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Explanatory Memorandum](#)

**AN BILLE UM ATHRÚ AERÁIDE 2009
CLIMATE CHANGE BILL 2009**

*Mar a tionscnaíodh
As initiated*

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ACT REFERRED TO

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AN BILLE UM ATHRÚ AERÁIDE 2009
CLIMATE CHANGE BILL 2009

BILL

entitled

5 AN ACT TO SET A TARGET FOR THE YEAR 2050 FOR THE
REDUCTION OF GREENHOUSE GAS EMISSIONS; TO
PROVIDE FOR A SYSTEM OF CARBON BUDGETING;
TO MAKE OTHER PROVISIONS ABOUT CLIMATE
10 CHANGE; AND TO PROVIDE FOR RELATED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—This Act may be cited as the Climate Change Act 2009. Short title.

15 2.—(1) The purpose of this Act is, in order to contribute so far as
is reasonably practicable to limiting the inevitable and harmful
effects of global average temperature increases, to ensure that emis-
sions of greenhouse gases in the State do not exceed the levels bind-
ing the State under European Union and international law. Purpose of Act.

20 (2) It is the duty of the Government, the Taoiseach, the Agency
and every public body and person concerned with the implemen-
tation of this Act to advance the purpose referred to in *subsection*
(1).

3.—(1) In this Act— Interpretation:
general.

25 “the 1990 baseline” means the amount of net emissions of green-
house gases for the year 1990;

“annual equivalent”, in relation to the carbon budget for a period,
means the amount of the carbon budget for the period divided by
the number of years in the period;

30 “the Agency” means the Environmental Protection Agency;

“budgetary period” means each succeeding period of five years, beginning with the period from 1 January 2008 to 31 December 2012;

“carbon budget” means the amount for the net carbon account set for a budgetary period under *section 23*;

“carbon unit” means a unit of a kind specified in regulations made under *section 22* and representing— 5

- (a) a reduction in an amount of greenhouse gas emissions,
- (b) the removal of an amount of greenhouse gas from the atmosphere, or
- (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions; 10

“greenhouse gas” means—

- (a) carbon dioxide (CO₂),
- (b) methane (CH₄), 15
- (c) nitrous oxide (N₂O),
- (d) hydrofluorocarbons (HFCs),
- (e) perfluorocarbons (PFCs),
- (f) sulphur hexafluoride (SF₆), and
- (g) any other gas designated as a greenhouse gas under *sub-section (2)*; 20

“net carbon account”, in relation to a period, means the amount of net emissions of greenhouse gases for the period—

- (a) reduced by the amount of carbon units credited to the net carbon account for the period in accordance with regulations under *section 23*, and 25
- (b) increased by the amount of carbon units that in accordance with those regulations are to be debited from the net carbon account for the period;

“public body” has the meaning assigned to it by the *Schedule*. 30

(2) The Taoiseach may by regulations amend the definition of “greenhouse gas” in *subsection (1)*, by adding to the gases listed in that definition, if it appears to the Taoiseach that an agreement or arrangement at European Union or international level recognises that the gas to be added contributes to climate change. 35

Interpretation:
greenhouse gas
emissions.

4.—(1) In this Act—

- (a) “emissions”, in relation to a greenhouse gas, means emissions of that gas from sources in the State;
- (b) “removals”, in relation to a greenhouse gas, means removals of that gas from the atmosphere due to a change in land use in the State; and 40

(c) the “net emissions”, for a period, in relation to a greenhouse gas, means the amount of emissions of that gas for the period reduced by the amount for the period of removals of that gas.

5 (2) For the purposes of this Act, greenhouse gas emissions, reductions of such emissions and removals of greenhouse gas from the atmosphere shall be measured or calculated in tonnes of carbon dioxide equivalent, a “tonne of carbon dioxide equivalent” meaning
10 one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice).

(3) The Taoiseach shall publish guidance on the measurement or calculation of greenhouse gas emissions to assist the reporting by persons on such emissions from activities for which they are
15 responsible.

(4) The amount of emissions and removals of a greenhouse gas for a period shall be determined consistently with accepted practice in relation to reporting for the purposes of the protocols to the United Nations Framework Convention on Climate Change, or such
20 other agreements or arrangements at European Union or international level as the Taoiseach may specify by regulations.

(5) The provisions of this Act relating to emissions of greenhouse gases apply to emissions from sources or other matters occurring in, above or below—

- 25 (a) the territorial seas of the State, and
(b) the exclusive economic zone of the State,

as they apply to emissions from sources or matters occurring in the State.

(6) *Subsection (4)* is subject to *section 24* (emissions from international aviation or international shipping).
30

5.—(1) The Taoiseach may make regulations— Regulations.

(a) in relation to any matter referred to in this Act as the subject of regulations, and

35 (b) for the purposes of, and for the purposes of giving full effect to, this Act.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Taoiseach to be necessary or expedient for the purposes of the regulations.

