

# Climate Change Bill

[AS INTRODUCED]

## LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Ms Clare Bailey, had made the following statement under Standing Order 30:

*“In my view the Climate Change Bill would be within the legislative competence of the Northern Ireland Assembly.”*

## SECRETARY OF STATE’S CONSENT

The Secretary of State has consented under section 8 of the Northern Ireland Act 1998 to the Assembly considering this Bill.



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[AS INTRODUCED]

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A

## **BILL**

TO

Enable the mitigation of the impact of climate change in Northern Ireland; establish a legally binding net-zero carbon target for Northern Ireland; provide for the establishment and powers of the Northern Ireland Climate Commissioner and Northern Ireland Climate Office; guarantee existing environmental and climate protections; and for connected purposes.

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### PART 1

#### THE CLIMATE EMERGENCY MANDATE

##### **The Climate Emergency**

5 **1.**—(1) From the date on which this Act receives Royal Assent, a state of climate emergency is hereby declared to exist and shall continue to exist in the absence of verifiable proof from a relevant body that the global temperature threshold defined under Article 2(1)(a) of the Paris Agreement, or any subsequently adopted agreement or protocol to the United Nations Framework Convention on Climate Change (referred to in this Act as “UNFCCC”), adopted in  
10 New York on 9 May 1992, has been met.

(2) In this Act, “relevant body” means any of the following—

- (a) the United Kingdom Committee on Climate Change;
- (b) the Intergovernmental Panel on Climate Change; and
- (c) the Republic of Ireland Climate Advisory Council.

15 (3) An emergency under this section shall not cease to exist merely upon the dissolution of an Assembly under either of the following provisions of the Northern Ireland Act 1998—

- (a) section 31 (dates of elections and dissolutions); or

(b) section 32 (extraordinary elections)

but shall continue to be in force until such time as the Assembly annuls the emergency by a vote upon a motion for annulment brought by the Executive Office for this purpose.

5 (4) The Executive Office may only bring a motion for annulment before the Assembly on consideration of verifiable proof in accordance with subsection (1) of this section.

10 (5) A motion for annulment must be accompanied by proposals on the future of any measures taken under section 3 of this Act, which have effect at the time of the bringing of the motion.

(6) Any measures referred to in subsection (5) shall continue to have effect notwithstanding an annulment by the Assembly, unless otherwise approved by the Assembly.

15 (7) The Assembly may vote to declare an emergency at any point after annulling a previous such emergency, on consideration of such evidence from a relevant body as it considers appropriate.

(8) A vote under subsection (7) of this section may be had upon the Assembly's own motion for declaration of a climate emergency.

### **Climate action plan**

20 **2.**—(1) The Executive Office must lay before the Assembly a plan, known in this Act as a climate action plan, to achieve the overriding climate objective—

(a) in the case of the first climate action plan, within three years from the date on which this Act receives Royal Assent; and

25 (b) in the case of each subsequent climate action plan, within five years from the date on which the previous climate action plan was laid.

(2) The overriding climate objective is the establishment in Northern Ireland of a net-zero carbon, climate resilient and environmentally sustainable economy by the year 2045.

(3) A climate action plan shall not have effect unless approved by the Assembly.

30 (4) Before laying each climate action plan before the Assembly, the Executive Office shall publish it for public consultation for a period not less than sixteen weeks ending on the day which is five working days before the day when the climate action plan is laid before the Assembly.

35 (5) The Executive Office must lay the result of the public consultation under subsection (4) of this section before the Assembly on the same day as the climate action plan.

(6) In this Act—

(a) “net-zero carbon” means a net reduction of greenhouse gas emissions by at least 100% from the 1990 baseline;

40 (b) “climate resilient” means the ability to minimise, mitigate or remedy the effects of climate change;

(c) “greenhouse gas” means any of the following—

(i) carbon dioxide (CO<sub>2</sub>);

- (ii) methane (CH<sub>4</sub>);
  - (iii) nitrous oxide (N<sub>2</sub>O);
  - (iv) hydrofluorocarbons (HFCs);
  - (v) perfluorocarbons (PFCs);
  - 5 (vi) sulphur hexafluoride (SF<sub>6</sub>); and
  - (vii) nitrogen trifluoride (NF<sub>3</sub>).
- (d) “1990 baseline” means the aggregate amount of net greenhouse gas emissions in Northern Ireland for that year.
- (7) The Department may by order amend subsection (5)(c) to add other gases to that list.
- (8) The Executive Office may by order change the year under subsection (2) of this section.
- (9) An order under subsection (8) of this section must not—
- (a) specify a year after 2045,
  - 15 (b) be made unless a draft of the order has been laid before and approved by affirmative resolution of the Assembly, and
  - (c) be laid in the form of a draft before the Assembly before obtaining and taking into account the advice of the relevant body under section 1(2)(a).

