacted or are planning to enact legislation to reach Net Zero GHG emissions by 2050.
- Puts Ireland on track for a 51% reduction in emissions by 2030.
- Creates the governance platform to deliver on now legally binding emission targets.
- Puts carbon budgets in place.
- Increases the role of the Climate Advisory Council (“CCAC”).

Observations

- If ratified, will put Ireland on a similar footing to countries such as the UK, Sweden, France, Denmark, New Zealand and Japan who have enacted or are planning to enact legislation to reach Net Zero GHG emissions by 2050.
- Puts Ireland on track for a 51% reduction in emissions by 2030.
- Creates the governance platform to deliver on now legally binding emission targets.
- Puts carbon budgets in place.
- Increases the role of the Climate Advisory Council (“CCAC”).
- Addition of biodiversity in the National Transition Objective

Criticisms

- Too much too soon – effect on industries and the economy.
- Some industries will suffer more than others.
- Disproportionally effects rural communities
- Text of the Bill is legally unclear and could allow for multiple conflicting interpretations.
- Lack of interim targets.
- Climate neutrality by 2050 is a goal set by the EU but Paris Agreement means this should be achieved sooner to limit global warming to 1.5 degrees of pre industrial levels.

Criticisms

- Government can ‘pivot’ away from two carbon budgets proposed by CCAC
- Minister only needs to have “regard to” ensuring a “just transition” and “climate justice”.
- Bill lacks ambition needed to address wider issues of inequality.
- Lack of intersectional responses to transport, clean air, housing standards, energy costs.
- Ban on fracking but no ban on importation of liquified natural gas (LPG) – missed opportunity.
- Aarhus Convention and related EU Directives – lack of access to justice and participation in decision making on environmental matters.

What happens next?

- Bill set to progress through Oireachtas as priority legislation.
- 4 further stages in Dáil Eireann
- 5 further stages in Seanad Eireann
- Enactment

Thank You
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Q&A