

General Scheme

Of a

Climate Action and Low Carbon Development Bill 2013

Climate Action and Low Carbon Development Bill 2013

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Head 1: Short Title

To provide that:

This Bill may be cited as the Climate Action and Low Carbon Development Bill 2013.

Explanatory Note

This Head gives the title of the Bill

Head 2: Interpretation

To provide that:

In this Bill –

“Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“adaptation” means any adjustment to —

- (a) any system designed or operated by human beings, including an economic, agricultural or technological system, or
- (b) any naturally occurring system, including an ecosystem, that is intended to counteract the effects (whether actual or anticipated) of climatic stimuli, prevent or moderate environmental damage resulting from climate change or confer environmental benefits;

“Convention” means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992;

“emissions” means, in relation to greenhouse gases, emissions of those gases into the earth’s atmosphere attributable to industrial, agricultural or other human activities in the State;

“Expert Advisory Body” has the meaning assigned to it by Head 6;

“greenhouse gas” means—

- (a) carbon dioxide,
- (b) methane,
- (c) nitrous oxide,
- (d) hydrofluorocarbons,
- (e) perfluorocarbons, or

(f) sulphur hexafluoride;

“Minister” means the Minister for the Environment, Community and Local Government;

“mitigation” means any human intervention aimed at reducing harmful influences on the earth’s climate system, including action aimed at reducing emissions and creating or enhancing sinks;

“national roadmap” shall be construed in accordance with subhead (1) of Head 5;

“net emissions” means, in relation to a period of time, the amount of emissions of greenhouse gases less the amount of removals of such gases during that period;

“periodic review” has the meaning assigned to it by Head 9;

“removal” means, in relation to greenhouse gases, removal of those gases from the earth’s atmosphere as a consequence of the creation or enhancement of sinks, or a change of land use, in the State;

“sectoral roadmap” shall be construed in accordance with subhead (7) of Head 5;

“sink” means—

- (a) a process or activity (including photosynthesis), whether natural or man made, that contributes to, or assists in, the removal of one or more greenhouse gases from the earth’s atmosphere, or
- (b) an ecosystem or a mechanism (whether natural or man made), or part thereof, that contributes to, or assists in, the removal of one or more of such gases from the earth’s atmosphere;

“sustainable development” means development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

Explanatory Note

This is a standard provision setting out definitions/interpretations used in the Bill. In the further development of this Head, work will be carried out to ensure that the definitions are consistent with relevant provisions of European and international instruments binding the State. For example, the definition of “greenhouse gas” may need to be amended to reflect the recent adoption by the Kyoto Protocol CMP of amendments to Annex A of the Protocol adding nitrogen trifluoride to the list of greenhouse gases for the purposes of the Protocol.

Head 3: Effect of the Bill

To provide that:

1. Nothing in this Bill, a national roadmap or a sectoral roadmap shall operate to affect—
 - (a) existing or future obligations of the State under the law of the European Union, including, in particular—
 - (i) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
 - (ii) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance and trading within the Community and amending Council Directive 96/61/EC, or
 - (iii) Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020, or
 - (b) existing or future obligations of the State under any international agreement,
 - (c) any Act of the Oireachtas or instrument made thereunder that gives effect, or further effect, to any such obligation, or
 - (d) existing or future entitlements of the State or any person under the said law, any such agreement or any such Act of the Oireachtas or instrument.

Explanatory Note

This Head clarifies the unequivocal commitment to existing and future obligations of the State under EU law and any international agreement to which the State is or may become a Party. Specifically, the Bill does not affect, or in any way exempt or relieve the State from its obligations under the

Strategic Environmental Assessment Directive, the Emissions Trading Scheme Directives, the 2009 Effort Sharing Decision setting out the obligations of EU Member States to reduce their greenhouse gas (GHG) emissions in the sectors of the economy not covered by the EU Emissions Trading Scheme (under this Decision, Ireland has a target to reduce non-ETS emissions by 20% by 2020, as compared to 2005), any international agreements or any associated domestic legislation. In the further development of this Head, consideration will be given to the question of whether the Habitats Directive (Directive 92/43/EEC) needs to be explicitly referenced.

Head 4: Low Carbon Future

To provide that:

1. The Government shall arrange for the adoption and implementation of plans, in accordance with the provisions of Head 5, to enable the State to pursue and achieve transition to a low carbon, climate resilient and environmentally sustainable economy in the period up to and including the year 2050.

