

## **EXPLANATORY MEMORANDUM TO**

### **The Climate Change (Reporting Bodies) Regulations (Northern Ireland) 2024**

**SR no. 93**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs ('DAERA') to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 42(1) of the Climate Change Act (Northern Ireland) 2022 (now referred to as 'the Act') and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. This Statutory Rule (now referred to as the 'section 42 Regulations') establishes a legislative framework that implements a reporting regime in Northern Ireland, by placing climate change reporting duties on specified public bodies, which are listed in the 'Schedule' to the section 42 Regulations.
- 2.2. In addition to the climate change reporting duties placed upon the specified public bodies, the section 42 Regulations also place connected duties upon, and provide powers for, DAERA to perform certain functions including in relation to the production of guidance and the publication of climate change reports received.
- 2.3. Climate change reporting by public bodies can help inform, enable, and drive discretionary action by them to reduce their greenhouse gas emissions and to adapt to climate change. This can help ensure the sustainability of public bodies so they can continue to deliver positive outcomes. This includes such positive outcomes as - helping Northern Ireland become more climate change resilient and helping to contribute to Northern Ireland's transition to its greenhouse gas emissions target for the year 2050 to be at least 100% lower than the baseline (as required by section 1 of the Act).

#### **3. Background**

- 3.1. The Act came into operation in June 2022. Section 42 of the Act requires DAERA to make regulations which place climate change reporting duties on specified public bodies. There are no requirements or powers in the Act to require public bodies (outside of Northern Ireland departments) to take actions beyond the action of climate change reporting.
- 3.2. Section 42 of the Act defines a public body as "a person or body with functions of a public nature" or "a person who is a statutory undertaker within the meaning of the Planning Act (Northern Ireland) 2011". DAERA is required by the Act to specify, in the section 42 Regulations, the public bodies on whom the climate change reporting duties are to apply.

- 3.3. DAERA is required under section 56(2) of the Act to seek the advice of the UK Climate Change Committee ('the CCC') and to take this advice into account before making the associated regulations required under section 42 of the Act. The department sought advice from the CCC to inform the development of the section 42 Regulations and these Regulations align with the CCC's advice by:
- (i) requiring climate change adaptation reporting at a frequency of every 5 years, and at a timing and frequency which aims to align with the CCC's five-yearly evidence reports, which inform the five-yearly UK Climate Change Risk Assessment required under section 56 of the UK Climate Change Act 2008; and
  - (ii) requiring climate change mitigation reporting at a frequency of every 3 years. The CCC have indicated that annual reporting on mitigation by public bodies in their view, is not necessary, but such reporting should be more frequent than every 5 years.

#### **4. Consultation**

- 4.1. Section 42(7) of the Act requires DAERA to consult such public bodies, and such other persons, as it considers appropriate before making regulations under section 42 of the Act.
- 4.2. DAERA ran a series of pre-consultation workshops with public bodies in the latter quarter of 2022. A total of 151 participants attended the workshops, most of these from public bodies, along with some interested stakeholders. DAERA also set up an advisory group, comprising of key public bodies which already have an established level of climate change reporting experience, to seek views to help inform the content and delivery of the workshops. Both the workshops and the advisory group meetings were undertaken to gather views to help inform the development of a public consultation on proposed policy options, as well as the section 42 Regulations.
- 4.3. In accordance with section 42(7) of the Act, DAERA launched a public consultation on 'Climate Change Reporting by Specified Public Bodies - Developing New Regulations' at the end of March 2023. This consultation was intended to run for ten weeks, however this period was later extended by DAERA, by a further three weeks, until the end of June 2023. The extension to the consultation period was provided by DAERA at the request of some consultees and to encourage further responses to the consultation.
- 4.4. The consultation sought views from consultees to inform policy development. Views were sought, through a series of 21 consultation questions, on what the Regulations should require, who should be mandated to report, and potential support required to help the reporting bodies meet their reporting duties. The consultation received responses from 127 individuals and organisations (including public body organisations).
- 4.5. The summary of responses to the consultation and the pre-consultation was published on DAERA's website on 10th January 2024. The Summary of Responses publication can be found at: <https://www.daera->

[ni.gov.uk/publications/summary-responses-and-next-steps-consultation-climate-change-reporting-by-specified-public-bodies](https://www.ni.gov.uk/publications/summary-responses-and-next-steps-consultation-climate-change-reporting-by-specified-public-bodies).

## **5. Equality Impact**

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, and the DAERA Equality Scheme, an Equality and Disabilities Duties Screening exercise was completed for this policy. There are no equality, human rights or good relations issues associated with the section 42 Regulations.
- 5.2. Where applicable, it is expected that public bodies will, as part of their policy development process, carry out equality screening and conduct an equality impact assessment, if relevant, for any individual policies being developed, at their discretion, which may have been informed by data and information gathered to meet their reporting duties set by the section 42 Regulations.

