

# Options for strengthening Ireland's climate law

July 2020

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## Executive summary

The new government has committed to revise Ireland's 2015 climate law. This paper sets out options to strengthen the January 2020 General Scheme for the Climate Action (Amendment) Bill:

- **National Transition Objective:** The provisions relating to the National Transition Objective are broadly satisfactory. Consideration will need to be given to how agricultural emissions are treated in the 2050 goal. A decision on this matter should be informed by best available science.
- **Policy planning framework:** The policy planning framework represents a significant strengthening of the 2015 Act. Consideration should be given to amending the emphasis placed on least cost approaches to climate action. A concept of “acceptable cost” or similar would provide a more appropriate framework for policy development.
- **The Climate Action Council:** The strengthening of the role of the existing Climate Change Advisory Council is welcome, as is the emphasis placed on ensuring a mix of scientific expertise and gender balance within its membership. However, the General Scheme could go further in putting into practice this desire for greater diversity.
- **Carbon budgets:** The provisions relating to setting carbon budgets follow broadly the UK model, but with subtle yet important differences. Clarity is needed regarding whether all three budgets are to be (re)set every five years. The circumstances in which a carbon budget may be amended ought to be tightened, as should the provisions for borrowing.
- **Monitoring, enforcement and accountability:** The duty of the government and/or minister to meet carbon budgets should be stated unambiguously. The minister should be required to report on achievement or otherwise of carbon budgets, and to respond to recommendations from the Climate Action Council. The Joint Oireachtas Committee on Climate Action should be given an explicit role in accountability. Consideration should be given to legislating for allocating compliance costs to departmental votes.
- **Just transition and citizen engagement:** Consideration should be given to enshrining the Just Transition commitments in the Programme for Government in the revised climate bill. Additionally, or instead, the concept of Just Transition should be included and clearly defined. While citizen engagement is crucial, it is perhaps not appropriate to include relevant provisions in primary legislation.
- **Other provisions:** The provisions regarding local government climate action plans are welcome. No substantive alterations are suggested.

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## 1. Introduction

The recent Programme for Government agreed between Fianna Fáil, Fine Gael, and the Green Party (2020, p. 32) contained a commitment to introduce a Climate Action (Amendment) Bill in the Dáil within the first 100 days of government. The commitment in the Programme for Government to develop a new climate law builds on a similar commitment in last year's Climate Action Plan. A General Scheme for the Climate Action (Amendment) Bill was published in January 2020 (DCCA, 2020). If enacted, it would amend the 2015 Climate Action and Low Carbon Development Act.

The General Scheme for the Climate Action (Amendment) Bill published in January 2020 provides a solid basis on which the new government can work. However, that draft raises important questions that ought to be addressed before enactment. This paper outlines key considerations and options for the new government in framing this important piece of legislation. This paper is accompanied by a background paper entitled *What are framework climate change laws and why are they important?* Readers who wish to gain further insights into why particular design elements are important and how other jurisdictions have incorporated them in their framework laws should consult that paper.

The focus in this paper is on climate change mitigation rather than adaptation. While Ireland's 2015 Act as well as similar laws in other jurisdictions focus on both mitigation and adaptation, the proposed reforms set out in the Joint Oireachtas Committee on Climate Action (JOCCA) report and the Climate Action Plan as they pertain to climate change legislation focus heavily on mitigation. Moreover, the General Scheme published in January focused predominantly on mitigation, with only minor proposed amendments to provisions for adaptation policy.

## 2. National Transition Objective

Head 2 of the General Scheme proposes to amend the National Transition Objective as follows:

“[t]he transition to a net-zero, climate resilient and environmentally sustainable economy by the end of the year 2050” (p.3).

It is to be welcomed that the General Scheme includes a quantified mitigation goal of net zero, and represents a step forward from the slightly ambiguous language in the 2019 Climate Action Plan in which the government committed to support a net zero target at EU level but stopped short of committing to net zero for Ireland itself.<sup>2</sup> The Explanatory Note for this Head states that:

“The final decision for Ireland's 2050 target will be informed by further consideration of advice provided by the CCAC [Climate Change Advisory Council], the consultation process being carried out on the LTS [Long Term Strategy] and additional research currently being undertaken to inform the target” (p.3).

One question in this regard is how emissions from agriculture are treated in this 2050 target, specifically whether such emissions should be included within the overall net zero target or

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<sup>2</sup> The Climate Action Plan states that “Ireland will support the ambition emerging within the European Union to achieve a net zero target 10 by 2050, the plan commits to evaluate in detail the changes required to adopt such a goal in Ireland” (DCCA, 2019, pp. 9–10).

should be subject to a distinct 2050 target. I do not have the relevant scientific expertise to make a firm recommendation on this issue. A decision on this matter should be informed by best available science.