2. In adopting and implementing plans for the purposes of subhead (1), Ministers shall, having regard to –
 - (a) the ultimate objective of the Convention and any mitigation commitment entered into by the European Union in response or otherwise in relation to that objective,

 - (b) any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply, and

 - (c) the national greenhouse gas emissions inventory and projection profile,aim to ensure the achievement of the transition objective set out in subhead (1) in the earliest, cost-effective manner, and no later than the end of the year 2050.

Explanatory Note

This Head places a responsibility on the Government to make arrangements, by way of plans (national and sectoral low-carbon roadmaps), aimed at achieving transition to a low-carbon, climate resilient and environmentally sustainable economy in a cost effective way and as soon as possible (and not later than 2050). In making these arrangements, the relevant Ministers are required to consider and have regard to -

- the ultimate objective of the UN Framework Convention on Climate Change (set out below);

- any related or otherwise relevant greenhouse gas mitigation commitment of the European Union;

- any relevant commitment of the State under EU law or any international agreement (this would include, for example, Ireland's target to achieve a 20% reduction in emissions in the non-ETS sectors of the economy by 2020, under the 2009 Effort-Sharing Decision, as well as any future commitments/targets entered into in an EU context), and
- the national GHG emissions inventory and projection profile produced each year by the EPA.

The ultimate objective of the Convention is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

Head 5: National Low Carbon Roadmap

To provide that:

1. The Minister shall -
 - (a) not later than 12 months after the passing of this Bill, and
 - (b) not less than once in every period of 7 years,make, and submit to the Government, a plan, which shall be known as a national low carbon roadmap (in this Act referred to as a “national roadmap”).

2. The national roadmap referred to in subhead (1) shall, inter alia,
 - (a) articulate a national vision for the transition to a low carbon, climate resilient and environmentally sustainable economy over the period to 2050,
 - (b) address any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply, and
 - (c) incorporate sectoral roadmaps as approved by the Government under subhead 9(a) or (b).

3. The Minister may, after the submission to the Government of a report under Head 9 consequent upon a periodic review, make, and submit to the Government, a national roadmap revising or replacing an existing national roadmap.

4. A national roadmap shall specify the policy measures that, in the opinion of the Government, would be required in order to—

- (a) achieve the management of net greenhouse gas emissions at a level commensurate with the national transition objective set out in Head 4(1),
- (b) ensure, as a minimum, compliance with any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply, and
- (c) enable the State to adapt to the effects of climate change.

5. The Government may—

- (a) approve, or
- (b) approve, subject to such modifications as they consider appropriate, a national roadmap submitted to them under this Head.

6. The Government may vary or revise a national roadmap approved by them under this Head.

7. The Government shall request such Ministers of the Government as they consider appropriate to make, and submit to the Government, plans, in this Act referred to as “sectoral roadmaps”, specifying the measures that they propose to adopt for the purpose of—

- (a) achieving sectoral emissions reduction, or
- (b) enabling the sectors concerned to adapt to the effects of climate change.

8. (a) Where the Government make a request under subhead (7), the Minister to whom the request is made shall, not later than the expiration of such period as the Government specify, make and submit to the Government a sectoral roadmap.
- (b) In the preparation of a sectoral roadmap, the Minister concerned shall take account of the matters referred to in subhead (10).

9. The Government may—

- (a) approve,
- (b) approve, subject to such modifications as they consider appropriate,
or
- (c) refuse to approve

a sectoral roadmap submitted to them under this Head.

10. The Minister and the Government shall take account of the following matters when performing functions under this Head:

- (a) the need to take a long-term view having regard to—
 - (i) any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply;
 - (ii) likely future mitigation commitments of the State, and
 - (iii) the requirement to be able to act quickly in response to economic occurrences and circumstances;
- (b) the need to promote sustainable development;
- (c) the likely economic impact of a national roadmap or sectoral roadmap, as the case may be;

- (d) the need to secure and safeguard the economic development and competitiveness of the State;
- (e) the need to take advantage of economic opportunities both within and outside the State;
- (f) that the objectives of a national roadmap are achieved at the least cost to the national economy and that any measures adopted to achieve those objectives are cost effective;
- (g) the need to maximise economic efficiency at a national level and within particular sectors of the economy;
- (h) that a policy should be based on such scientific evidence as would tend to indicate that its implementation will result in the achievement of its purpose;
- (i) the findings of any research that supports the development of suitable and effective mitigation and adaptation measures;
- (j) any sectoral roadmaps approved by the Government; and
- (k) any recommendations or advice of the Expert Advisory Body.