### **Climate action plan: contents**

- 20 **3.**—(1) The climate action plan shall comprise two parts—
- (a) targets, for which see subsection (2) of this section; and
  - (b) measures, for which see subsection (3) of this section.
- (2) Targets under subsection (1)(a) of this section mean annual targets in the following areas—
- 25 (a) net greenhouse gas emissions;
  - (b) water quality;
  - (c) soil quality; and
  - (d) biodiversity
- but these targets are subject to subsection (4) of this section.
- (3) Measures under subsection (1)(b) of this section include—
- (a) carbon budgets, for which see subsection (5) of this section;
  - (b) nitrogen budgets, for which see subsection (6) of this section;
  - (c) sectoral plans, for which see subsection (7) of this section; and
  - 35 (d) programmes within the meaning of section 60 of the Climate Change Act 2008 (programme for adaptation to climate change: Northern Ireland).
- (4) The setting of targets for any of the matters listed in subsection (2) of this section are subject to the following conditions—
- (a) that such targets are set after obtaining and taking into account the advice on such targets from the relevant body listed in section 1(2)(a) of this Act;
  - 40 (b) that prior to such targets being set, the following matters are taken into account—

- (i) international law, including, in particular, the UNFCCC;
  - (ii) the impact of such targets on the environment of Northern Ireland;
  - (iii) the impact of such targets on public health and well-being;
  - (iv) the impact of such targets on fiscal, economic and social circumstances specific to Northern Ireland;
- 5
- (c) that annual targets for the reduction of net greenhouse gas emissions are set in a way best calculated to achieve the overriding climate objective.
- (5) Carbon budget proposals are subject to the following conditions—
- (a) that such proposals are made after obtaining and taking into account the advice of the relevant body under section 1(2)(a) of this Act;
  - 10 (b) that such proposals specify the following matters—
    - (i) the maximum annual carbon units purchased by the Department, which must not exceed an amount which represents 25% of the reduction target in greenhouse gas emissions for that year;
    - 15 (ii) annual amounts of greenhouse gases to be removed from the atmosphere by way of land use or land-use change in Northern Ireland;
    - (iii) a scheme for tracking carbon usage, including purchase of carbon units, in Northern Ireland, to be administered by the Department, or such body as the Department may, in consultation with the Climate Commissioner, consider appropriate for the administration of such a scheme.
  - 20 (c) that such proposals take into account the transboundary element of carbon in Northern Ireland.
  - (d) in this Act, “carbon unit” means a unit which represents—
    - 25 (i) a reduction in an amount of greenhouse gas emissions;
    - (ii) the removal of an amount of greenhouse gas from the atmosphere; or
    - (iii) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions established under subsection (5)(b)(iii).
- 30 (6) A nitrogen budget is an account of all major flows of nitrogen in Northern Ireland, including in its waters, atmosphere and soil and is subject to the following—
- (a) it must be adopted after obtaining and taking into account the advice of the relevant body under section 1(2)(a) of this Act;
  - 35 (b) it must specify a target nitrogen use efficiency in the environment of Northern Ireland;
  - (c) it must specify annual targets to reach the target nitrogen use efficiency by the end of the climate action plan to which the nitrogen budget relates;
  - (d) that such proposals take into account the transboundary element of nitrogen flows in Northern Ireland;
  - 40 (e) in this Act, “nitrogen use efficiency” is the ratio of nitrogen removed from the environment compared to the total nitrogen added to the environment and is calculated having regard to sources of nitrogen pollution in—
    - (i) agriculture and food production;

- (ii) transport; and
- (iii) energy.

(7) Sectoral plans are policies and proposals to ensure that the overriding climate objective is achieved in the following sectors—

- 5 (a) energy production and supply (including for residential, public and district heating and cooling purposes);
- (b) transport (including shipping and aviation);
- (c) infrastructure (including infrastructure for electric vehicular transport);
- (d) business and industrial processes;
- 10 (e) residential and public (in relation to buildings in these sectors);
- (f) waste management;
- (g) land use and land-use change, including forestry;
- (h) agriculture; and
- (i) the provision of financial assistance to any person in connection with—
- 15 (i) the promotion of economic development in Northern Ireland or any part of Northern Ireland; and
- (ii) the provision of infrastructure, goods or services in Northern Ireland or any part of Northern Ireland;

20 provided that, when setting out policies and proposals in respect of energy production and supply, the advices and recommendations of the SEM Committee in relation to the exercise of its functions under Article 6(2) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (No. 913 (N.I. 7)) must be obtained and must be taken into account; but this subsection is subject to subsection (8) of this section.

25 (8) Without limiting the generality of the overriding climate objective, sectoral plans shall also—

- (a) support jobs and growth of jobs that are climate resilient and environmentally and socially sustainable;
- (b) support net-zero carbon investment and infrastructure;
- 30 (c) create work which is high-value, fair and sustainable;
- (d) reduce inequality as far as possible;
- (e) reduce, with a view to eliminating, poverty and social deprivation;
- (f) achieve the proposals set out in the sectoral plans within a timeframe which shall be specified in the sectoral plans.