### **3. Policy planning framework**

Heads 3–5 of the General Scheme revise the policy planning framework set out in the 2015 Act. The 2015 Act required government to produce a National Mitigation Plan and National Adaptation Framework only. The General Scheme strengthens these requirements. It replaces the requirement for government to produce National Mitigation Plan with a requirement to produce a “Long-Term Climate Strategy” (Head 3) and places the requirement to produce an annual Climate Action Plan on a statutory footing (Head 4).

Taken as a whole, the proposed new planning process provides an interlocking and coherent framework for the elaboration of climate change policies. The carbon budgeting process will set the trajectory with a 15-year time horizon. The Long-Term Strategy is to be published once every five years, and will have the same time horizon (15 years) as the next three carbon budgets, as well as having a longer term perspective of at least 30 years (Head 3(3)). The Climate Action Plan, in turn, is to be updated annually and must provide an updated roadmap of actions that would be required to support the delivery of the Long-Term Strategy and the five-year carbon budgets.

One way to think about this planning process is as a set of concentric circles. The 2050 goal, set out in the National Transition Objective (Head 2), is the outermost circle. The carbon budgets come next, and are to be consistent with achievement of the National Transition Objective (Head 11(2)). Moving further inwards, the Long-Term Strategy is required to be consistent with the limits set by the carbon budgets as well as with the National Transition Objective (Head 3(a)&(b)). The innermost circle, the Climate Action Plan is required to be consistent with the annual decarbonisation range set for each sector by government under the carbon budgeting system (Head 4(a)&(b)).

Overall, this set of measures strengthens considerably the 2015 Act and are to be welcomed. One issue that ought to be considered further concerns a requirement that formulation of the Long-Term Strategy and Climate Action Plan

“shall take account of ... the need to achieve the objectives of a national long term climate strategy at the least cost to the national economy and adopt measures that are cost-effective and do not impose an unreasonable burden on the Exchequer” (Head 3(9)(d), repeated in Head 4, emphasis added).

Standard economic evaluation of climate policy measures is almost always challenging. Many environmental outcomes are not valued by markets, and it can be difficult to capture co-benefits. The requirement to adopt a “least cost” approach, in particular, places a considerable straightjacket on policy development. A more nuanced concept such as “acceptable cost” may be more appropriate in this context (Torney, 2018). Other national framework climate laws do not, as far as I am aware, include such a provision. Consideration should be given to removing or amending this provision of the General Scheme.

## 4. The Climate Action Council

Changes to the role and composition of the Climate Change Advisory Council, established under the 2015 Act and to be renamed the Climate Action Council, are provided for in Heads 6–10 of the General Scheme. In addition to changes to its composition, the Council will be given the additional tasks of providing advice to government on the setting of the five-year carbon budgets and monitoring progress relative to those budgets. Provision is also made for the establishment on a statutory basis of an Adaptation Committee. Such a committee exists already but was not provided for explicitly by the 2015 Act.

### 4.1 Composition of Climate Action Council

Further consideration should be given to the composition of the Climate Action Council. The JOCCA report recommended that the composition of the Climate Action Council should contain “a mix of scientific expertise, and a gender balance” (Houses of the Oireachtas, 2019, p. 11). The Programme for Government committed to establishing a Climate Action Council “on an independent statutory footing and ensure greater gender balance and increased scientific expertise in its membership” (Government of Ireland, 2020, p. 34).

The current CCAC consists of eleven members, including four *ex-officio* members: the heads of the Environmental Protection Agency, the Sustainable Energy Authority of Ireland, the Economic and Social Research Institute and Teagasc. The remaining seven members are appointed by government. In terms of gender, six of the seven government appointees at present are male, and three of the four current *ex officio* members are also male. In terms of expertise, six of the seven government appointees at present are economists, and two of the current *ex officio* members are also economists. The lack of gender balance is glaring. Additionally, while the discipline of economics undoubtedly provides important insights to climate change policy, a broader set of perspectives is surely warranted.

The General Scheme specifies that the minister “shall, insofar as practicable and having regard to the relevant experience of the persons concerned, ensure an equitable balance between men and women” (Head 7(3)(b)). It is less satisfactory in terms of broadening expertise. The General Scheme provides for the addition of the director of Met Éireann as an additional *ex officio* member in order to “provide more scientific expertise” (Head 7, Explanatory Note). This is a curious approach to adding more scientific expertise. According to a recent study, Ireland is unique internationally in including such *ex officio* members as part of its national climate change advisory body (Weaver et al., 2019).