11. A national roadmap shall be laid before Dáil Éireann as soon as may be after it is approved by the Government.

12. The Minister may, for the purposes of subhead (1) or (3), make two separate roadmaps—

- (a) one of which shall specify the policy measures to which paragraphs (a) and (b) of subhead (4) apply, and may be referred to as a greenhouse gas national mitigation plan, and

- (b) one of which shall specify the policy measures to which paragraph (c) of subhead (4) applies, and may be referred to as a national climate change adaptation framework,

and references in this Bill to a national roadmap shall be construed as including a reference to a plan or framework referred to in paragraph (a) or (b).

13. Where, for the purposes of subhead (7), the Government requests a Minister to make a sectoral roadmap under paragraph (a) and (b) of that subhead, the Minister concerned may make two separate sectoral roadmaps—

- (a) one of which shall specify the policy measures to which paragraph (a) of subhead (7) applies, and may be referred to as a sectoral greenhouse gas national mitigation plan, and

- (b) one of which shall specify the policy measures to which paragraph (b) of subhead (7) applies, and may be referred to as a sectoral climate change adaptation plan,

and references in this Bill to a sectoral roadmap shall be construed as including a reference to a plan referred to in paragraph (a) or (b).

14. (a) The Government may consult with the Expert Advisory Body for the purpose of the performance by them of their functions under this Head.
- (b) The Minister may consult with the Expert Advisory Body for the purpose of the performance by him or her of his or her functions under this Head.
- (c) A Minister of the Government may consult with the Expert Advisory Body for the purpose of the making by him or her of a sectoral roadmap.

15. The Minister shall, before making a national roadmap—

- (a) publish, following consultation with the relevant Ministers, in such manner as he or she considers appropriate, a draft of the national roadmap that he or she proposes to make,
- (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed national roadmap within such period (not exceeding 2 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).

16. A Minister of the Government shall, before making a sectoral roadmap—

- (a) publish, following consultation with the relevant Ministers in such manner as he or she considers appropriate, a draft of the sectoral roadmap that he or she proposes to make,
- (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed sectoral roadmap within such period (not exceeding 2 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).

17 Neither a national roadmap nor a sectoral roadmap shall be implemented unless it has been approved by the Government in accordance with this Head.

18. A Minister of the Government shall, in the performance of his or her functions, have regard to a national roadmap approved by the Government under this Head.

Explanatory note:

This Head requires the Minister for the Environment, Community and Local Government to make, and submit to Government, a National Low Carbon Roadmap, incorporating sectoral roadmaps prepared by the relevant Ministers and approved by Government. The National Low Carbon Roadmap will:

- contain a national vision for the transition to a low-carbon, climate resilient and environmentally sustainable economy, and
- address, and specify policy measures required to ensure compliance with, any relevant, climate related, existing obligation of the State under EU law or any international agreement (this would include, for example, Ireland's target to achieve a 20% reduction in emissions in the non-ETS sectors of the economy by 2020, under the 2009 Effort-Sharing Decision).

When preparing both the National Low Carbon Roadmap and the sectoral roadmaps, the relevant Ministers are required to take a long term view having regard to any relevant, climate related, existing obligation of the State under EU law or any international agreement and any likely future mitigation commitments.

Provision is made for the Government and the Minister to consult with the Expert Advisory Body on matters relating to the performance of their functions under this Head. Provision is also made for Ministers of Government to consult with the Expert Advisory Body on matters relating to the making of sectoral roadmaps.

It is intended that individual sectoral roadmaps will operate in their own right as well as being incorporated into a national roadmap.

In the further development of this Head, consideration needs to be given as to whether the SEA Directive (Directive 2001/42/EC) needs to be referenced in subhead 10

Head 6: National Expert Advisory Body on Climate Change

To provide that:

1. There shall stand established, from a date to be prescribed by the Minister, a body, which shall be known as the National Expert Advisory Body on Climate Change (in this Act referred to as the “Expert Advisory Body”) to perform the functions assigned to it under this Act.
2. The Expert Advisory Body shall consist of—
 - (a) a chairperson, and
 - (b) not fewer than 5 and not more than 7 ordinary members (including ordinary members to whom subhead (3) applies).
3. Each of the following shall, *ex officio*, be ordinary members of the Expert Advisory Body:
 - (a) the Director General of the Agency;
 - (b) the Chief Executive Officer of the Sustainable Energy Authority of Ireland;
 - (c) the Director of Teagasc; and
 - (d) the Director of the Economic and Social Research Institute.
4. The appointment of the chairperson and ordinary members (other than an ordinary member to whom subhead (3) applies) of the Expert Advisory Body shall be subject to approval by the Government, on the nomination of the Minister, and appointments shall be made by order made by the Minister.

