



Rialtas na hÉireann
Government of Ireland

Climate Action and Low Carbon Development (Amendment) Bill 2021

Public Consultation on Climate Action Plan 2021

FAQ

Prepared by the Department of
the Environment, Climate & Communications
[gov.ie](https://www.gov.ie)

Overview

What will the Climate Action (Amendment) Bill do?

- The Bill will amend the Climate Action and Low Carbon Development Act 2015 to significantly strengthen the framework for governance of climate action by the State in order to realise our national, EU and international climate goals and obligations.
- Key highlights of the Bill include:
 - Placing on a statutory basis a commitment to achieve a climate neutral economy no later than 2050, to be known as the 'national climate objective';
 - introducing a legal requirement for Government to adopt a series of economy-wide 5-year carbon budgets, on a rolling 15-year basis;
 - introducing a requirement for Government to adopt sectoral emission ceilings for each relevant sector within the limits of each carbon budget;
 - strengthening the role of the Climate Change Advisory Council, tasking it with proposing carbon budgets to the Minister;
 - expanding the Climate Change Advisory Council from eleven to fourteen members, and providing that future appointments to the Council provide for a greater range of relevant expertise;
 - providing that the first two carbon budgets proposed by the Climate Change Advisory Council should equate to a total reduction of 51% emissions over the period to 2030, in line with the Programme for Government commitment;
 - providing an enhanced role for the Oireachtas in approving carbon budgets, and ensuring accountability from Ministers for their performance towards sectoral targets and actions before an Oireachtas Committee each year;
 - introducing a requirement to annually revise the Climate Action Plan and prepare, at least once every five years, a National Long Term Climate Action Strategy; and
 - providing that the Minister request, within 18 months of the enactment of the Bill, each local authority to prepare a Climate Action Plan to include both mitigation and adaptation measures, and that these plans must be updated not less than once every five years.

What has informed the changes being introduced by the Bill?

- The Bill has been informed by, and strongly reflects the recommendations as set out in the **'Report of the Citizens'** Assembly on **'How the State Can Make Ireland a Leader in Tackling Climate Change'** and the Oireachtas Joint Committee on Climate Action Report 2019; the provisions set out in the 2019 Climate Action Plan; the Programme for Government – Our Shared Future and the Joint Committee on Climate Action's Report on the Pre-Legislative Scrutiny of the Climate Action and Low Carbon Development (Amendment) Bill published on 18 December 2020.

What are the key changes from the draft text of the Bill published in October 2020?

- Following publication of the draft text of the Bill on 7 October, an intensive two month pre-legislative scrutiny was undertaken by the Joint Oireachtas Committee on Climate Action.
- Reflecting the strong consensus for increased ambition and enhanced climate action, the majority of the 78 recommendations proposed by the Joint Committee have been incorporated into the final text, significantly strengthening the overall Bill.

The government is committed to pursue and achieve climate neutrality no later than 2050.

- Language has been amended to ensure obligations are clearly stated, and the relationship between the various mechanisms is also more explicit.
- In line with the Programme for Government commitment, the Bill provides that the carbon budgets should provide a 51% reduction in greenhouse gas emissions by 2030.
- Carbon budgets and all plans must be consistent with the Paris Agreement and other international agreements.
- The Bill provides, that if a carbon budget emission ceiling is exceeded, all exceeded emissions will be carried forward to the next budget period, which will be reduced accordingly.
- Key principles such as just transition, climate justice and protection and restoration of biodiversity are matters that the Minister and Government will have regard to when preparing the Sectoral Emission Ceilings, the Climate Action Plan, the National Long Term Climate Action Strategy, the National Adaptation Framework, and Sectoral Adaptation Plans.

- Public participation provisions are strengthened, with the Bill providing that for each of the relevant plans, strategies, and carbon budgets, the Minister will consult with the public.

Statutory Obligations

What is the ‘national climate objective’?

- The ‘national climate objective’ is Ireland’s long-term emissions reduction target. The objective is that Ireland commits to pursue and achieve a transition to a ‘climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy’ by no later than the end of the year 2050.
- A ‘climate neutral economy’ is defined as a ‘sustainable economy and society where greenhouse gas emissions are balanced or exceeded by the removal of greenhouse gases. The ‘climate neutral’ objective is consistent with EU climate ambition and international obligations under the Paris Agreement to pursue a net zero target for all greenhouse gases.

