

CLIMATE CHANGE BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the sponsors of the Bill, in order to assist the reader of the Bill and to help inform the debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, and where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Bill aims to establish a mandate for climate change mitigation and adaptation in Northern Ireland and ensure that Northern Ireland meets net-zero carbon emissions by 2045. It makes provision for climate governance and advice, including the establishment of a Northern Ireland Climate Commissioner and Northern Ireland Climate Office.
4. Amongst the many reasons for introducing a Climate Change Act in Northern Ireland, the scientific evidence makes a clear case for the need for such an act and the largest political parties in Northern Ireland and the NI Assembly have made a firm commitment to introducing a Climate Change Act. Scientific consensus holds that our climate is changing with wide-ranging risks and consequences for our society, economy and environment. The UK Met Office defines climate change as ‘a large-scale, long-term shift in the planet’s weather patterns and average temperatures’.
5. According to the Intergovernmental Panel on Climate Change (IPCC6), in order to keep global temperature rise to less than 1.5oC above the pre-industrial average, and thus limit consequences of climate change, greenhouse gas emissions need to reach net zero by 2050.
6. The largest political parties in Northern Ireland and the NI Assembly have committed to tackling climate change. For example, *New Decade New Approach* (NDNA), signed off by all parties in January 2020, states ‘*the Executive will introduce legislation and targets for reducing carbon emissions in line with the Paris Climate Change Accord ... the Executive should bring forward a Climate*

Change Act to give environmental targets a strong legal underpinning.' In February 2020, the NI Assembly declared a Climate Emergency and called on the Executive: "*To fulfil the climate action and environmental commitments agreed in the New Decade, New Approach agreement by commencing, as a matter of urgency, a review of the Executive's strategies to reduce carbon emissions in respect of the Paris Accord and the need to limit global warming to 1.5 degrees above pre-industrial temperatures by 2100 and to ensure that targets are met*".

7. In July 2020, the NI Assembly passed a motion which reiterated '*the Assembly's demands for the urgent introduction of a Climate Change Act*', the need to meet the all-party NDNA commitment to delivering a Climate Change Act, and called for the Minister to introduce this Act to the Assembly within three months.
8. Northern Ireland continues to be the only part of the UK with no legally binding greenhouse gas reduction targets. Although the UK Climate Change Act (2008) applies to Northern Ireland, the relevant areas of responsibility are devolved to the Northern Ireland Assembly, so there is no mechanism by which the targets of the UK Act can be enforced. A Northern Ireland Climate Change Act would close this legislative gap.
9. Given the unique profile of Northern Ireland's greenhouse gas emissions, including the high proportion of emissions produced by our agriculture sector and that our forestry sector is a net carbon source (not sink), Northern Ireland needs a bespoke climate Bill.

CONSULTATION

10. Climate Coalition Northern Ireland (CCNI) is a network of organisations and individuals formed in early 2020 and its mission is to facilitate cooperation between organisations working on climate change issues, locally and globally, in order to bring about appropriate action in Northern Ireland to tackle climate change. Focusing on both mitigation and adaptation, CCNI members represent over 390,000 people across Northern Ireland. CCNI is the largest collaborative body on Climate Action in Northern Ireland.
11. Informed by the best available science, its priority is to ensure the development of an ambitious Climate Change Bill for NI, introduced as a matter of urgency, and at the latest, by the end of 2021. Clear support for a Climate Change Act for NI exists, as illustrated by an opinion poll carried out in the summer of 2020, in which almost three out of four respondents (74%) supported the introduction of a Northern Ireland Climate Change Act. Over two thirds of respondents (68%) agreed there should be a target to reach net zero emissions by 2045.

OPTIONS CONSIDERED

12. Three main legislative models were considered because they are jurisdictionally close to Northern Ireland, in addition to being within the overall parameters of European Union law which, at the time of the drafting of the Bill, still applies in Northern Ireland. These were:
- a. The Climate Change Act 2008 (UK) (2008 c. 27)
 - b. The Climate Change (Scotland) Act 2009 (2009 asp 12)
 - c. The Climate Action and Low Carbon Development Act 2015 (Republic of Ireland) (Number 46 of 2015)

OVERVIEW

13. The Bill is divided into three Parts and comprises 17 clauses with two Schedules. In broad terms, the provisions:
- a. Declare a climate emergency as a mandate in which to provide a framework for mitigating the effects of climate change in NI;
 - b. Provide for a duty upon the Executive to prepare a Climate Action Plan at 5-year intervals (the initial interval being 3 years) with annual targets, carbon budgets, nitrogen budgets and sectoral plans;
 - c. Establish new institutions (the Northern Ireland Climate Commissioner and the Northern Ireland Climate Office) as independent auditor/expert bodies to monitor the implementation of the Climate Action Plans, prepare audits of the same for the Assembly and review the working of the Bill, suggesting reforms and amendments as needed; and
 - d. Guarantee in the law of Northern Ireland a non-regression from existing climate and environmental protections contained in European Union law as it applied before the end of the transition period under the Withdrawal Agreement.