## **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment ('RIA') was completed to assess the potential impacts of the section 42 Regulations, and three options were considered in that assessment, as described below.
- 6.2. Option 1: Do Nothing/Business As Usual. Under this option, no new regulations would be made to place climate change reporting duties on specified public bodies, which would mean DAERA would not be fulfilling the legislative requirements placed on it under section 42 of the Act. This option was therefore not recommended and was considered non-viable.
- 6.3. Option 2: New regulations are made placing climate change reporting duties on a list of specified public bodies which fall within the definition of section 42 of the Act. This option applies a criteria based-proportionality approach to identify public bodies who are required to report under the regulations made under section 42 of the Act. The criteria used is as follows: Public bodies to be specified as having reporting duties placed on them by the regulations are those:
  - (i) with 250 or more staff (based on full-time equivalent (FTE) data or total of permanent staff);
  - (ii) which are listed authorities in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 and/or in the list of organisations which are subject to the Department of Finance's public procurement policy;
  - (iii) whose remit/functions do not fall under reserved or excepted matters, or they are not North/South government dual funded; and
  - (iv) which are not a Registered Housing Association, a General Practitioner, nor a Northern Ireland Civil Service department and their Executive agency(ies) (due to the more extensive requirements placed on these departments by other sections of the Act).

Option 2 was the recommended and chosen option applied to the section 42 Regulations. This is on the basis that it delivers the legislative requirements placed on DAERA under section 42 of the Act, it is

considered proportionate in terms of costs/benefits, and it minimises the risk of undue burden on smaller public bodies. This is because it focuses on large sized public bodies who are more likely to have high emissions associated with delivery of their functions and have the potential to be more impactful in terms of supporting efforts in Northern Ireland to reduce emissions and adapt to climate change. DAERA will review at a future point the first ‘principal’ set of regulations made under section 42 of the Act to explore making amending regulations to extend as appropriate the list of public bodies who are mandated to report on climate change.

- 6.4. Option 3: New regulations are made placing climate change reporting duties on all public bodies which fall within the definition of section 42 of the Act. This option delivers the legislative requirements placed on DAERA under section 42 of the Act. However, it is not the recommended option and it has not been applied, because it is assessed as likely to have a higher risk (than Option 2) of being unduly and disproportionately burdensome on public bodies. This is because it would place additional regulatory and administrative burdens on approximately 400 public bodies, including those who are small and micro-sized organisations which may have minimal emissions and/or climate change risks and impacts. Also, larger organisations are likely to have more resources and capacity to meet the reporting duties.

## **7. Financial Implications**

- 7.1. The approximate indicative costs for the section 42 Regulations (i.e. Option 2 of the RIA above) are estimated at £0.3million per year for 40 reporting bodies (to meet their reporting duties) and for DAERA to perform certain functions, in relation to those reporting duties (e.g. management of reports and practical support to the bodies, etc.). The total costs over 10 years are estimated at £3.7million (which includes transitional set-up costs).
- 7.2. Within this, adaptation and mitigation reporting costs for all public bodies are estimated to be indicatively around £40,281 per year and £67,135 per year respectively. It is also estimated that the indicative costs to the individual reporting public bodies could be £10k for each report (either adaptation or mitigation) in the first reporting cycles, and £5k for each report from the 2nd reporting cycles onwards.
- 7.3. While the indicative cost to DAERA is estimated to be £196,573 per year, in terms of performing their functions in relation to the section 42 regulations.
- 7.4. It is recognised that costs may be different than what is provided indicatively in the RIA due to many factors, as true costs are not fully known and may not be fully realised until after reporting begins under the section 42 regulations. For example, costs to specified public bodies delivering on their reporting duties will likely be unique for each reporting body e.g. some of the variables include the organisation’s size, complexity, functions, their current expertise/experience in climate change reporting, etc. Also, the costs for a reporting body are likely to vary over reporting cycles under the regulations. For example, higher costs may be incurred in

the earlier reporting cycles, until databases grow and mature, and reporting skill sets increase with experience. It is envisaged that there will also be the opportunity for shared learning between organisations and this could help to reduce costs over time.

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. This Statutory Rule (i.e. the section 42 Regulations) complies with the provisions set out in section 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

- 9.1. The Regulations do not have any EU Implications. Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1. The section 42 Regulations create a degree of consistency with the corresponding but varied approaches taken by the UK government and the other UK devolved administrations, and by the Government of Ireland, in terms of setting climate change reporting requirements on their public bodies. Under the UK Climate Change Act 2008, the UK government's Secretary of State has the power to issue directions to require 'reporting authorities' to report on climate change adaptation.
- 10.2. The Scottish Government, through their secondary legislation under the Climate Change (Scotland) Act 2009, requires a specified list of their public bodies to report against their climate change reporting duties set by that Act. This includes reporting requirements on both climate change mitigation and adaptation. There are no statutory climate change reporting duties set within legislation on Welsh public bodies, however, climate change mitigation reporting by some public bodies is implemented through the Welsh government's policy. The Government of Ireland has powers to require climate change reporting by their public bodies and through their policy in relation to their public sector.

## **11. Additional Information**

- 11.1. For further information contact Arlene McGowan (028905 69484) at the Department of Agriculture, Environment and Rural Affairs or email [climatechangediscussion@daera-ni.gov.uk](mailto:climatechangediscussion@daera-ni.gov.uk).