How will the ‘national climate objective’ be achieved over the next 30 years?

- The Bill identifies the specific mechanisms, plans and strategies that will be used by Government to achieve the national climate objective. These are:
 - a series of carbon budgets and the associated sectoral emission ceilings;
 - annual revisions to the Climate Action Plan;
 - National Long Term Climate Action Strategy; and
 - National Adaptation Framework.
- The Bill also provides for a set of principles which the Minister and Government will take into account when preparing, approving or adopting any of the statutory plans, strategies and sectoral emission ceilings referred to. This will ensure the transformation to decarbonise our economy is a fair and just transition leaving no one behind.
- The carbon budgets will be prepared and updated every five years, and relevant sectors will also be assigned sectoral targets. The annually updated Climate Action Plan will ensure actions are targeted at each sectoral level to achieve the carbon

budgets, but also provides for more regular review and updating to ensure we stay on course, with corrective actions introduced if necessary.

- There will be annual reporting and accountability to the Oireachtas by all relevant Ministers, providing intense and regular oversight across all sectors.

What are the new policy instruments in the Bill?

- The new policy instruments in the Bill include a series of successive carbon budgets; annual revisions to the Climate Action Plan; and a National Long Term Climate Action Strategy. The Bill establishes a clear relationship, and requires consistency, between these policy instruments and the national climate objective. Local authorities will also be required to produce individual Climate Action Plans.
- The requirement for a series of National Adaptation Frameworks and related Sectoral Adaptation Plans are pre-existing policy instruments set out in Sections 5 and 6 of the 2015 Act.

What is the purpose of an annual update of the Climate Action Plan?

- The former National Mitigation Plan process will be replaced through the preparation of an annually updated Climate Action Plan commencing in 2021. Annual revisions to the Climate Action Plan will focus on the near and medium term perspectives; be consistent with the adopted carbon budget programme; and provide a roadmap of actions, including sectoral actions, that are needed to comply with the carbon budgets and sectoral emission ceilings.

What is the purpose of the National Long Term Climate Action Strategy?

- In addition to the annually revised Climate Action Plan, a National Long Term Climate Action Strategy will be prepared every five years.
- The National Long Term Climate Action Strategy will outline, over a minimum 30 year period, the range of opportunities and transition pathways towards the national climate objective. This strategy also meets an EU requirement to produce a long term strategy every 10 years. The strategy will be prepared at least once every five years.

What is the purpose of the National Adaptation Framework?

- The National Adaptation Framework is an existing provision under Section 5 of the 2015 Act and must be prepared once every five years. The Framework specifies the national strategy for the application of adaptation measures in different sectors to reduce the vulnerability of the State to the negative effects of climate change. The first Framework was published in January 2018 and a second National Adaptation Framework will be due for publication in early 2023.

What is the purpose of Sectoral Adaptation Plans?

- The preparation of sectoral adaptation plans is an existing provision under Section 6 of the 2015 Act. Sectoral adaptation plans specify the adaptation policy measures proposed for a relevant sector, having regard to the approved National Adaptation Framework.

What new requirements are imposed on local authorities?

- Within 18 months of enactment of the Bill, the Minister must request local authorities to prepare, within 12 months, individual Climate Action Plans to include both mitigation and adaptation measures. These plans must be updated every five years. The local authority Climate Action Plans will be prepared in so far as practicable to be consistent with the national Climate Action Plan and National Adaptation Framework, and have regard to other relevant climate policies. The Minister may issue guidelines to support the preparation of the plans. Local authorities will be required to consult with the Public Participation Networks and also liaise with neighbouring authorities.
- The Planning and Development Act 2000, which requires development plans to include objectives in respect of climate action, will also be amended to provide the approved local authority Climate Action Plan is taken account of in the preparation of any future development plan. This will ensure appropriate alignment between the local authority Climate Action Plans and their development plans.

What is required of other public bodies?

- Public bodies will have a general obligation, under Section 15 of the Bill, to perform their functions, in so far as practicable, in a manner consistent with the requirements of the various plans and strategies under the legislation, and furthering the achievement of the national climate objective.

Carbon Budgets and Sectoral Emissions Ceilings

What is a carbon budget?