35 (9) In this section, “transboundary element” means any negative impact on the environment of Northern Ireland, including its waters and atmosphere, from activity which occurs in any of the following areas—

- (a) the Republic of Ireland;
- (b) Scotland;
- 40 (c) Wales; and
- (d) England.

(10) In the discharge of any duty under this section to take into account the transboundary element, the Department shall take into account any advices and

recommendations from any of the bodies in Part V of the Northern Ireland Act 1998.

### **Reporting on climate action plans**

5 4.—(1) Annual reports must be laid before the Assembly during each year of the duration of each climate action plan.

(2) In relation to targets under section 3(2), an annual report must specify the following matters—

- (a) the target for the relevant year;
- (b) whether or not the target has been met; and
- 10 (c) if the target has not been met, the reasons for failure to meet that target.

(3) In relation to carbon budget proposals under section 3(3)(b), an annual report must specify the amount of carbon units purchased by the Department during the relevant year—

- (a) in absolute numbers of carbon units; and
- 15 (b) as a percentage of the total reduction target for net greenhouse gas emissions for the relevant year.

(4) In relation to nitrogen budget proposals under section 3(3)(b), an annual report must specify the actual nitrogen use efficiency in Northern Ireland for the relevant year—

- 20 (a) as a ratio; and
- (b) relative to the target nitrogen use efficiency specified in the corresponding climate action plan.

(5) In relation to sectoral plans under section 3(3)(c), an annual report must specify—

- 25 (a) the progress on the implementation of each policy or proposal contained in each sectoral plan;
- (b) the likelihood that each policy or proposal contained in each sectoral plan will be implemented in full; and
- (c) the likelihood that the sectoral plans, when taken together, will ensure that
- 30 the overriding climate objective is achieved.

(6) In relation to any failures to achieve a target or implement a policy or proposal contained in a climate action plan, an annual report may contain recommendations to ameliorate such a failure.

35 (7) An annual report may contain such other information as is relevant to ensuring that the overriding climate objective is achieved.

(8) If there is any failure to obtain any information that is—

- (a) relevant to the preparation of an annual report; and
- (b) obtainable under section 10 of this Act,

such failure and reasons for such failure must be specified in the annual report.

40 (9) In preparing an annual report, the advices and recommendations of the relevant body at section 1(2)(a) of this Act must be obtained and must be taken into account.

(10) In this section, “relevant year” means the year in respect of which an annual report is made.

## PART 2

### 5 THE NORTHERN IRELAND CLIMATE OFFICE AND THE NORTHERN IRELAND CLIMATE COMMISSIONER

#### **The Northern Ireland Climate Office**

5. —(1) There shall be a Northern Ireland Climate Office, referred to in this Act as the “Climate Office”, consisting of—

- (a) the Northern Ireland Climate Commissioner; and
- 10 (b) the staff appointed by the Northern Ireland Climate Commissioner under this Act.

(2) Schedule 1 shall have effect in relation to the Climate Office.

#### **The Northern Ireland Climate Commissioner**

6. —(1) The Northern Ireland Climate Commissioner, referred to in this Act as the “Climate Commissioner”, shall be by that name a corporation sole.

(2) Apart from any duty imposed by any statutory provision (including this Act), the Climate Commissioner shall not be under the direction or control of any of the following authorities—

- (a) a Northern Ireland department;
- 20 (b) a Minister;
- (c) the Assembly;
- (d) the Assembly Commission; or
- (e) a local authority constituted under the Local Government Act (Northern Ireland) 2014

25 but this subsection is subject to the next subsection.

(3) Subsection (2) of this section is subject to—

- (a) the power of the Department of Finance to direct the form of accounts the Climate Commissioner must prepare, under sections 9 to 13 of the Government Resources and Accounts Act (Northern Ireland) 2001; and
- 30 (b) the power of the Assembly Commission under subsections (4) and (5) of this section.

(4) The Assembly Commission must by order determine the salary payable to the Climate Commissioner, provided—

- (a) an order under this subsection may provide for the salary determined by the order to be payable from such date, whether before or after the making of the order, as may be specified in that order,
- 35 (b) the salary payable under this subsection must not exceed the maximum salary for the time being payable to any person employed in the civil service of Northern Ireland,

- (c) the salary payable under this subsection must be charged on, and issued out of, the Consolidated Fund, and
- (d) the salary payable under this subsection must be abated by the amount of any pension payable in respect of any public office, in the United Kingdom or elsewhere, to which the Climate Commissioner had previously been appointed or elected.
- (5) The Assembly Commission must make arrangements for the provision of pension and other benefits for or in respect of persons who have held office as Climate Commissioner, provided—
- (a) scheme regulations for a scheme under section 1 of the Public Services Pension Act (Northern Ireland) 2014, being a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits to be paid in respect of persons who have been Climate Commissioner, as if service in that office were service in the employment of the civil service of Northern Ireland,
- (b) any sums required for the purposes of making an arrangement under this subsection must be charged on, and issued out of, the Consolidated Fund, and
- (c) any abatement under subsection (4)(d) is to be disregarded in computing the salary for the purposes of any pension payable by virtue of this paragraph.
- (6) The Climate Commissioner is not to be regarded as—
- (a) the servant or agent of the Crown, or
- (b) enjoying any status, immunity or privilege of the Crown,
- but the Climate Commissioner is a servant of the Crown for the purposes of the Official Secrets Act 1989.
- (7) Property held by the Climate Commissioner is not to be regarded as property of, or held on behalf of, the Crown.
- (8) The Climate Commissioner may do anything (including acquire or dispose of property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of the functions of the Climate Commissioner.