(3) Where the Taoiseach proposes to make regulations—

40 (a) he or she shall, before doing so, obtain, and take into account, the advice of the Agency,

(b) he or she shall cause to be laid before each House of the Oireachtas—

(i) a draft of the regulations,

45 (ii) the advice of the Agency, and,

- (iii) if the draft regulations propose to make provision different to that recommended in the advice of the Agency, a statement setting out his or her reasons for proposing to make such different provision, and
- (c) the regulations shall not be made until a resolution approving of the draft has been passed by each such House. 5

PART 2

CARBON BUDGETS

2050 target. **6.**—It is the duty of the Taoiseach to ensure that the net carbon account for the year 2050 is at least 80 per cent lower than the 1990 baseline. 10

Carbon budgets. **7.**—(1) It is the duty of the Taoiseach—

- (a) to set an amount for the carbon budget for each budgetary period, and 15
- (b) to ensure that the net carbon account for a budgetary period does not exceed the carbon budget.

(2) The carbon budget for a budgetary period may be set at any time after the passing of this Act, and shall be set—

- (a) for the periods 2008-2012, 2013-2017 and 2018-2022, before 1 June 2009; 20
- (b) for any later period, not later than 30 June in the twelfth year before the beginning of the period in question.

Level of carbon budgets. **8.**—The carbon budget—

- (a) for the budgetary period including the year 2020, shall be such that the annual equivalent of the carbon budget for the period is at least 30 per cent lower than the 1990 baseline; and 25
- (b) for the budgetary period including the year 2050, shall be such that the annual equivalent of the carbon budget for the period is lower than the 1990 baseline by at least the percentage specified in *section 6*. 30

Amendment of target percentages. **9.**—The Taoiseach may by regulations amend the percentage specified in *section 6*, but only in connection with the making of—

- (a) regulations under *section 3(2)* (designation of further gases as greenhouse gases), or 35
- (b) regulations under *section 24* (emissions from international aviation or international shipping).

Setting of carbon budget for budgetary period. **10.**—(1) The Taoiseach shall set the carbon budget for a budgetary period by regulations. 40

(2) The carbon budget for a period shall be set with a view to meeting—

- (a) the target in *section 6*, and
- (b) the requirements of *section 7*,

5 and complying with the European Union and international obligations of the State.

11.—Where—

Matters to be taken into account.

(a) the Taoiseach is coming to any decision under this Act relating to carbon budgets, or

10 (b) the Agency is considering its advice in relation to any such decision,

the following matters shall, amongst other matters considered relevant, be taken into account:

(i) scientific knowledge about climate change;

15 (ii) technology relevant to climate change;

(iii) economic circumstances, and in particular the likely impact of the decision on the economy and the competitiveness of particular sectors of the economy;

20 (iv) fiscal circumstances, and in particular the likely impact of the decision on taxation, public spending and public borrowing;

(v) social circumstances, and in particular the likely impact of the decision on poverty, including fuel poverty;

25 (vi) energy policy, and in particular the likely impact of the decision on energy supplies and the carbon and energy intensity of the economy; and

(vii) circumstances at European Union and international level.

12.—As soon as is reasonably practicable after making regulations setting the carbon budget for a budgetary period, the Taoiseach shall lay before both Houses of the Oireachtas a report setting out—

Publication of indicative range and policies and proposals.

(a) for each year within the period, a range within which the Taoiseach expects the amount of the net carbon account for the year to fall,

35 (b) the proposals and policies of the Taoiseach for meeting the carbon budgets for the current and future budgetary periods up to and including that period.

13.—(1) The proposals and policies referred to in *section 12(b)* shall—

Further provisions relating to policies and proposals.

(a) be prepared with a view to meeting the target in *section 6*,

(b) taken as a whole, be such as to contribute to sustainable development.

(2) The report referred to in *section 12* shall, in particular—

(a) set out the time-scales over which those proposals and policies are expected to take effect, 5

(b) explain how the proposals and policies set out in the report affect different sectors of the economy,

(c) outline the implications of the proposals and policies as regards the crediting of carbon units to the net carbon account for each budgetary period covered by the report. 10

Duty to have regard to need for action within the State.

14.—In exercising functions involving consideration of how to meet—

(a) the target in *section 6*, or

(b) the carbon budget for any period,

the Taoiseach shall have regard to the need for sustained and concerted action within the State to achieve reductions in emissions of greenhouse gases or increases in removals of such gases, or both. 15

Annual statement on emissions.

15.—(1) It is the duty of the Taoiseach to lay before both Houses of the Oireachtas in respect of each year, beginning with the year 2009, a statement containing the following information: 20

(a) in respect of each greenhouse gas, a statement of the amount for the year of emissions, removals and net emissions of that gas and the methods used to measure or calculate those amounts, indicating whether any of those amounts represents an increase or decrease compared to the equivalent amount for the previous year; 25

(b) the aggregate amount for the year of emissions, removals and net emissions of all greenhouse gases;

(c) if in accordance with international carbon reporting practice a change of method is such as to require adjustment of an amount for an earlier year in the same budgetary period, a statement of the adjustment required and the adjusted amount; 30

(d) if emissions of a greenhouse gas from international aviation or international shipping are not required to be included in the statement by virtue of *paragraph (c)*, a statement of any amounts relating to such emissions that the State is required to report for the year in accordance with international carbon reporting practice; 35

(e) the total amount of carbon units that have been credited to or debited from the net carbon account for the year, giving details of the number and type of those carbon units; 40

(f) the amount of the net carbon account for the year;

(g) the amount of net emissions of each greenhouse gas for the year 1990;

(h) a baseline amount for each greenhouse gas, determined on such basis as the Taoiseach considers appropriate, being—

(i) the amount of net emissions of the gas for the year 1990 or a different year, or

(ii) the average amount of net emissions of the gas for a number of years.