5. (a) The chairperson of the Expert Advisory Body shall hold office for such period (not exceeding 5 years) from the date of his or her appointment as shall be specified by the Minister in the order making the appointment.

(b) An ordinary member (other than an ordinary member to whom subhead (3) applies) of the Expert Advisory Body shall hold office for such period (not exceeding 5 years) from the date of his or her appointment as shall be specified by the Minister in the order making the appointment.
6. A member (other than an ordinary member to whom subhead (3) applies) of the Expert Advisory Body whose term of office expires by the efflux of time shall be eligible for reappointment to the Expert Advisory Body.
7. A member of the Expert Advisory Body shall hold office upon such terms and conditions as may be determined by the Minister, with the consent of the Minister for Public Expenditure and Reform.
8. A member of the Expert Advisory Body may resign from office by giving notice in writing to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.
9. The Government may, at any time, remove the chairperson of the Expert Advisory Body from office if, in the opinion of the Government, the chairperson has become incapable through ill health of effectively performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Government to be necessary for the effective performance by the by the Expert Advisory Body of its functions.

10. The Minister may, at any time, remove an ordinary member (other than an ordinary member to whom subhead (3) applies) of the Expert Advisory Body from office if, in the opinion of the Government, the ordinary member has become incapable through ill-health of effectively performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Government to be necessary for the effective performance by the Expert Advisory Body of its functions.
11. The Expert Advisory Body may act notwithstanding one or more than one vacancy among its members.
12. In appointing ordinary members (other than ordinary members to whom subhead (3) applies) of the Expert Advisory Body, the Minister shall have regard to the range of qualifications, expertise and experience necessary for the proper and effective performance of the functions of the Expert Advisory Body.
13. The Expert Advisory Body may establish committees consisting, in whole or in part, of persons who are members of the Expert Advisory Body to—
 - (a) assist and advise it in relation to the performance of any or all of its functions, and
 - (b) perform such functions of the Expert Advisory Body as it may, with the consent of the Minister, delegate to the committee.
14. The chairperson of a committee established under subhead (13) shall be a member (other than an ordinary member to whom subhead (3) applies) of the Expert Advisory Body.

15. The Agency shall—

- (a) provide the Expert Advisory Body with such services of a secretarial, administrative and research nature as the Agency considers necessary, and
- (b) permit the Expert Advisory Body to avail of the use of its premises, or such part of its premises as the Agency considers appropriate, for the purposes of the performance by the Expert Advisory Body of its functions.

Explanatory note:

This Head provides for the establishment of a National Expert Advisory Body on Climate Change that will have a range of duties provided for in Head 7. It is to be a high level body comprising of members with a broad range of expertise and is specifically not a stakeholder/representative body.

The Body will be located on the EPA premises, which will also provide administrative support.

Head 7: General functions of the Expert Advisory Body

To provide that:

1. The functions of the Expert Advisory Body shall be to advise and make recommendations to—
 - (a) the Minister in relation to –
 - (i) the preparation of a national roadmap, or
 - (ii) compliance with any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply,
 - (b) a Minister of the Government in relation to the making by him or her of a sectoral roadmap,
 - (c) the Government in relation to the approval of a national roadmap, or
 - (d) the Government or any Minister of Government in respect of any policy or proposed policy of the Government relating to—
 - (i) the reduction of greenhouse gas emissions, or
 - (ii) adaptation to the effects of climate change in the State.
2. For the purposes of the performance of its functions, the Expert Advisory Body may, having regard to any advice given to it by the Director General of the Agency—
 - (a) gather such information, or request the Agency to gather such information, as the Expert Advisory Body considers necessary or appropriate,

- (b) request the Agency to conduct such research as the Expert Advisory Body considers necessary or appropriate, or to arrange for such research to be conducted, and
- (c) meet and consult with such persons (including members of the public) as it considers appropriate.