- The Bill establishes a system of carbon budgeting with three 5-year economy-wide budgets included in each carbon budget programme. Each carbon budget represents the total amount of greenhouse gases that may be emitted in the State during each 5 year period, measured in tonnes of carbon dioxide equivalent. The carbon budgets will be consistent with furthering the achievement of the national climate objective and include all greenhouse gases. The first carbon budget programme will comprise carbon budgets for the following periods: 2021-2025; 2026-2030 and 2031-2035.

What is a sectoral emissions ceiling?

- A sectoral emissions ceiling is the maximum amount of greenhouse gas emissions that are permitted in a sector of the economy during each 5 year carbon budget. The Minister for the Environment, Climate and Communications, in consultation with other relevant Ministers, will develop a sectoral emissions ceiling for each relevant sector within each 5-year budget, once the overall carbon budget has been adopted.

How will carbon budgets be agreed?

- The Climate Change Advisory Council will propose a programme of three successive 5-year carbon budgets to the Minister for the Environment, Climate and Communications. The Minister will, within four months, consider the budgets proposed, consult with other relevant Ministers and with the public, amend the proposed carbon budget if appropriate, and present the budgets to the Government. Once approved by Government, the Minister will propose a motion in both Houses of the Oireachtas for approval of the carbon budget. The carbon budget shall have effect on and from the date on which a motion approving the carbon budget has been passed by both Houses.

- After the carbon budget has been approved, the Minister will prepare sectoral emissions ceilings for each relevant sector in consultation with other Ministers. These sectoral emissions ceilings must also be approved by the Government.

What happens if the Houses reject the Carbon Budgets?

- If either House of the Oireachtas rejects a carbon budget, the Minister will have two further months to consult with other Ministers, the Advisory Council, and with approval of Government lay before the Houses the final carbon budgets. The Minister will also set out, if required, the reasons the Government has not followed any representations of the Houses.

What sectors will have sectoral emissions ceilings?

- The sectors of the economy to which each sectoral emissions ceiling will apply will be determined by the Government. It will build on the approach established in the preparation of the 2019 Climate Action Plan and align with international best practice on accounting and reporting of greenhouse gas emissions and removals.

When will carbon budgets and sectoral emissions ceilings be adopted?

- The Bill defines the process for carbon budgeting, from which sectoral emissions ceilings for each sector will be determined. The first three 5-year carbon budgets and sectoral emissions ceilings will be adopted during the course of 2021. From the adopted carbon budgets, the sectoral emissions ceilings, and the policies and measures to achieve these targets, will be developed and set out in the 2021 Climate Action Plan.
- The process will also build on the approach established for the 2019 Climate Action Plan, whereby actions and measures will be developed for each sector on the basis of technical and scientific analysis, but also now taking account of the detailed set of principles set out in the Bill in order to determine what the appropriate range of contribution is for each sector, in terms of offering the least burdens and the greatest opportunities in the pathway to decarbonise and achieve the carbon budget for the given period.

How will different greenhouse gases be treated? Is there a separate target for biogenic methane?

- Management of different greenhouse gases will be considered by the Climate Change Advisory Council in proposing carbon budgets.
- The Bill provides, when proposing carbon budgets, the Climate Change Advisory Council will take account of: relevant scientific advice, including the special characteristic of biogenic methane; the most recent national greenhouse gas inventory and projection reports; international best practice on the reporting of greenhouse gas emissions and removals; in so far as practicable, the need to maximise employment, the attractiveness of the State for investment and the long term competitiveness of the economy; and also have regard to the principle of climate justice.

Why were amendments made to the Bill providing for Government regulations on Carbon Budgets and the treatment of removals?

The Climate Bill, as approved by Government and published on 23 March 2021, already provided that carbon removals will be taken into account as part of our transition to achieve a climate neutral economy.

Following further consultation with the Office of the Attorney General, it was considered prudent to clarify further the intent of the Bill with regard to the use of removals, and more specifically, the process of how they will be determined and used in complying with carbon budgets and sectoral emission ceilings. It was decided to amend the Bill to give the Government the power to make detailed Statutory Instruments on these matters.