10 (2) The statement required by this section shall be laid before both Houses of the Oireachtas not later than 31 March in the second year following that to which it relates.

15 **16.—(1)** The Taoiseach may decide to carry back part of the carbon budget for a budgetary period to the preceding budgetary period, so that the carbon budget for the later period is reduced, and that for the earlier period increased, by the amount carried back. Power to carry amounts from one budgetary period to another.

(2) The amount carried back under *subsection (1)* shall not exceed 1 per cent of the carbon budget for the later period.

20 (3) The Taoiseach may decide to carry forward the whole or part of any amount by which the carbon budget for a budgetary period exceeds the net carbon account for the period, so that the amount of the carbon budget for the next budgetary period is increased by the amount carried forward.

25 (4) Before deciding to carry an amount back or forward under this section, the Taoiseach shall obtain, and take into account, the advice of the Agency.

(5) A decision under this section shall be made no later than 31 May in the second year after the end of the earlier of the two budgetary periods affected.

30 **17.—(1)** It is the duty of the Taoiseach to lay before both Houses of the Oireachtas in respect of each budgetary period a statement containing the following information: Final statement for budgetary period.

35 (a) in respect of each greenhouse gas, a statement of the final amount for the period of emissions, removals and net emissions of that gas, being the total of the amounts (or adjusted amounts) stated under *section 15* in respect of that gas for the years included in the period;

40 (b) the final amount of carbon units that have been credited to or debited from the net carbon account for the period, with details of the number and type of those carbon units;

(c) the final amount of the net carbon account for the period;

(d) whether the Taoiseach has decided to carry an amount back under *section 16(1)* and, if so, what amount;

45 (e) the amount of the carbon budget for the period, being the amount originally set, subject to any exercise of the

powers conferred by *section 16* and any alteration of the budget under *section 20*.

(2) Whether the carbon budget for a period has been met shall be determined by reference to the figures given in the statement laid before both Houses of the Oireachtas under this section in respect of that period. 5

(3) If the carbon budget for the period has not been met, the statement shall explain why it has not been met.

(4) The statement required by this section shall be laid before both Houses of the Oireachtas not later than 31 May in the second year following the end of the period to which it relates. 10

Compensation for budgetary excess.

18.—As soon as is reasonably practicable after laying a statement before both Houses of the Oireachtas under *section 17* in respect of a period for which the net carbon account exceeds the carbon budget, the Taoiseach shall lay before both Houses a report setting out proposals and policies to compensate in future periods for the excess emissions. 15

Final statement for 2050.

19.—(1) It is the duty of the Taoiseach to lay before both Houses of the Oireachtas in respect of the year 2050 a statement containing the following information: 20

(a) in respect of each greenhouse gas, the amount for that year of emissions, removals and net emissions of that gas, being the amount stated for that year in respect of that gas under *section 15*;

(b) the amount of carbon units that have been credited to or debited from the net carbon account for the year, with details of the number and type of those carbon units; 25

(c) the amount of the net carbon account for that year.

(2) Whether the target in *section 6* has been met shall be determined by reference to the figures given in the statement laid before both Houses of the Oireachtas under this section. 30

(3) If the target has not been met, the statement shall explain why it has not been met.

(4) The statement required by this section shall be laid before both Houses of the Oireachtas not later than 31 May 2052. 35

Alteration of carbon budgets.

20.—(1) Regulations setting the carbon budget for a budgetary period—

(a) may not be revoked after the date by which a budget for the period was required to be set;

(b) may be amended after the date by which a budget for the period was required to be set only if it appears to the Taoiseach that, since the budget was originally set (or previously altered), there have been significant changes affecting the basis on which the previous decision was made; 40 45

(c) may be amended after the period has begun only if it appears to the Taoiseach that there have been such changes since the period began.

5 (2) Regulations setting the carbon budget for a budgetary period may not be amended after the period has ended.

21.—(1) The Taoiseach may make provision by regulations as to the manner of determining, in the case of a greenhouse gas other than carbon dioxide, the amount of net emissions for the year 1990. Base years for greenhouse gases other than carbon dioxide.

(2) Regulations under *subsection (1)* may, in particular—

10 (a) designate a different base year, or

(b) designate a number of base years,

and provide for the amount of net emissions of the gas for that year, or the average amount of net emissions of the gas for those years, to be treated for the purposes of this Act as the amount of net emissions of the gas for the year 1990.
15

22.—(1) The Taoiseach may make provision by regulations for a scheme— Carbon units.

(a) for registering or otherwise keeping track of carbon units, or

20 (b) for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred, by the Taoiseach.