### **Northern Ireland Climate Commissioner: appointment and terms**

- 7.—(1) Subject as follows, the Climate Commissioner holds office in accordance with the terms of the appointment (or re-appointment) of the Climate Commissioner, as determined by the Assembly Commission.
- (2) The Climate Commissioner shall be appointed by Her Majesty on nomination by the Assembly.
- (3) No person may be appointed to the office of Climate Commissioner who—
- (a) is a member of—
- (i) a council established under the Local Government Act (Northern Ireland) 2014;
- (ii) the Assembly;
- (iii) the House of Commons;

- (iv) the House of Lords; or  
(v) the European Parliament.
- (b) is disqualified from being a member of the Assembly under the Northern Ireland Assembly Disqualification Act 1975 (as applied by section 36(1) of the Northern Ireland Act 1998);
- (c) is—
- (i) an authority listed under Schedule 2; or  
(ii) a member, officer or member of staff of an authority listed under Schedule 2.
- (d) holds—
- (i) any other office;  
(ii) employment;  
(iii) membership of a body;
- in respect of which remuneration or expenses are payable; but the next subsection sets out the exception to subsection (3)(d).
- (4) Subsection (3)(d) of this section does not apply in relation to a particular office, employment or membership if—
- (a) the person gives notice of it to the Assembly Commission—
- (i) before becoming Climate Commissioner; or  
(ii) before being appointed to the office, taking the employment, or becoming the member, as the case may be, and
- (b) the Assembly Commission is of the opinion that the office, employment or membership would not compromise—
- (i) the ability of the Climate Commissioner to discharge functions under this Act, and  
(ii) the independence of the Climate Commissioner.
- (5) A person who is Climate Commissioner is, while Climate Commissioner, disqualified from—
- (a) being appointed to an office which would disqualify the person from being a member of the Assembly;
- (b) taking employment which would disqualify the person from being a member of the Assembly;
- (c) becoming a member of a body which would disqualify the person from being a member of the Assembly;
- (d) being an authority listed under Schedule 2;
- (e) being a member, officer or member of staff of an authority listed under Schedule 2;
- (f) in relation to any other office, employment or membership of a body in respect of which remuneration or expenses are payable—
- (i) being appointed to any such office;  
(ii) taking any such employment; or  
(iii) becoming a member of any such body,

but subsection (4) applies to subsection (5)(f) as if the reference to “subsection (3) (d)” in that subsection were substituted with “subsection (5)(f)”.

(6) A person may not be appointed to the office of Climate Commissioner for more than five years at a time, but may, subject to this restriction, be reappointed as many times as the Assembly shall so nominate.

(7) Her Majesty may remove the Climate Commissioner from office upon request from the Climate Commissioner.

(8) Her Majesty may, on the passing of a resolution by the Assembly, remove the Climate Commissioner from office provided—

(a) the resolution is passed only due to the Climate Commissioner’s—

(i) proven misconduct; or

(ii) proven incapacity, including due to ill-health;

provided that the burden of proof under this paragraph is on a balance of probabilities; and

(b) the resolution is passed with the support of a number of members of the Assembly which equals or exceeds two-thirds of the total number of seats in the Assembly.

(9) When a person ceases to be Climate Commissioner, before the expiry of the financial year following the financial year in which that person ceased to be Climate Commissioner, that person must not, without the consent of the Assembly Commission—

(a) become an authority listed under Schedule 2;

(b) be appointed or elected to an authority listed under Schedule 2;

(c) become a member, officer or member of staff of an authority listed under Schedule 2;

(d) provide services to an authority listed under Schedule 2; or

(e) be appointed or elected to any office or post by an authority listed under Schedule 2.

#### **Vacancy in the office of the Northern Ireland Climate Commissioner**

**8.**—(1) If the office of Climate Commissioner is vacant, Her Majesty may, on nomination by the Assembly, appoint an acting Climate Commissioner at any time during the period of twelve months beginning with the date on which the vacancy arose.

(2) An acting Climate Commissioner appointed in accordance with subsection (1) is to be regarded as the Climate Commissioner except—

(a) for the purposes of subsections (1), (2) and (6) of section 7;

(b) that the salary payable under section 6(4) may be of a different amount to that payable to the Climate Commissioner;

(c) that the pension arrangements under section 6(5) may be different to arrangements in respect of the Climate Commissioner;

(d) that the terms and conditions of appointment under section 7(1) may be different to the terms and conditions of appointment of the Climate Commissioner.