Explanatory Note:

This Head sets out the general functions of the Expert Advisory Body. It is envisaged that it will play a key role in Ireland's mitigation and adaptation efforts and the transition to a low-carbon, climate resilient and environmentally sustainable economy. This Head sets out the specific functions of the Body and is designed to give as much flexibility and right of initiation as possible to the Body while maintaining the clear role of the Government and the Minister in public policymaking. The aim is to ensure that the very highest quality of advice, based on the most up to date science and taking account of all other relevant factors, is available to the Government and individual Ministers to enable robust, responsive, evidence based policymaking. It is an explicit function of the Expert Advisory Body to advise and make recommendations to the Minister in relation to compliance with any relevant, climate related, existing obligation of the State under EU law or any international agreement.

Head 8: Annual report of the Expert Advisory Body

To provide that:

1. The Expert Advisory Body shall, not later than 30 June each year, prepare, and submit to the Government, a report (in this Head referred to as an “annual report”) on progress made in achieving emissions reductions and furthering transition to a low carbon, climate resilient and environmentally sustainable economy.
2. The annual report shall contain—
 - (a) a summary of the findings and recommendations (if any) set out in the most recent national inventory prepared by the Agency and communicated, in accordance with Article 12 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, to the Parties of the Conference established under Article 7 of that Convention,
 - (b) a projection of future emissions,
 - (c) recommendations as to the most cost effective ways of achieving emissions reductions for the purposes of the national transition objective set out in subhead (1) of Head 4,
 - (d) a review and such recommendations, if any, as the Expert Advisory Body considers necessary or appropriate in relation to compliance with any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply,
 - (e) such other recommendations or advice as the Expert Advisory Body considers necessary or appropriate for the purposes of achieving that objective, and

- (f) a summary of—
 - (i) the activities of the Expert Advisory Body under subhead (2) of Head 7,
 - (ii) the activities of the Agency pursuant to a request under that subhead,
 - (iii) any information gathered in accordance with that subhead, and
 - (iv) the findings made as a consequence of any research conducted in accordance with that subhead.

3. The Expert Advisory Body shall, subject to the consent of the Government, publish an annual report prepared under subhead (1) in such manner as the Government determines.

Explanatory Note:

The Head requires the Expert Advisory Body to prepare and submit an annual report to Government by the end of June each year. The annual report should comprise a summary of the findings and recommendations set out in the national inventory of greenhouse gas emissions prepared by the EPA and a set of projections which set out the distance to relevant targets. The report will, *inter alia*, make recommendations in relation to the most cost-effective way of achieving the overall objective set out in Head 4(1) and contain a review, and any appropriate recommendations that the Expert Advisory Body consider necessary, in relation to compliance with any relevant, climate related, existing obligation of the State under EU law and any international agreements.

Head 9: Periodic Reviews by Expert Advisory Body

To provide that:

1. The Expert Advisory Body shall, not later than 18 months after it is established, conduct a review (in this Act referred to as a “periodic review”) of—
 - (a) progress made in furthering transition to a low carbon, climate resilient and environmentally sustainable economy, and
 - (b) the most recent national roadmap and its implementation.

2. The Expert Advisory Body may, at any time that it considers appropriate having regard to—
 - (a) any significant developments relating to scientific knowledge in relation to climate change,
 - (b) any significant developments in the law of the European Union or international law relating to the control and reduction of emissions, or
 - (c) the need to maintain progress in achieving the purposes of this Act,conduct a review (in this Act also referred to as a “periodic review”) of progress made in furthering transition to a low carbon, climate resilient and environmentally sustainable economy, and the most recent national roadmap and its implementation.

3. The Minister may request the Expert Advisory Body to conduct a periodic review in accordance with subhead (2).

4. The Expert Advisory Body shall, not later than 30 days after receiving a request under subhead (3), either—
 - (a) initiate a periodic review, or
 - (b) where it is of the opinion that a periodic review is not necessary having regard to paragraphs (a) and (b) of subhead (2), notify the Minister of its opinion and the reasons therefor.

5. The Expert Advisory Body shall, not later than 30 days after the completion of a periodic review, prepare and submit to the Government a report of its findings and recommendations consequent upon that review.