(2) The regulations may provide for an existing scheme to be adapted for these purposes and may, in particular, make provision—

25 (a) appointing a body to administer the scheme;

(b) establishing a body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise as the Taoiseach considers appropriate;

30 (c) conferring power on the Taoiseach to give guidance or directions to the body administering the scheme;

(d) conferring power on the Taoiseach to delegate the performance of any of the functions conferred or imposed on the Taoiseach by the regulations;

35 (e) requiring the payment by persons using the scheme of charges (of an amount determined by or under the regulations) towards the cost of operating it.

23.—(1) The Taoiseach shall make provision by regulations as to— Net carbon account.

- (a) the circumstances in which carbon units may be credited to the net carbon account for a period,
- (b) the circumstances in which such units shall be debited from that account for a period, and
- (c) the manner in which this is to be done. 5

(2) Regulations under *subsection (1)* may include provision, in accordance with European Union and international law, for the crediting of carbon units to the net carbon account by means of their purchase from sources outside the State or the implementation of a greenhouse reduction project in a developing state. 10

(3) In setting a carbon budget for a budgetary period, the Taoiseach shall provide for no more than 40 per cent of the reduction in greenhouse gas emissions to be achieved through provisions referred to in *subsection (2)*.

International aviation and international shipping.

24.—(1) Subject to *subsection (2)*, emissions of greenhouse gases from international aviation or international shipping do not count as emissions from sources in the State for the purposes of this Act. 15

(2) The Taoiseach shall, before the end of the period of five years beginning with the passing of this Act—

- (a) make provision by regulations as to the circumstances in which, and the extent to which, emissions from international aviation or international shipping are to be regarded for the purposes of this Part as emissions from sources in the State, or 20
- (b) lay before both Houses of the Oireachtas a report explaining why regulations making such provision have not been made. 25

(3) Regulations under this section may—

- (a) define what is to be regarded for the purpose as international aviation or international shipping, 30
- (b) provide for emissions to be regarded as emissions from sources in the State if they relate to the transport of passengers or goods to or from the State,
- (c) make provision—
 - (i) as to the period or periods (whether past or future) in which emissions are to be taken into account, and 35
 - (ii) as to the manner in which such emissions are to be taken into account in determining the 1990 baseline in relation to those periods,
- (d) designate a different base year and provide for the emissions in that year to be taken into account as if part of the 1990 baseline. 40

PART 3

THE AGENCY

25.—(1) It is the duty of the Agency to advise the Taoiseach, in relation to each budgetary period, on—

Advice in connection with carbon budgets.

- 5 (a) the level of the carbon budget for the period,
- (b) the extent to which the carbon budget for the period should be met—
- (i) by reducing the amount of net emissions of greenhouse gases, or
- 10 (ii) by the use of carbon units that in accordance with regulations under this section and *section 26* may be credited to the net carbon account for the period,
- (c) the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of greenhouse gases.
- 15

(2) Advice given by the Agency under this section shall also contain the reasons for that advice.

(3) The Agency shall give its advice under this section—

- 20 (a) for the budgetary periods 2008-2012, 2013-2017 and 2018-2022, before 1 June 2009;
- (b) for any later period, not later than six months before the last date for setting the carbon budget for the period.

(4) As soon as is reasonably practicable after giving its advice under this section, the Agency shall publish that advice in such manner as it considers appropriate.

25

26.—(1) It is the duty of the Agency to lay before both Houses of the Oireachtas each year, beginning with the year 2009, a report setting out the Agency's views on—

Reports on progress.

- 30 (a) the progress that has been made towards meeting the carbon budgets that have been set under this Act and the target in *section 6*,
- (b) the further progress that is needed to meet those budgets and that target, and
- 35 (c) whether those budgets and that target are likely to be met.

(2) The Agency's report in the second year after the end of a budgetary period shall also set out the Agency's general views on—

- (a) the way in which the budget for the period was or was not met, and
- 40 (b) action taken during the period to reduce net emissions of greenhouse gases.

(3) The first report under this section shall be laid before both Houses of the Oireachtas not later than 30 September 2009.

(4) Each subsequent report under this section shall be laid before both Houses of the Oireachtas not later than 30 June in the year in which it is made.

5

Response of Taoiseach to reports on progress.

27.—The Taoiseach shall lay before both Houses of the Oireachtas a response to the points raised by each report of the Agency under *section 26*, not later than 15 October in the year in which the Agency’s report is made.

Provision of advice and assistance to Taoiseach.

28.—(1) The Agency shall, at the request of the Taoiseach, provide advice, analysis, information or other assistance to the Taoiseach in connection with—

10

(a) the Taoiseach’s functions under this Act,

(b) the progress made towards meeting the objectives set by or under this Act,

15

(c) adaptation to climate change, or

(d) any other matter relating to climate change.

(2) In particular, the Agency shall, at the request of the Taoiseach, assist the Taoiseach in connection with the preparation of statistics relating to greenhouse gas emissions.

20

Powers of Agency.

29.—(1) In performing its functions under this Act, the Agency—

(a) has all such powers as are necessary for or are incidental to the performance of those functions,

(b) has the powers conferred by section 41 of the Environmental Protection Agency Act 1992 (which include the power to appoint committees and consultative groups and to delegate to such a committee any of its functions which, in its opinion, can be better or more conveniently performed by a committee), and

25

(c) may in particular—

30

(i) gather information and carry out research and analysis,

(ii) commission others to carry out such activities, and

(iii) publish the results of such activities carried out by the Agency or others.