(3) The acting Climate Commissioner shall hold office until the earlier of—

- (a) the appointment of a new Climate Commissioner under section 7; or
- (b) the expiry of the period of twelve months beginning on the date on which the vacancy arose.

5 (4) A person who is disqualified from being appointed as the Climate Commissioner is also disqualified from being appointed as the acting Climate Commissioner.

(5) A person appointed as acting Climate Commissioner may previously have held office as Climate Commissioner.

10 (6) A person appointed as acting Climate Commissioner is not disqualified from being appointed as Climate Commissioner by virtue of that fact.

#### **Northern Ireland Climate Commissioner: functions**

9.—(1) The Climate Commissioner shall be responsible for annual reports under section 4 of this Act, in accordance with the provisions of that section.

15 (2) The Climate Commissioner must—

- (a) review the working of this Act; and
- (b) prepare reports (referred to in this Act as “review reports”) on the working of this Act for the Assembly in accordance with this section.

20 (3) The first review report must be laid before the Assembly no later than five years after the day on which this Act receives Royal Assent, provided that the first review report is prepared after the coming into effect of the first climate action plan under section 5(1)(a) of this Act.

(4) Subsequent to the first review report, the Climate Commissioner must lay at least one review report before the Assembly during each term of the Assembly.

25 (5) A review report—

- (a) must contain the views of the Climate Commissioner on the adequacy and effectiveness of this Act; and
- (b) may contain such recommendations as to amendments to this Act which the Climate Commissioner considers necessary and desirable in order to achieve the overriding climate objective.

30 (6) Within a period of two months from the day on which a review report is laid before the Assembly, the Executive Office must lay its response to the review report before the Assembly.

#### **Northern Ireland Climate Commissioner: access to information**

35 10.—(1) For the purposes of discharging any functions conferred on the Climate Commissioner under any statute (including this Act)—

- (a) the Climate Commissioner shall have a right of access to any relevant documents; and
- (b) a person who holds, has control of or is accountable for any of those documents shall give the Climate Commissioner any assistance, information or explanation which is required by the Climate Commissioner in relation to any of those documents.

40

(2) In this section, “documents” means anything in which information is recorded in any form.

(3) In this section, “relevant documents” means any document which records information pertaining to any function conferred upon the Climate Commissioner under any statute (including this Act), and are held or controlled—

(a) by a Northern Ireland public body;

(b) by a person who has received financial assistance from a Northern Ireland public body by means of—

(i) a grant;

(ii) a loan;

(iii) a guarantee; or

(iv) the taking of an interest in any property or body corporate; or

(c) by a person who—

(i) has supplied goods or services in pursuance of a contract with a Northern Ireland public body; or

(ii) has been a sub-contractor in relation to such a contract,

but subsection (4) of this section contains restrictions on the effect of this subsection.

(4) In subsection (3) of this section—

(a) the Climate Commissioner shall not exercise a right conferred by subsection (1) of this section in respect of persons under subsections (3)(b) and (c) of this section unless, in the determination of the Climate Commissioner—

(i) that it is necessary to do so for the proper discharge of a function as referred to in subsection (3); and

(ii) that, in the circumstances, the exercise of such a right is consistent with the Convention rights of any person in respect of whom such a right is exercised.

(b) any right conferred by subsection (1) in respect of persons under subsections (3)(b) or (c) does not apply to any payment made to an individual under—

(i) any legislation to which section 87 of the Northern Ireland Act 1998 (social security, child benefit and pensions legislation) applies for the time being;

(ii) the Employment and Training Act (Northern Ireland) 1950; or

(iii) any other statutory provision prescribed by order made by the Department;

(c) the rights conferred by subsection (1) in respect of persons under subsections (3)(b) and (c) do not apply to any documents held or controlled by—

(i) any department or Minister of the Government of the United Kingdom; or

(ii) any other body whose accounts are required under any statutory provision to be audited by the Comptroller and Auditor General

appointed under section 6 of the Exchequer and Audit Departments Act 1866 (c. 39; 29 & 30 Vic.).

(5) The Department may by order provide for this section to apply to any documents (in addition to relevant documents)—

- 5 (a) of a specified description; or  
 (b) which are held or controlled either by a person or a specified kind or in specified circumstances.

(6) An order under subsection (5) of this section may apply—

- 10 (a) in respect of any functions conferred under any statutory provision other than this Act; or  
 (b) in respect of any particular body or bodies or in respect of all bodies generally.

(7) An order under subsection (5) shall not be made unless—

- 15 (a) the Department has consulted the Climate Commissioner; and  
 (b) a draft of the order has been laid before and approved by affirmative resolution of the Assembly.

(8) In this section, a “Northern Ireland public body” means a body to which the following statutory provisions apply—

- 20 (a) Articles 8 and 9 of the Audit (Northern Ireland) Order 1987 (No. 460 (N.I. 5)); and  
 (b) Article 5 of the Audit and Accountability (Northern Ireland) Order 2003 (No. 418 (N.I. 5)).

