

*These notes refer to the Climate Change Act (Northern Ireland)  
2022 (c.31) which received Royal Assent on 6 June 2022*

# Climate Change Act (Northern Ireland) 2022

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6 - Supplementary**

##### ***Section 52: Duties to ensure that targets etc. are met***

This section explains the duties that are placed on the Northern Ireland departments under sections 1, 3, 4 and 24 and the duty which may be placed on Northern Ireland departments under section 5.

##### ***Section 53: Regulations: general***

This section provides the Department with a power, when making regulations under the Act, to make consequential or supplementary provisions. This includes a power to amend the Act itself, or a carbon budget before the budgetary period begins.

Subsection (3) requires that regulations made under the Act must be made under the draft affirmative resolution procedure except those regulations referred to in subsection (4) which are to be made under negative resolution. The regulations which can be made under negative resolution by virtue of subsection (4) are those made under section 9(4) or 42(1) (to either amend the definition of Northern Ireland removals or to set out requirements in respect of public body reporting) unless such regulations contain consequential or supplementary provision of the kind mentioned in subsection (2) of this section.

If consequential or supplementary provision is made under subsection (2) to amend an emissions target, add a new target or amend a carbon budget, section 54 will be applicable. If consequential or supplementary provision is made under subsection (2) to specify a different baseline year for a greenhouse gas or change a budgetary period, then section 55 applies.

##### ***Section 54: Regulations that amend or add an emissions target or amend a carbon budget***

This section sets out the conditions which must be met before the Department can make regulations which amend an emissions target or add a new target or amend a carbon budget.

Under subsection (2), the Department is only able to make such regulations if–

- The provision made by the regulations has been recommended by the Committee on Climate Change or is not substantially different from their recommendation, or
- It is appropriate to make changes due to significant developments in United Kingdom or international law or policy, scientific knowledge about climate change or technology relevant to climate change.

Subsection (3) places a duty on the Department to have regard to certain matters when making such regulations. The matters are -

- the views of the Climate Commissioner and the Just Transition Commission,
- United Kingdom and international law or policy relating to climate change,
- scientific knowledge about climate change, and
- technology relevant to climate change.

If the Department is satisfied that it is appropriate to make the regulations as a result of significant developments in one of the above matters it does not have to have separate regard to that matter.

The purpose of this section is essentially to ensure that there is a strong justification and/or evidence to support making amendments to the key targets and elements of the Act.

***Section 55: Regulations that specify a different baseline year or change a budgetary period***

This section sets out the restrictions that apply if the Department is making regulations that specify a different baseline year for a greenhouse gas or that change a budgetary period. The Department can only make such regulations if it is appropriate to do so as a result of significant developments in United Kingdom or international law or policy relating to climate change.

***Section 56: Requirement to obtain advice about proposals to make regulations***

This section sets out requirements on the Department in relation to obtaining advice from the Committee on Climate Change when making regulations under any provision in the Act, with the exception of regulations being made in accordance with section 54(2)(b).

Subsection (2) places a duty on the Department, when making regulations under section 9(4) or 43(1) or laying draft regulations under section 53(3), to request advice from the Committee on Climate Change and to take this advice into account.

Subsection (3) places a duty on the Department to specify a reasonable period as to when the advice should be provided. Under subsections (4) and (5) the

Committee has to provide the advice within the prescribed timescale and to provide reasons as to why particular advice has been recommended.

Subsection (6) requires the advice supplied by the Committee to be published by the Department.

Subsections (7) to (9) apply if the Department intends to make regulations that differ from what the Committee has recommended. The Department must either publish or lay in the Assembly (depending on the process through which the regulations in question are being made) a statement setting out the reasons for the difference.

***Section 57: Advice about proposed regulations relating to targets***

This section sets out how the Committee on Climate Change must respond to requests under section 56 for advice on proposed regulations which will amend emission reduction targets (either to specify a different year in respect of a target or to specify a different target for a year).

Subsection (2) requires that in relation to proposed regulations changing the year for a particular emissions target, the Committee's advice must include its opinion on whether the year proposed is the earliest year for which the target could be achieved and, if not, what the earliest year for the target to be achieved would be.

Subsection (3) requires that, where the Department is proposing to specify a different percentage for a particular emissions target year, the Committee must advise whether the percentage proposed is the highest percentage achievable for that year and, if not, what the highest percentage achievable would be. The Committee must also have regard to the matters specified in subsection (4) when giving such advice.

***Section 58: Advice about proposed regulations relating to budgets***

This section sets out how the Committee on Climate Change must respond to requests under section 56 for advice on proposed regulations which will set or amend carbon budgets.

Subsection (2) requires the Committee to advise on the levels at which carbon budgets should be set and on the extent to which budgets should be met by reducing the amount of net Northern Ireland emissions, or by the use of carbon units credited to the net Northern Ireland emissions account.

The Committee must advise on the respective contributions towards meeting carbon budgets that should be made by sectors of the Northern Ireland economy covered by trading schemes (taken as a whole) and by other sectors not covered (taken as a whole). The Committee is also required to advise on sectors of the Northern Ireland economy in which there are particular opportunities for contributions to be made towards meeting carbon budgets through reductions in emissions of greenhouse gases.

***Section 59: Meaning of “carbon unit”***

This section enables the Department to make regulations setting out specifically what “carbon units” can be used for carbon accounting purposes. “Carbon units” in the regulations can only be units representing:

- a reduction in an amount of greenhouse gas emissions,
- the removal of an amount of greenhouse gas from the atmosphere, or
- an amount of greenhouse gas emissions which are allowed under a scheme or arrangement which limits such emissions.

***Section 60: Meaning of “greenhouse gas”***

This section lists the greenhouse gases for the purposes of the Act and enables the Department to make regulations to add a gas.

***Section 61: Meaning and measurement of emissions***

This section defines “emissions” and provides that emissions, emissions reductions and removals of greenhouse gases are to be measured in tonnes of carbon dioxide equivalent, and defines that term.

***Section 62: Meaning of “sector”***

This section provides a definition for the terms “sector” and “sectors”.

***Section 63: Other definitions***

This section provides a definition of “the Committee on Climate Change”, “the Department”, “emissions target”, “international carbon reporting practice”, “Northern Ireland emissions” and “Northern Ireland removals”.

***Section 64: Commencement***

This section stipulates that the Act shall come into operation the day after it receives Royal Assent.

***Section 65: Short Title***

This section provides for the short title of the Act to be the Climate Change Act (Northern Ireland) 2022.