35

(2) From time to time, and whenever so requested, the Director General of the Agency shall account for the performance of the functions of the Agency to a Committee of one or both Houses of the Oireachtas (including in particular any such Committee established to consider medium and long term climate change targets and the key measures needed to meet those targets) and shall have regard to any recommendations of such a Committee relevant to its functions.

40

(3) The Agency shall have regard to the desirability of involving the public in the exercise of its functions.

PART 4

IMPACT OF CLIMATE CHANGE

5 **30.**—(1) It is the duty of the Taoiseach to lay reports before both Houses of the Oireachtas containing an assessment of the risks for the State of the current and predicted impact of climate change. Report from Taoiseach on impact of climate change.

(2) The first report under this section shall be laid before both Houses of the Oireachtas no later than three years after this section comes into force. 10

(3) Subsequent reports shall be laid before both Houses of the Oireachtas no later than five years after the previous report was so laid.

(4) The Taoiseach may extend the period for laying any such report but shall publish a statement setting out the reasons for the delay and specifying when the report will be laid before both Houses of the Oireachtas. 15

(5) Before laying a report under this section before both Houses of the Oireachtas, the Taoiseach shall take into account the advice of the Agency under *section 31*. 20

31.—(1) It is the duty of the Agency to advise the Taoiseach on the preparation of each of the Taoiseach's reports under *section 30*. Advice from Agency on report of Taoiseach.

(2) The Agency shall give its advice under this section in relation to a report not later than six months before the last date for laying the report before both Houses of the Oireachtas. 25

(3) As soon as is reasonably practicable after giving its advice under this section the Agency shall publish that advice in such manner as it considers appropriate.

32.—(1) It is the duty of the Taoiseach to lay programmes before both Houses of the Oireachtas setting out— Programme for adaptation to climate change. 30

(a) the objectives of the Government in relation to adaptation to climate change,

(b) the Government's proposals and policies for meeting those objectives, and

(c) the time-scales for introducing those proposals and policies, addressing the risks identified in the most recent report under *section 30*. 35

(2) The objectives, proposals and policies shall be such as to contribute to sustainable development.

(3) Each programme under this section shall be laid before both Houses of the Oireachtas as soon as is reasonably practicable after the laying of the report under *section 30* to which it relates. 40

33.—Each report of the Agency under *section 31* shall contain an assessment of the progress made towards implementing the objectives, proposals and policies set out in the programmes laid before both Houses of the Oireachtas under *section 32*.

PART 5

5

PUBLIC BODIES

Guidance to public
bodies.

34.—The Taoiseach may issue guidance to public bodies in relation to—

- (a) assessing the current and predicted impact of climate change in relation to their functions, 10
- (b) preparing proposals and policies for adapting to climate change in the exercise of their functions, and
- (c) co-operating with other public bodies for that purpose.

Reports from public
bodies.

35.—(1) The Taoiseach may direct a public body to prepare a report containing any of the following— 15

- (a) an assessment of the current and predicted impact of climate change in relation to its functions;
- (b) a statement of the body's proposals and policies for adapting to climate change in the exercise of its functions and the time-scales for introducing those proposals and policies; 20
- (c) an assessment of the progress made by the body towards implementing the proposals and policies set out in its previous reports.

(2) The Taoiseach may direct two or more public bodies to prepare a joint report. 25

(3) The Taoiseach may give directions about—

- (a) the time within which a report shall be prepared, and
- (b) its content,

and may, in particular, require it to cover a particular geographical area. 30

Reports from public
bodies: further
provisions.

36.—(1) A public body shall comply with any directions under *section 35*.

(2) Where two or more public bodies are directed to prepare a joint report, they shall take reasonable steps to co-operate with each other for that purpose. 35

(3) In preparing a report, a public body shall have regard to the following, so far as relevant:

- (a) the most recent report under *section 30*;

(b) the most recent programme under *section 32*.

(4) The public body shall send a copy of the report to the Taoiseach and the Taoiseach shall cause a copy of that report to be laid before each House of the Oireachtas.

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SCHEDULE

PUBLIC BODIES

A body (which includes a body of which there is one or are more than one member and whether established as a body corporate or otherwise) listed, referred to or encompassed in or by one or more of the following paragraphs, is a public body for the purposes of this Act:

- 10 (1) a Minister of the Government having charge of a Department of State, including any office or body not otherwise specified in this Schedule of such Department in relation to which functions are vested in the Minister, whether or not referred to as the Minister, the Department or that office or body,
- 15 (2) the Attorney General,
- (3) the Comptroller and Auditor General,
- 20 (4) the Ombudsman,
- (5) the Central Bank and Financial Services Authority of Ireland,
- (6) the Central Statistics Office,
- (7) the Chief State Solicitor,
- 25 (8) the Public Appointments Service,
- (9) the Director of Public Prosecutions,
- (10) the Houses of the Oireachtas Commission,
- (11) the Office of the President,
- (12) the Revenue Commissioners,
- 30 (13) any public office staffed by persons who are either civil servants of the Government or civil servants of the State,
- (14) the Health Service Executive,
- (15) the Garda Síochána,
- (16) the Defence Forces,
- 35 (17) a local authority,
- (18) any body established—
 - (a) by or under any enactment other than the Companies Acts, or