The following amendments were made to the Bill to provide for this:

- A new Section 6A(5A) provides the Government will, by way of regulations, set out the greenhouse gas emissions to be taken account, and the manner of calculating and accounting for such emissions, having regard to the EU accounting rules on emission and removals of greenhouse gases. For example as emissions and removals under some sectors, such as provided for land-use, land-use change and forestry (LULUCF) are less stable and reversible, it may be appropriate to treat them in a different manner, as currently provided in the EU climate policy framework. These regulations will inform

the Climate Change Advisory Council when proposing carbon budgets to the Government.

- A new Section 6A(10) provides that the allocation of emissions to different sectors under the overall carbon budget may include allocation of removals, and will be determined by Government when approving the carbon budget. This clarifies that Government will determine which Ministers may use removals for compliance with carbon budgets and sectoral emission ceilings, and to what extent. This will be informed by way of regulations provided in new Section 6A(11).
- A new Section 6A(11) provides the Government will, by way of regulations, set out the removals mechanism that can be used by each sector for compliance with the carbon budget and sectoral emission ceiling. Again, in developing the regulations it will be important to have regard to the EU approach.

Compliance and Accountability

Who will monitor compliance with carbon budgets and actions?

- The Environmental Protection Agency annual greenhouse gas inventory and projection reports and the Climate Change Advisory Council annual report will inform monitoring of compliance with national and sectoral progress towards each carbon budget and sectoral emissions ceiling.
- Each year, the Climate Change Advisory Council must report by 15 September, following which relevant Ministers will be required to give account to an Oireachtas Committee on the following matters: performance both in implementing Climate Action Plan actions and in adhering to their sector's emissions ceiling under the carbon budget period. Where Ministers are not in compliance with the targets, they will need to outline what corrective measures are envisaged. Ministers will have to attend the Committee and respond to any recommendations made by the Committee within 3 months. This 'comply or explain' approach will ensure greater scrutiny and accountability is provided.
- The annual revision to the Climate Action Plan acts as a further review mechanism

and opportunity to re-adjust or refocus actions to ensure targets are achieved.

- The existing governance mechanisms established on an administrative basis by the 2019 Climate Action Plan will also continue. That is, Department of the Taoiseach will oversee implementation of actions under the Climate Action Plan and publish quarterly progress reports.

What happens if sectoral targets and carbon budgets are not achieved?

- If required, corrective or additional measures may be introduced to ensure targets are achieved.
- However at the end of a 5 year carbon budget period, any excess emissions will be carried forward to the next budget period, which will be reduced accordingly.
- In addition to the provisions of the Bill, the Minister for Public Expenditure and Reform proposes to consult in 2021 on how individual sectors could bear any compliance costs for the State arising from failure to reach sectoral targets as provided for under this Bill.

What does ‘limitation of liability’ mean?

- The ‘limitation of liability’ clause seeks to limit punitive financial compensation being sought which would limit the State’s ability to fund climate action.
- All other remedies are still available and the obligations imposed by the 2015 Act remain justiciable before the Courts (as confirmed by the Friends of the Irish Environment 2020 Supreme Court case). If the Government or any public body fail to deliver on their required obligations the courts may be asked to compel them to act.

Climate Change Advisory Council

What are the changes to the Climate Change Advisory Council?

- The Climate Change Advisory Council will have a prominent role in the development of, and finalisation of carbon budgets. The Council will propose a programme of three carbon budgets to the Minister for the Environment, Climate and Communications. In

addition, the Council will be consulted if the Minister is revising a budget, which may occur under very limited circumstances.

- In order to ensure that the Government can acquire a broad skillset and experience in the future composition of the Council, the membership of the Council has been extended to up to 13 members. Ex-officio membership has also been revised. The new Council will have three ex-officio ordinary members: the Director General of the Environmental Protection Agency; the Director of Teagasc, the Food Development Authority; and the Director of the Irish National Meteorological Service, Met Éireann.
- There is provision to ensure greater gender balance and wider competence of expertise in future Council membership. The Minister and Government will also have to be satisfied when appointing members of the Advisory Council that they have expertise/competence in one or more of the following areas: (a) climate science; (b) adaptation policy; (c) transport policy; (d) energy policy; (e) agriculture policy; (f) behavioural and communication science; (g) biodiversity and eco-system services; (h) economics; (i) finance; and (j) political sociology or ethics in relation to climate.