(9) In this section, “the Department” means the Department of Finance.

25 (10) In this section, “Convention rights” has the same meaning as in the Human Rights Act 1998.

### PART 3

#### SUPPLEMENTARY MATTERS

##### **Alteration of climate action plans**

30 **11.**—(1) Within a period of two months from the day on which an annual report under section 4 is laid before the Assembly, the Executive Office shall lay its response to the annual report before the Assembly.

(2) The response of the Executive Office under subsection (1) of this section must, in particular, address—

- 35 (a) any failure to meet annual targets, or any of them, under section 3(2) of this Act;  
 (b) any failure in the implementation of sectoral plans, or any of them, under section 3(3)(c) of this Act;  
 (c) any matters relating to subsections (6), (7) and (8) of section 4 of this Act;  
 40 (d) in relation to any proposals in an annual report, under subsections (6) and (7) of section 4 of this Act—  
 (i) if the Executive Office agrees with these proposals, or any of them; and

- (ii) if the Executive Office disagrees with these proposals, or any of them, with reasons for such disagreement.
- (e) if, having considered the annual report laid before the Assembly, the Executive Office proposes any alterations in—
- 5 (i) targets under section 3(2) of this Act; or
- (ii) measures under section 3(3) of this Act, or
- (iii) both sub-paragraphs (i) and (ii) of this paragraph,

but the Executive Office must not propose any alteration which has the effect, whether directly or indirectly, of lowering any target under section 3(2) of this Act from the level approved by the Assembly under section 2(3) of this Act when the  
10 corresponding climate action plan was so approved.

(3) No proposal under subsections (2)(d)(i) or (2)(e) of this section shall have effect as part of the corresponding climate action plan unless approved by the Assembly.

- 15 (4) In this section, “corresponding climate action plan” means the climate action plan in respect of which an annual report is laid before the Assembly under section 4 of this Act.

#### **Interpretation of legislation: non-regression principle**

20 **12.—**(1) Subject to section 6A of the Northern Ireland Act 1998 (restriction relating to retained EU law), all laws in force in Northern Ireland, whenever enacted, must be read and given effect to compatibly with the principle at subsection (2) of this section, so far as it is possible to do so.

(2) The principle is that there must not be, or purport to be, any effect, implicitly or explicitly, of any direct or indirect regression from any environmental or  
25 climate related legal protections, duties, standards or limits, or any of them, which were in force in Northern Ireland at the end of the transition period under Article 126 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01).

30 (3) Notwithstanding the generality of subsection (1) of this section, any finding of incompatibility will not affect the validity, continuing operation and enforcement of any of the following—

- (a) an Act of the Parliament of the United Kingdom;
- (b) an Order in Council made in exercise of Her Majesty’s Royal Prerogative;  
35 or
- (c) any subordinate legislation in which the incompatibility is prevented from removal by operation of the statutes listed in paragraphs (a) and (b) of this subsection.

(4) In this section, “subordinate legislation” means any—

- 40 (a) Act of the Assembly;
- (b) Act of the Parliament of Northern Ireland;
- (c) Measure of the Assembly established under section 1 of the Northern Ireland Assembly Act 1973;

- (d) order, rules, regulations, scheme, warrant, byelaw or other instrument made under legislation mentioned in paragraph (a), (b) or (c) of this subsection or made under an Order in Council under subsection (3)(b) of this section;
- 5 (e) order, rules, regulations, scheme, warrant, byelaw or other instrument made by a Northern Ireland Minister or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty;
- (f) statutory instrument within the meaning of the Interpretation Act (Northern Ireland) 1954; and
- 10 (g) subordinate legislation within the meaning of the Interpretation Act 1978.

### Interpretation

**13.** In this Act, unless otherwise defined—

- “Assembly Commission” means the Northern Ireland Assembly Commission;
- 15 “the Crown” means the Crown in right of Her Majesty’s Government in Northern Ireland except—
- (a) in the expression “Minister of the Crown”, and
- (b) in section 6(6) and paragraph 1(3) of Schedule 1.
- “the Department” means the Department of Agriculture, Environment and Rural Affairs;
- 20 “Northern Ireland Minister” has the same meaning as in the Northern Ireland Act 1998 and includes Junior Ministers within the meaning of that Act;
- “SEM Committee” means the body established under article 6 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (No. 913 (N.I. 7));
- 25 “term of the Assembly” means the period of time between the first meeting of one Assembly and the dissolution of the same Assembly within the meaning of sections 31 and 32 of the Northern Ireland Act 1998.

### Further provision

- 30 **14.**—(1) Unless otherwise specified in this Act, orders under any provision of this Act are subject to negative resolution.
- (2) Any order made under this Act may contain such incidental, consequential, supplementary, transitional and savings provisions as appear to the authority making them to be necessary or expedient.
- 35 (3) The Assembly Commission may by order make such supplementary, incidental, consequential or transitional provision as it considers necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any provision made by or under this Act, provided such order is approved by the Assembly by affirmative resolution.
- 40 (4) In relation to any authority listed in Schedule 2—
- (a) the Executive Office may by order amend Schedule 2 by—
- (i) adding or omitting an authority, or
- (ii) altering its description.