(b) under the Companies Acts in pursuance of powers conferred by or under another enactment,

and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government, 5

(19) a company 25 per cent of the shares in which are held by or on behalf of a Minister of the Government,

(20) a body appointed by the Government or a Minister of the Government, 10

(21) a body the chairperson, some or more of the members or the chief executive officer of which is appointed by the Government or a Taoiseach of the Government,

(22) a body that receives moneys directly from the Taoiseach of the Government, the Central Fund or a public body (within the meaning of this Schedule), where the aggregate of the amounts so received constitutes 25 per cent or more of the current expenditure of that body in a financial year, 15

(23) any other body on which functions in relation to the general public or a class of the general public stand conferred by or under any enactment, 20

(24) a subsidiary of a body specified in any of the foregoing provisions of this Schedule.



**AN BILLE UM ATHRÚ AERÁIDE 2009
CLIMATE CHANGE BILL 2009**

EXPLANATORY MEMORANDUM

Purpose of Bill

It is widely accepted that urgent action is required to address the causes and consequences of climate change. The 2006 Stern Review set out the economic case for action on climate change and concluded that the cost of inaction will be far higher than tackling climate change now. It also made it clear that the costs are lowest in the context of multilateral action.

The purpose of this Bill is to set up a framework for the State to plan and achieve its long-term goals of reducing greenhouse gas emissions and to ensure steps are taken towards adapting to the impact of climate change.

The Bill establishes an emissions reduction pathway to 2050 by putting into a statutory framework the State's medium and long-term targets. In addition, the Bill introduces a system of carbon budgeting which constrains the total amount of emissions in a given time period.

Because of the central importance of the climate change issue, the Taoiseach is given responsibility under the Bill for co-ordinating Government action, including setting the State's carbon budget.

Each carbon budget period will last for five years and must be set by the Taoiseach well in advance of its commencement. The Taoiseach is required to give indicative ranges for the net carbon account in each year of a budgetary period and to develop and report on his proposals and policies for meeting carbon budget targets.

The Bill provides for a system of annual reporting by the Government on greenhouse gas emissions.

The Environmental Agency ("the EPA", referred to in the Bill as "the Agency") will have a specific role in reporting annually on progress, with the Government required to lay before the Oireachtas its response to the annual progress report.

The Bill sets out a procedure for assessing the risks of the impact of climate change and imposes a requirement on the Government to develop an adaptation programme on matters for which it is responsible. The programme must contribute to sustainable development.

The Bill also gives powers to direct other public bodies to prepare risk analyses and programmes of action and confers advisory and progress-reporting functions on the EPA.

Provisions of Bill

Part 1 of the Bill deals with preliminary and general matters. *Section 1* sets out the short title of the Bill.

Section 2 is a purpose clause, stating that the Bill's purpose is, in order to contribute so far as is reasonably practicable to limiting the inevitable and harmful effects of global average temperature increases, to ensure that emissions of greenhouse gases in the State do not exceed the levels binding the State under European and international law. The section states that it is the duty of the Government, the Taoiseach, the EPA and every public body and person concerned with the implementation of the Bill to advance this purpose.

Section 3 is an interpretation clause. It defines certain terms used elsewhere in the Bill such as—

“the 1990 baseline”: the amount of net emissions of greenhouse gases for the year 1990;

“budgetary period”: a series of 5 year periods, the first one being the period from 1 January 2008 to 31 December 2012;

“carbon budget”: the figure for the net carbon account set for a budgetary period;

“greenhouse gas”: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆), and any other gas later designated as a greenhouse gas by regulations.

Section 4 defines “greenhouse gas emissions” and provides that they shall be measured or calculated in tonnes of carbon dioxide equivalent. This means a metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice). The Taoiseach is given power to publish guidance on the measurement of greenhouse gas emissions, so as to assist the reporting by persons on such emissions from activities for which they are responsible. It is specified that greenhouse gas emissions taking place anywhere in the territorial seas of the State and in the State's exclusive economic zone are covered by the Bill, subject to later provisions dealing with international aviation and shipping.

Section 5 deals with the power to make regulations for the purposes of the Bill. Regulations must be approved by both Houses of the Oireachtas. The section states that, where the Taoiseach proposes to make regulations, he or she must first obtain, and take into account, the advice of the EPA and lay that advice before both Houses. If the Taoiseach's proposals differ from the advice, the Taoiseach must explain why a different provision is proposed.

Part 2 of the Bill deals with carbon budgets. *Section 6* sets out the ultimate target: to ensure that the net carbon account for the year 2050 is at least 80% lower than the 1990 baseline.

Section 7 requires the Taoiseach to set in advance a carbon budget for each 5 year budgetary period and to ensure that the net carbon account actually achieved in each budgetary period does not exceed the carbon budget. Carbon budgets for the periods up to 2022 must

be set before 1 June 2009 and, for later periods, must be set at least 12 years in advance.

By *section 8*, the carbon budget for the budgetary period including the year 2020 must be such that the annual equivalent of the carbon budget for the period is at least 30 per cent lower than the 1990 baseline. The carbon budget for the budgetary period including the year 2050 must be such that the annual equivalent of the carbon budget for the period is lower than the 1990 baseline by at least 80 percent.