Additional Legislative Amendments included with the published Bill

What changes are introduced to the Climate Action Fund?

- The National Oil Reserves Agency Act 2007 is amended to broaden the type of projects for which money can be paid out from the Climate Action Fund, using funds it receives from the National Oil Reserves Agency, to also include:
- projects relating to increasing climate resilience or nature based projects that seek to enhance biodiversity, while supporting climate mitigation or increasing climate resilience; and
- innovative solutions or research in relation to climate resilience, increasing the removal of greenhouse gas emissions, or nature based solutions that enhance biodiversity, while supporting climate mitigation or increasing climate resilience.

What is the position in relation to amendments, already approved by Government, to expand the borrowing powers of the ESB?

- The ESB's borrowings limit is governed by a Statutory Borrowing Limit, currently €6 billion, which is set out in the Electricity (Supply) (Amendment) Act 1954, and is unchanged since 2004.
- The limit is now in urgent need of upward revision to allow ESB Group to help decarbonise the energy sector in Ireland and to aid in the achievement of the Climate Action Plan and the associated 2030 targets. This will require a significant level of investment by the ESB Group in its business, in particular in its electricity network and renewable generation assets.
- Following analysis by NewERA, and with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, Ministerial consent was granted to introduce legislative amendments to increase ESB Group's Statutory Borrowing Limit to €12 billion.
- At its meeting on 2 February 2021, Government approved priority drafting of new Heads to the Climate Action and Low Carbon Development (Amendment) Bill which will provide amendments to the Electricity (Supply) (Amendment) Act 1954 in this Bill.
- The Department of the Environment, Climate and Communications is engaging with the Office of Parliamentary Counsel to finalise the text for these amendments, which will be introduced at Committee Stage of the Bill in the Houses.

What is the position in relation to amendments, already approved by Government, to introduce a ban on future oil and gas exploration?

- The Programme for Government sets a clear pathway towards better practices and less reliance on fossil fuels across every sector of our society. It specifically contains a commitment to end the issuing of new licences for the exploration and extraction of gas on the same basis as the decision taken in 2019 (by the previous Government) in relation to oil exploration and extraction.

- The Minister for the Environment, Climate and Communications made this commitment effective immediately upon taking office: the Department of the Environment, Climate and Communications is no longer accepting new applications for exploration licences for natural gas or oil, nor will there be any future licensing rounds.
- Government approval was given on 2 February 2021 to draft new Heads which would give statutory effect to the above measure through the Climate Action and Low Carbon Development (Amendment) Bill.
- The proposed legislation, intended to be introduced at Committee Stage, will further emphasise that Ireland is moving away from oil and natural gas exploration and extraction.
- The number of authorisations has dropped from 55 at end September 2019 to 30 at end December 2020 – a decrease of 45%. It is expected that the number of authorisations will decline further as authorisations continue to expire or are relinquished, with no new authorisations for new exploration and extraction replacing them.

Public Consultation on Climate Action Plan 2021

What is Government consulting the public on?

- The Government is inviting everyone to join the Climate Conversation and help chart Ireland's journey to 2030 and beyond to net zero no later than 2050.
- We are asking climate scientists, experts and industry to share their data-based technical proposals to support development of the Climate Action Plan 2021.
- We also want to hear from households and communities about what Government can do to further support them as part of Ireland's journey to 2030 and beyond net zero no later than 2050.

How long will the Consultation be open for?

- The Public Conversation and the Call for Expert Evidence will be launched on 23 March 2021 and will be open for a period of 8 weeks until 18 May 2021.

Who can take part in the conversations?

- Climate scientists, experts and industry can share their data-based technical proposals to support development of the Climate Action Plan 2021 through the expert call for evidence.
- Citizens and communities will be invited to share their views on policies and measures to support more ambitious climate action. This consultation will be held entirely online and consist of three stages:
 - (i) Public Conversation: This will consist of an online portal open to those aged 16 and over, based on five key climate themes [(i) Home, (ii) Travel, (iii) Food and Waste, (iv) Shopping and Recycling, and (v) Local Climate and Environmental Action] with 4 to 6 open-ended questions to capture current thinking; an online quiz to help understand people's willingness to change behavior; and supporting content to engage citizens on proposed future approaches.
 - (ii) Local Conversations via Public Participation Networks (PPNs): A series of agreed topics will be discussed and responded to via moderated PPN events. The views and feedback will be summarised for analysis. Young people will also be asked to contribute via the Comhairle Na nÓg network, where they can provide their observations and suggestions for local action.
 - (iii) In-depth Citizen Conversations (80-90 citizens): A two week online community for participants will be set up to host a series of focus groups on different topics; run tasks to garner deeper feedback; and encourage creative input on different issues. As part of this online citizen community, there will be a youth strand of 20 citizens.
- A summary of the citizen feedback and suggestions received, and how these were incorporated into the Climate Action Plan, will also be shared via the online consultation site.