6. A report under subhead (5) shall include—
 - (a) where the report is prepared consequent upon a periodic review (other than a periodic review to which subhead (1) applies), a statement of the reason for the periodic review,
 - (b) a consideration of the national transition objective set out in subhead (1) of Head 4 and any matters relating thereto that the Expert Advisory Body considers appropriate,
 - (c) a consideration of compliance with any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply, and any matters relating thereto that the Expert Advisory Body considers appropriate,
 - (d) such advice or recommendations in relation to the national roadmap or any sectoral roadmap as the Expert Advisory Body considers appropriate, and
 - (e) such advice or recommendations in relation to compliance with any existing obligation of the State under the law of the European Union or

any international agreement, to which the provisions of Head 3 apply,
and

- (f) such other advice or recommendations as the Expert Advisory Body considers necessary or appropriate for the purpose of the development and implementation of national policy regarding climate change, including in relation to potential future obligations of the State under the law of the European Union or any international agreement as envisaged respectively in the provisions of Head 3(1)(a) and (b).

7. The Expert Advisory Body shall, subject to the consent of the Government, publish a report under subhead (5) in such manner as the Government determines.

Explanatory note:

This Head makes provision for the Expert Advisory Body to undertake periodic reviews to ensure that climate policy in Ireland remains up to date with the latest scientific, technological and policy developments nationally and internationally, and that progress is maintained on the implementation of the National Low Carbon Roadmap. The Expert Advisory Body may initiate a periodic review at any time where it is of the opinion that scientific or technological advances, or European or international policy developments warrant a review, or the Minister may request that a periodic review be carried out. A report arising from a periodic review must contain a consideration of, and where appropriate, advice or recommendations on, compliance with any relevant, climate related, existing obligation of the State under EU law or any international agreement. A report can also include advice or recommendations, if the Expert Advisory Body consider it necessary, in relation to the potential future obligations of the State under any relevant EU law or any international agreement.

Head 10: Annual Transition Reporting to Dáil Éireann

To provide that:

1. The Minister, and each Minister of the Government responsible for a sectoral low carbon roadmap approved under subhead (9)(a) or (b) of Head 5, shall, at least once a year following approval by the Government, report to Dáil Éireann in accordance with this Head (in a process which in this Act is referred to as an “Annual Transition Report”).

2. The annual transition report shall comprise –
 - (a) a statement by the Minister which shall, as a minimum, include:
 - (i) an overview of the policy measures adopted to achieve emission reductions aimed at further transition to a low carbon, climate resilient and environmentally sustainable economy, in accordance with the national transition objective set out in subhead (1) of Head 4,
 - (ii) an overview of the policy measures adopted to enable the State to adapt to the effects of climate change, in accordance with the national transition objective set out in subhead (1) of Head 4,
 - (iii) a record of emissions in respect of the latest year for which an emissions inventory is available,
 - (iv) a projection of future emissions, and
 - (v) a report on compliance with any existing obligation of the State under the law of the European Union or any international agreement, to which the provisions of Head 3 apply.

- (b) a statement by each Minister of the Government responsible for a sectoral roadmap approved under subhead 9(a) or (b) of Head 5 which shall, as appropriate –
- (i) record the sectoral measures adopted to achieve emission reductions,
 - (ii) containing an assessment on the effectiveness of the measures referred to in sub-paragraph (i) in the achievement of their purpose,
 - (iii) recording the policy measures adopted to enable the sector to adapt to the effects of climate change,
 - (iv) containing an assessment on the effectiveness of the measures referred to in sub-paragraph (iii) in achieving their purpose.
3. Where an assessment referred to in subhead (2) concludes that the measures concerned have not been effective or sufficiently effective in the achievement of their purpose, the statement by the Minister concerned shall set out the additional measures that, in the opinion of the Government, are required to achieve that purpose.
4. In identifying additional measures for the purposes of subhead (3), the Minister of the Government concerned shall have regard to –
- (a) any relevant advice or recommendations of the Expert Advisory Body,
and
 - (b) the views of any other Ministers of the Government with responsibilities under subhead (1).
5. Where, in identifying additional measures for the purposes of subhead (3), a Minister of the Government does not propose to follow relevant advice or

recommendations provided by the Expert Advisory Body, the reasons for not doing so shall be included in his or her statement in accordance with subhead 2(b).