Section 9 confers the power to amend the target percentage but only in connection with the making of regulations designating further gases as greenhouse gases or dealing with emissions from international aviation or international shipping.

Section 10 provides that the Taoiseach must set the carbon budget for a budgetary period, by regulations, with a view to meeting the 2050 target and complying with the European and international obligations of the State.

Section 11 provides that, where the Taoiseach is coming to any decision relating to carbon budgets, or the EPA is considering its advice in relation to any such decision, they must take into account:

- scientific knowledge about climate change;
- technology relevant to climate change;
- economic circumstances, and in particular the likely impact of the decision on the economy and the competitiveness of particular sectors of the economy;
- fiscal circumstances, and in particular the likely impact of the decision on taxation, public spending and public borrowing;
- social circumstances, and in particular the likely impact of the decision on poverty, including fuel poverty;
- energy policy, and in particular the likely impact of the decision on energy supplies and the carbon and energy intensity of the economy; and
- circumstances at European and international level.

Section 12 requires the Taoiseach, as soon as reasonably practicable after making an order setting the carbon budget for a budgetary period, to lay before both Houses of the Oireachtas a report setting out, for each year within the period, a range within which the Taoiseach expects the amount of the net carbon account for the year to fall, together with the proposals and policies of the Taoiseach for meeting the carbon budgets for the current and future budgetary periods up to and including that period.

Section 13 contains further provisions relating to this report. It requires the report of the Taoiseach's policies and proposals to be prepared with a view to meeting the 2050 target; to be such as will, taken as a whole, contribute to sustainable development; to set out the time-scales over which those proposals and policies are expected to take effect; to explain how the proposals and policies set out in the report affect different sectors of the economy; and to outline the implications of the proposals and policies as regards the crediting of

carbon units to the net carbon account for each budgetary period covered by the report.

Section 14 imposes a duty on the Taoiseach in performing these functions to have regard to the need for sustained and concerted action within the State to achieve reductions in emissions of greenhouse gases, or increases in removals of such gases, or both.

Section 15 provides for an annual statement on emissions. The section requires the Taoiseach to lay before both Houses an detailed annual statement dealing with:

- the amount of emissions, removals and net emissions of each greenhouse gas and the methods used to measure or calculate those amounts, indicating whether any of those amounts represents an increase or decrease compared to the equivalent amount for the previous year;
- the aggregate amount for the year of emissions, removals and net emissions of all greenhouse gases;
- any changes in international carbon reporting practice or methodology;
- any amounts relating to emissions of greenhouse gas from international aviation or international shipping that the State is required to report for the year in accordance with international carbon reporting practice;
- the total amount of carbon units that have been credited to or debited from the net carbon account for the year, giving details of the number and type of those carbon units;
- the amount of the net carbon account for the year;
- the amount of net emissions of each greenhouse gas for the year 1990; and
- a baseline amount for each greenhouse gas.

Section 16 confers a power to carry amounts from one budgetary period to another, following advice from the EPA.

Section 17 requires the Taoiseach to lay before both Houses a report dealing with the targets for the previous budgetary period and whether they have been met. The report must outline:

- the final amount for the period of emissions, removals and net emissions of each greenhouse gas;
- the final amount of carbon units that have been credited to or debited from the net carbon account for the period, with details of the number and type of those carbon units;
- the final amount of the net carbon account for the period;
- whether the Taoiseach has decided to carry an amount back under section 16 and, if so, what amount;
- the amount of the carbon budget for the period, being the amount originally set, subject to any exercise of the powers conferred by section 16 and any alteration of the budget under section 20.

If the carbon budget for the period has not been met, the statement must explain why it has not been met.

Section 18 provides that, as soon as reasonably practicable after laying a statement before both Houses under section 17 in respect of a period for which the net carbon account exceeds the carbon budget, the Taoiseach must lay before both Houses a report setting out proposals and policies to compensate in future periods for the excess emissions.

Section 19 deals in similar terms with the final statement, in respect of the year 2050.

Section 20 provides for alteration of carbon budgets. It provides that regulations setting the carbon budget for a period may not be revoked after the date by which a budget for the period was required to be set. The regulations may be amended after that date only if it appears to the Taoiseach that, since the budget was originally set (or previously altered), there have been significant changes affecting the basis on which the previous decision was made. And the regulations may be amended after the period has begun only if it appears to the Taoiseach that there have been such changes since the period began. Regulations setting the carbon budget for a period may not be amended after the period has ended.

Section 21 deals with base years for greenhouse gases other than carbon dioxide. The section states that the Taoiseach may make provision by regulations as to the manner of determining, in the case of those gases, the amount of net emissions for the year 1990. Such regulations may designate a different base year or a number of base years and may provide for the amount of net emissions of the gas for that year, or the average amount of net emissions of the gas for those years, to be treated as the amount of net emissions of the gas for the year 1990.

Section 22 enables the Taoiseach by regulations to may make provision for a scheme for registering or otherwise keeping track of carbon units and for establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred.

By *section 23*, the regulations shall include provisions as to the circumstances in which carbon units may be credited to the net carbon account for a period and the circumstances in which such units must be debited from that account for a period.