When will the Community Climate Action Programme under the Climate Action Fund and the Enduring Structure for the National Dialogue on Climate Action (NDCA) be launched?

- The Department of the Environment, Climate and Communications is currently developing proposals to provide a second round of support from the Fund which will be launched shortly, including details on the type of projects that may be supported, who may apply for this support and the application process. The design of this programme will be informed by feedback received through the public consultation, in particular the conversations that are taking place at local level through the Public Participation Networks. This feedback will help shape the fund in terms of where financial support is required, where capacity building is needed, and the types of projects and initiatives that are being considered at local level.
- The Programme for Government recognises that all sectors must play their part to achieve our climate goals in a fair way. This will mean assessing and creating fresh opportunities for those sectors most exposed by the transition and supporting those in our community who are least equipped to make the changes. A new enduring structure is being developed for the National Dialogue on Climate Action which aims to increase awareness and give all of society the opportunity to fully engage constructively in climate action. This new structure will harness existing networks, support better communications, and involve specific stakeholder groups, including younger people and harder to reach communities. It will have a strong action focus, promoting and leveraging citizen, sectoral and regional involvement in delivering actions within their sphere of influence, including bringing about long-term behavioural change. A key part in the design of these new structures will be the feedback received from the conversations being held at local level through the PPNs.

Interim Climate Actions 2021

What is the purpose of the Interim Climate Actions 2021?

- The purpose of Interim Climate Actions 2021 is to maintain a whole-of-government focus on implementation, and continue to progress new climate actions while the Climate Action Plan 2021 to reach an average 7% per annum reduction in greenhouse gases over the decade to 2030 is being developed. It will ensure that planning and implementation go hand in hand.
- Once the Climate Action Plan 2021 is finalised, new actions will be ready which will build upon those in Interim Climate Actions 2021.

Do these actions replace those in the Climate Action Plan 2019?

- These actions follow-on from those in Climate Action Plan 2019. It is important that the level of climate ambition in CAP 2019 which is designed to meet our existing EU climate targets is maintained. In preparing the interim climate actions, the Department has ensured that this ambition is at least maintained, while recognising that some steps to deliver upon the ambition have changed or will be organised differently.
- The Climate Action Plan 2021 process will allow for further consideration to be given to ensure that necessary actions are in place to deliver upon the ambition in Climate Action Plan 2019, as well as those additional actions necessary to meet the higher Programme for Government ambition.

How will implementation of Interim Climate Actions 2021 be carried out?

- The Interim Climate Actions 2021 formally replaces the annex of actions published as part of the Climate Action Plan 2019. The Department of the Taoiseach will commence monitoring of the implementation of the new actions and continue to report progress to both Government and the Climate Action Delivery Board.

- The process of centrally driven monitoring and reporting of climate action delivery, established under the Climate Action Plan 2019, will continue to drive implementation of Interim Climate Actions 2021. This includes maintaining transparency and accountability regarding the Government's implementation of climate actions through the presenting to Government and publication of Quarterly Progress Reports, and regular updating of gov.ie/climateaction.
- The Climate Action Delivery Board, co-chaired by the Department of the Taoiseach and the Department of the Environment, Climate and Communications, will also play an important role in this process, enhancing coordination and regularly reviewing supports to overcome challenges to implementation across the system.

How was Interim Climate Action 2021 prepared?

- Interim Climate Actions 2021 was prepared following a consultation process across Government Departments and bodies.
- The actions include outstanding actions from the Climate Action Plan 2019, actions that follow-on from those completed in Climate Action Plan 2019, and other new actions including delivery of Programme for Government Commitment.