COMMENTARY ON CLAUSES

Clause 1 - The Climate Emergency

Clause 1: declares a climate emergency until such time as verifiable evidence is considered that the temperature threshold under the Paris Accord to the UNFCCC (or any subsequent Accord or Agreement or Protocol) is achieved. An emergency may only be annulled by the Assembly, on a motion from the Executive Office after the Executive Office itself considers verifiable proof. The verifiable proof can come from any of the

three bodies listed in 1(2). It is not envisaged that the body in question be specifically requested to provide evidence, though that can also occur (for example under section 38 of the Climate Change Act 2008).

Clause 2 - Climate action plan

Clause 2: sets up the Climate Action Plan (CAP) to achieve the overriding climate objective of having a net-zero climate resilient economy in Northern Ireland by 2045. The CAP is prepared by the Executive Office and approved by the Assembly. The first CAP is provided within 3 years of the Bill being enacted, with further CAPs at 5-year intervals. The net-zero year may be altered by order of the Executive Office, but not for a year after 2045.

Clause 3 - Climate action plan: contents

Clause 3: provides for CAP contents into two broad categories: targets (for greenhouse gas emissions, biodiversity, water and soil quality) which are annual targets during the relevant period of the CAP, and measures, which are sectoral plans across the Northern Ireland economy, subject to principles sometimes referred to as “just transition” principles (though not referred as such in this Bill). Both targets and measures are set as best calculated to achieve the overriding target in clause 2.

Clause 4 - Reporting on climate action plans

Clause 4: provides for reporting on CAP implementation on an annual basis, including the likelihood of CAP targets being achieved and CAP measures being implemented and the overall likelihood that the overriding climate objective is achieved.

Clauses 5 – 10 - The Northern Ireland Climate Office and the Northern Ireland Climate Commissioner

Clauses 5 – 10, Schedules 1 & 2: establish the Northern Ireland Climate Office and Northern Ireland Climate Commissioner with provisions which mirror those in the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), with minor adaptations as relevant for the institutions created by this Bill. The Climate Commissioner has two main functions under the Bill: first, monitoring the implementation of the CAPs and making annual reports to the Assembly on this issue. In order to discharge this function, the Climate Commissioner has, *inter alia*, powers analogous to the Comptroller and Auditor General in clause 10. The second function is to review the implementation of the Bill and recommend such reforms or amendments as the Climate Commissioner considers necessary and desirable to achieve the overriding climate objective.

Clause 11 - Alteration of climate action plans

Clause 11: provides for powers to alter CAPs, largely echoing the mechanism of their adoption in clause 2. Following the laying of an annual report under clause 4, the

Executive Office would prepare its response to such a report, including any proposed alterations to measures or targets or both. The Assembly would then vote on approving any alterations and if these are approved, they take effect in the CAP to which the approved alterations relate. This is subject to the proviso at 11(2) that the Executive Office may not propose any alterations which have the effect of directly or indirectly reducing any target approved by the Assembly when the CAP to which the annual report relates, was first approved.

Clause 12 - Interpretation of legislation: non-regression principle

Clause 12: provides for an interpretive duty on all laws in Northern Ireland (whenever enacted) similar to section 3 of the Human Rights Act 1998, in light of the non-regression principle in clause 12(2). This interpretive duty does not affect the continued operation or validity of certain kinds of legislation, including primary legislation.

FINANCIAL EFFECTS OF THE BILL

14. This Bill establishes new institutions: the Northern Ireland Climate Office, comprising the Northern Ireland Climate Commissioner and staff appointed by the Climate Commissioner. The immediate impact of these institutions will be in terms of the salaries and pension arrangements for the Climate Commissioner and staff, as well as any advisers appointed by the Climate Commissioner to provide advice on the discharge of the Climate Commissioner's functions under the Bill.
15. More broadly, the Climate Action Plans involve sectoral plans across the entire economy of Northern Ireland, to achieve the statutory objective of a zero-carbon economy by 2045. This will have financial implications which go beyond the immediate Bill.
16. It has not been possible to precisely cost either of the above implications by either the drafters or the Climate Coalition.

HUMAN RIGHTS ISSUES

17. No human rights issues under the Convention on Human Rights are foreseen to arise in relation to this Bill.

EQUALITY IMPACT

18. No issues are foreseen to arise in relation to this Bill under this heading.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

19. Not applicable.

LEGISLATIVE COMPETENCE

20. At introduction, the sponsor 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 CONSENT

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