- (b) but an order under paragraph (a) may not add an authority unless the authority—
- (i) exercises functions on behalf of the Crown,
  - (ii) is a body whose members, in whole or in part, are public appointees,
  - 5 (iii) is substantially financed out of public funds, or
  - (iv) exercises functions conferred by a statutory provision.
- (5) For the purposes of subsection (4), a public appointee is a person appointed by—
- (a) the Crown,
  - 10 (b) a Northern Ireland Minister,
  - (c) a Minister of the Crown,
  - (d) a Northern Ireland department,
  - (e) a department of the Government of the United Kingdom,
  - (f) the Assembly, or
  - 15 (g) the Assembly Commission.
- (6) For the purposes of subsection (4), a body is financed out of public funds if—
- (a) its expenses are defrayed out of moneys appropriated by Act of the Assembly,
  - 20 (b) its expenses are defrayed out of moneys appropriated by Act of Parliament,
  - (c) its expenses are charged on and issued out of the Consolidated Fund, or
  - (d) its expenses are charged on and issued out of the Consolidated Fund of the United Kingdom.
- (7) Before making an order under subsection (4), the Executive Office must
- 25 consult the Climate Commissioner, the authority concerned, and any other person it thinks appropriate.

**Extent**

15. This Act extends to Northern Ireland only.

**Commencement**

30 16. Except as otherwise provided in this Act, every provision in this Act shall come into force on the day after the day in which this Act receives Royal Assent.

**Short title**

17. This Act may be cited as the Climate Change Act (Northern Ireland) 2021.

SCHEDULES

SCHEDULE 1

Section 5.

THE NORTHERN IRELAND CLIMATE OFFICE

5

*Staff*

1.—(1) The Climate Commissioner may—

- (a) appoint staff to the Climate Office,
- (b) determine the terms and conditions of their employment, and
- (c) make arrangements in respect of salary and pensions for them.

10 (2) In exercising powers under sub-paragraph (1), the Climate Commissioner must have regard to the desirability of keeping the terms and conditions of employment, salary and pensions broadly in line with those applying to persons employed in the civil service of Northern Ireland.

(3) No member of staff of the Climate Office is to be regarded—

- 15
- (a) as the servant or agent of the Crown;
  - (b) as enjoying the status, immunity or privilege of the Crown,

but each member of staff of the Climate Office is a servant of the Crown for the purposes of the Official Secrets Act 1989.

20 (4) Scheme regulations for a scheme under section 1 of the Public Services Pensions Act (Northern Ireland) 2014, which is a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits to be paid in respect of persons who have been staff of the Climate Office, as if they were employed in the civil service of Northern Ireland.

*Advisers*

25 2.—(1) The Climate Commissioner may obtain advice from any person who, in the opinion of the Climate Commissioner, is qualified to give it, to assist in the discharge of the Climate Commissioner's functions, including by way of the commissioning of independent research carried out to assist in the discharge of the said functions.

30 (2) The Climate Commissioner may pay to any person from whom advice is obtained under sub-paragraph (1) such fees or allowances as the Climate Commissioner may determine.

35 (3) In exercising powers under this paragraph, the Climate Commissioner must have regard to the desirability of keeping the fees and allowances broadly in line with those paid by the civil service of Northern Ireland.

*Exercise of functions of Climate Commissioner by staff of Climate Office*

3.—(1) Subject to sub-paragraph (2), anything which under any statutory provision (including under this Act) is required or authorised to be done by the Climate Commissioner may be delegated to a member of the staff of the Climate Office authorised for that purpose by the Climate Commissioner.

(2) A delegation under sub-paragraph (1) shall only be made—

- (a) to those members of staff who are, in the opinion of the Climate Commissioner, qualified to discharge such functions as are sought to be delegated to them; and
- (b) where such delegation is, in the opinion of the Climate Commissioner, necessary and expedient for the purposes of the proper discharge of the functions sought to be delegated.

*Expenses*

4. The expenses of the Climate Office must be defrayed out of money appropriated by Act of Assembly, but this is subject to paragraph 5.

*Budget estimates*

5.—(1) The Climate Commissioner must, for each financial year other than the first, prepare an estimate of the use of resources (within the meaning of the Government Resources and Accounts Act (Northern Ireland) 2001) by the Climate Office.

(2) That estimate must be submitted to the committee established under section 66 of the Northern Ireland Act 1998.

(3) In considering that estimate, that committee must have regard to the advice of the Department of Finance.

(4) That estimate must, subject to any modifications agreed between that committee and the Climate Commissioner, be laid before the Assembly by that committee.

*Accounts and audit*

6.—(1) The Climate Commissioner must publish—

- (a) the certified accounts of the Climate Office, and
- (b) the report of the Comptroller and Auditor General for Northern Ireland on those accounts.