Explanatory Note:

This Head provides for an annual transition reporting mechanism. It provides that once a year the Minister for the Environment, Community and Local Government and each Minister with responsibility for preparing a Sectoral Low Carbon Roadmap will report to Dáil Éireann on progress made in the transition to a low-carbon, climate resilient and environmentally sustainable economy. It specifically provides that the Minister for the Environment, Community and Local Government must report on compliance with any relevant, climate related, existing obligation of the State under EU law or any international agreement.

Where progress on measures for this transition has not been sufficiently effective or needs to be stepped up, each responsible Minister must outline additional measures that, in his or her opinion are required to make the necessary progress.

If it is the case that the relevant Minister does not intend to follow advice or recommendations provided by the Expert Advisory Body, the reasons for that decision must be provided as part of his or her statement in the Annual Transition Reporting Process.

Head 11: Duties of Public Bodies

To provide that:

1. A public body shall, in the performance of its functions, have regard to –
 - (a) the most recent national roadmap approved by the Government,
 - (b) any sectoral roadmap that has a bearing on its performance,
 - (c) the objective of furthering transition to a low carbon, climate resilient, and environmentally sustainable economy, and
 - (d) the objective of mitigating emissions and adapting to the effects of climate change in the State.

2. The relevant Minister may, from time to time, give a direction to a public body requiring it to prepare, and submit to him or her, within such period as may be specified in the direction, a report specifying -
 - (a) the measures that the public body has adopted for the purposes of compliance by the public body with subhead (1), and
 - (b) the progress made by the public body in the performance of its functions in the manner referred to in that subhead.

3. The relevant Minister may, from time to time, give a direction to a public body requiring it to adopt such measures as are specified in the direction for the purposes of compliance by the public body with subhead (1).

4. A public body shall comply with a direction under this Head.

5. In this Head -

“Act of 1997” means the Freedom of Information Act 1997;

“public body has the same meaning as it has in the Act of 1997:

“relevant minister” means, in relation to a public body

- (a) In the case of a Department of State, the Minister of the Government having charge of that Department of State,
- (b) In the case of a public body to which subparagraph (2) of paragraph 1 of the First Schedule to the Act of 1997 applies, such Minister of the Government as the Government may designate in relation to that public body,
- (c) In the case of a public body to which subparagraph (3) of that paragraph applies, the Minister,
- (d) In the case of a public body to which subparagraph (4) of that paragraph applies, the Minister for Health,
- (e) In the case of a public body to which subparagraph (5) of that paragraph applies
 - (i) the Minister of the Government whose consent to the prescribing of that public body was required under that subparagraph, or
 - (ii) where no such consent was required, such Minister of the Government as the Government may designate in relation to that public body.

Explanatory Note:

This Head makes provision to ensure that public bodies consider fully, and integrate, the objectives set out in the National Low Carbon Roadmap in their strategic planning and day to day decision making, and take the necessary steps in respect of mitigation and adaptation in their areas of responsibility.

It also provides that a relevant Minister may at any time require a public body to produce a report setting out the policy measures implemented to meet the objectives set out in the National Low Carbon Roadmap and the progress on these measures. A relevant Minister may also direct a public body to adopt measures to ensure compliance with the National Low Carbon Roadmap.

This Head also defines a public body for the purposes of this Bill. The definition refers to the list specified under Freedom of Information legislation.

Head 12: Power to make regulations

To provide that:

1. The Minister may in addition to any specific power conferred on him or her to make regulations, make regulations generally for the purposes of implementing the national transition objective set out in subhead (1) of Head 4.

2. Before making regulations under subhead (1)(b), the Minister shall -
 - (a) obtain and take into account the advice of the National Climate Change Expert Advisory Body;
 - (b) consult, and take into account, the views, if any, of other Ministers concerned, providing them with a copy of the advice received from the Expert Advisory Body.

3. Where it is proposed to make regulations under subhead (1)(b), a draft of the Regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House, or noted by each such House having been passed by a Joint Committee of their members.

Explanatory Note

This Head makes provision for the Minister for the Environment, Community and Local Government to make regulations in order to achieve the objective of the Bill as set out in Head 4. This Head will need to be developed further to ensure that the required principles to guide the Minister in making regulations are clearly set out. It is expected that legal advice will be required in due course on the appropriate framing of the Minister's regulation-making powers

It is proposed to consider, in the further development of this Head and in consultation with any relevant Ministers, the inclusion of powers for the Minister for the Environment, Community and Local Government to make regulations relating to critical infrastructure and for the Minister for Jobs, Enterprise and Innovation to make regulations requiring companies to report on their emissions.