However, a cap is placed on the use to which carbon units purchased or acquired outside the State can be put. Such units may be credited to the State's net carbon account only to the extent that they contribute to not less than 40 per cent of our greenhouse gas reduction target. The remaining 60 per cent reduction in greenhouse gas emissions must be achieved by actions taken within the State itself.

By *section 24*, emissions for international aviation and shipping do not, on the passing of the Bill, count as emissions from within the State. This is because international agreement is required on allocating responsibility to states for the emissions caused by international air and sea travel: country of origin, country of destination, country of registration.

However, the Taoiseach must, within 5 years, make provision by regulations as to the circumstances in which, and the extent to which,

emissions from international aviation or international shipping are to be regarded as emissions from sources in the State, or he must lay before both Houses of the Oireachtas a report explaining why regulations making such provision have not been made.

Part 3 of the Bill deals with the role of the EPA (“the Agency”). *Section 25* provides for advice in connection with carbon budgets and states that the Agency must advise the Taoiseach, in relation to each budgetary period, on:

- the level of the carbon budget for the period,
- the extent to which the carbon budget should be met by reducing the amount of net emissions of greenhouse gases or by the use of carbon units that may be credited to the net carbon account for the period, and
- the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of greenhouse gases.

As soon as is reasonably practicable after giving its advice, the Agency must publish that advice in such manner as it considers appropriate.

Section 26 provides for reports on progress from the Agency. It requires the Agency to lay annual reports before the Houses setting out its views on:

- the progress that has been made towards meeting the carbon budgets that have been set and the 2050 target,
- the further progress that is needed to meet those budgets and that target, and
- whether those budgets and that target are likely to be met.

The Agency’s report in the second year after the end of a budgetary period must also set out its general views on the way in which the budget for the period was or was not met and action taken during the period to reduce net emissions of greenhouse gases.

Section 27 provides for a response from the Taoiseach to the Agency’s report on progress.

Section 28 empowers the Agency, at the request of the Taoiseach, to provide advice, analysis, information or other assistance to the Taoiseach in connection with the Taoiseach’s functions under the Bill, the progress made towards meeting objectives, adaptation to climate change, the preparation of statistics relating to greenhouse gas emissions, or any other matter relating to climate change.

Section 29 provides that the Authority has all such powers as are necessary for or are incidental to the performance of those functions, and requires it to maintain liaison with the Oireachtas Joint Committee on Climate Change.

Part 4 of the Bill is headed “Impact of Climate Change”. *Section 30* requires the Taoiseach to lay reports before both Houses of the Oireachtas containing an assessment of the risks for the State of the current and predicted impact of climate change. The first report must

be laid within three years and subsequent reports must be at no more than five yearly intervals.

By *section 31*, the Agency must advise the Taoiseach on the preparation of each of the Taoiseach's reports under section 30. It must give its advice in relation to a report not later than six months before the last date for laying the report before both Houses of the Oireachtas. And, as soon as reasonably practicable after giving its advice, the Agency must publish that advice, in such manner as it considers appropriate.

Section 32 deals with programmes for adaptation to climate change. It provides that the Taoiseach must lay programmes before both Houses of the Oireachtas setting out the objectives of the Government in relation to adaptation to climate change, the Government's proposals and policies for meeting those objectives and the time-scales for introducing those proposals and policies, addressing the risks identified in the most recent report under section 30. The objectives, proposals and policies must be such as to contribute to sustainable development.

Each programme under this section must be laid before both Houses of the Oireachtas as soon as is reasonably practicable after the laying of the report under section 30 to which it relates.

Section 33 provides that each report of the Agency under section 31 must contain an assessment of the progress made towards implementing the objectives, proposals and policies set out in the programmes laid before both Houses of the Oireachtas under section 32.

Part 5 of the Bill deals with public bodies. *Section 34* provides that the Taoiseach may issue guidance to public bodies in relation to:

- assessing the current and predicted impact of climate change in relation to their functions,
- preparing proposals and policies for adapting to climate change in the exercise of their functions, and
- co-operating with other public bodies for that purpose.

Section 35 entitles the Taoiseach to require a report from a public body dealing with:

- an assessment of the current and predicted impact of climate change in relation to its functions;
- a statement of the body's proposals and policies for adapting to climate change in the exercise of its functions and the time-scales for introducing those proposals and policies;
- an assessment of the progress made by the body towards implementing the proposals and policies set out in its previous reports.

The Taoiseach may direct two or more public bodies to prepare a joint report, may give directions about the time within which a report shall be prepared and its content and may, in particular, require it to cover a particular geographical area.

By *section 36*, a public body must comply with any directions under section 35. Where two or more public bodies are directed to prepare

a joint report, they must take reasonable steps to co-operate with each other for that purpose. And, in preparing a report, a public body must have regard to the most recent report under *section 30* and the most recent programme under *section 32*.

The public body must send a copy of the report to the Taoiseach, who must cause a copy of that report to be laid before each House of the Oireachtas.

The *Schedule* to the Bill defines “public bodies” that fall under its remit.

*An Teachta Éamon Mac Giollamóir,
Feabhra, 2009.*