(2) In this paragraph, “certified accounts” and “report” mean the accounts and report laid by the Department of Finance before the Assembly in accordance with section 10 of the Government Resources and Accounts Act (Northern Ireland) 2001.

*Meaning of “financial year”*

7.—(1) For the purposes of this Schedule, a financial year is a period of twelve months ending on the 31st March, but this is subject to the next sub-paragraph.

(2) The first financial year is the period beginning with the day on which the Climate Commissioner is appointed and ending on the 31st March 2022.

*Climate Change*

SCHEDULE 2

Section 7.

AUTHORITIES

*Northern Ireland Assembly*

- 5 Assembly Commission  
The Independent Financial Review Panel

*Northern Ireland Departments*

A Northern Ireland department

*Local Government*

- 10 A district council  
The Local Government Staff Commission for Northern Ireland  
The Northern Ireland Local Government Officers' Superannuation Committee

*Education and Training*

- The board of governors of a grant-aided school  
15 An industrial training board  
An institution of further education  
The General Teaching Council for Northern Ireland  
The Northern Ireland Council for Postgraduate Medical and Dental Education  
The Northern Ireland Council for the Curriculum, Examinations and Assessment  
20 The Education Authority  
University of Ulster  
The Queen's University of Belfast  
The Youth Council for Northern Ireland  
The Council for Catholic Maintained Schools

*Policing, Criminal Justice and Law*

- 25 A policing and community safety partnership or a district policing and community safety partnership  
The Northern Ireland Policing Board  
The Chief Inspector of Criminal Justice in Northern Ireland  
30 The Commission for Victims and Survivors for Northern Ireland  
The Northern Ireland Police Fund  
The Probation Board for Northern Ireland  
The Royal Ulster Constabulary George Cross Foundation  
The Northern Ireland Law Commission  
35 The Police Rehabilitation and Retraining Trust

*Arts and Leisure*

The Arts Council of Northern Ireland

The Board of Trustees of the National Museums and Galleries of Northern Ireland

The Northern Ireland Library Authority

5 The Northern Ireland Museums Council

The Northern Ireland Tourist Board

The Sports Council for Northern Ireland

*Health and Social Care*

A health and social care trust

10 A special health and social care agency

The Northern Ireland Practice and Education Council for Nursing and Midwifery

The Health and Social Care Regulation and Quality Improvement Authority

The Northern Ireland Social Care Council

The Patient and Client Council

15 The Regional Agency for Public Health and Social Well-being

The Regional Health and Social Care Board

The Regional Business Services Organisation

A general health care provider, within the meaning of section 16 of the Public Services Ombudsman Act (Northern Ireland) 2016

20 An independent provider of health and social care

*Investment and Economic Development*

Invest Northern Ireland

The company for the time being designated under Article 5 of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

25 A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

*Industrial Relations*

Office of the Certification Officer for Northern Ireland

The Labour Relations Agency

30 *Harbours*

The Northern Ireland Fishery Harbour Authority

A harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970

*Housing*

35 A registered housing association within the meaning of Article 3 of the Housing (Northern Ireland) Order 1992

The Northern Ireland Housing Executive

*Children and Young People*

The Safeguarding Board for Northern Ireland

5 The Office of the Commissioner for Children and Young People for Northern Ireland

*Charity and Voluntary Sector*

Regulator of Community Interest Companies

Appeal Officer for Community Interest Companies

The Charity Commission for Northern Ireland

10 The Northern Ireland Community Relations Council

*Miscellaneous*

The Agri-Food and Biosciences Institute

Civil Service Commissioners for Northern Ireland

The Comptroller and Auditor General

15 The Equality Commission for Northern Ireland

The General Consumer Council for Northern Ireland

The Health and Safety Executive for Northern Ireland

The Livestock and Meat Commission for Northern Ireland

The Northern Ireland Audit Office

20 The Northern Ireland Authority for Utility Regulation

The Northern Ireland Fire and Rescue Service Board

The Office of the Commissioner for Older People for Northern Ireland

Ulster Sheltered Employment Limited

25 A new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968

An implementation body to which the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 applies.

Notes:

30 1. An implementation body is an authority listed in this Schedule only to the extent that it exercises functions in or as regards Northern Ireland.

2. In relation to any function exercisable by an authority for the time being listed in this Schedule which was previously exercisable on behalf of the Crown by a body not so listed, the reference to the authority so listed includes a reference to the other body.



# Climate Change Bill

[AS INTRODUCED]

A Bill to enable the mitigation of the impact of climate change in Northern Ireland; establish a legally binding net-zero carbon target for Northern Ireland; provide for the establishment and powers of the Northern Ireland Climate Commissioner and Northern Ireland Climate Office; guarantee existing environmental and climate protections; and for connected purposes.

Introduced by: Ms Clare Bailey

On: 22 March 2021

Bill Type: Non-Executive Bill

## **ACCOMPANYING DOCUMENTS**

**An Explanatory and Financial Memorandum is printed separately as  
NIA Bill 19/17-22 EFM.**



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