With the exception of the Economic and Social Research Council, all of the bodies whose heads are proposed to sit as *ex officio* members on the new Climate Action Council are statutory bodies reporting to, or indeed in the case of Met Éireann a line division of, government departments. As such, they have existing channels through which they contribute to policy formation. Consideration should be given to bringing the composition of the Climate Action Council into line with international practice by remodelling the Climate Action Council such that its members would be independent of government departments and statutory bodies. Moreover, the revision as currently drafted could allow for the five *ex officio* members to constitute a majority of the 8–11 members. At a minimum, the Bill should be altered to ensure that the *ex officio* members cannot constitute a majority of the Council.

It is recommended also that the Bill be made more explicit regarding the types of expertise that ought to be included among the Council’s membership. The UK CCA, for example lists nine areas of expertise that the Secretary of State should seek to have included among the membership of the CCC (Schedule 1, 1(3)).

Finally, Head 9(5)(d) seeks to provide for continuity in the membership of the Council by requiring that the Minister “shall endeavour to ensure that the terms of office of all members of the Council do not expire at the same time”. While the desire for continuity is understandable, given the severe lack of gender and scientific diversity on the current Council this provision arguably runs counter to the need to increase such diversity. Therefore, this provision ought to be reconsidered.

#### ***4.2 Resourcing of Climate Action Council***

The JOCCA report recommended that the new Climate Action Council should be given “increased resources including an independent budget and staffing appropriate to its new functions and structure”. It further recommended that it should be provided with three year funding from the Central Fund, be provided with “additional technical and scientific resources”, and “[h]ave access to the expertise and data contained in Government Departments and agencies” (Houses of the Oireachtas, 2019, pp. 10–11).

It is interesting to note that a leaked draft of the Climate Action Plan, dated 16 April 2019, provided that the new Climate Action Council would have “an expanded secretariat”, and that its “budget will be set in three year budget cycles to ensure their independence from government”. Neither of these provisions were included in the final published version of the Climate Action Plan.

The General Scheme is silent on these issues. Primary legislation may not be the appropriate place to address these issues, but the need of the new Climate Action Council for additional resources should be addressed as a matter of urgency, particularly in light of the increased duties to be assigned to the Council under the Climate Action Amendment Bill, not least advising on carbon budget. Indeed, the Climate Change Advisory Council made this point in a letter to Minister Bruton in December 2019 (CCAC, 2019).

### **5. Carbon budgets**

The General Scheme adopts broadly the UK carbon budgeting approach, though with some modification. This follows, again broadly speaking, the JOCCA recommendations on climate governance (Houses of the Oireachtas, 2019, ch. 1) and the provisions of the Climate Action Plan (DCCAE, 2019, ch. 5), though the latter does not mention the UK CCA specifically. The provisions for carbon budgeting are covered in Heads 11–13 in the General Scheme, dealing with how carbon budgets are to be set and managed. The broad approach set out requires the Climate Action Council to provide advice on the appropriate level for each carbon budget (see also discussion in section 6). The government is then required to set both an overall, economy-wide carbon budget for each five-year period as well as a decarbonisation range for each relevant sector for the five-year period, the latter within the ceiling of the overall proposed carbon budget.

### ***5.1 Procedure for setting carbon budgets: One budget or three?***

The carbon budgeting system as set out in the General Scheme departs in a subtle but important way from the UK model. In the UK model, once a carbon budget is set, it may not be amended save for certain defined circumstances. By contrast, the proposed system provides for a new set of three carbon budgets, covering 15 years in total, to be set every five years:

“The Government shall adopt a system of carbon budgets which will be determined ***as part of a grouping of three five-year periods*** calculated on an economy-wide basis, starting with the periods 2021 to 2025, 2026 to 2030, and 2031 to 2035.”  
(Head 11(1), emphasis added)

It appears that, every five years, ***all three*** carbon budgets are to be set anew:

“***In advance of setting each 5 year budget*** and within a specified period, the Climate Action Council will, no later than 12 months before the budget is due to be set, advise the Minister on the ***appropriate three year five year (sic) carbon budgets*** to be adopted by Government.” (Head 11(4), emphasis added)

This system of proposing three carbon budgets together is reiterated in Head 12:

“Not later than X months after receiving the advice from the Climate Action Council, the Minister shall prepare ***a set of three economy-wide five-year carbon budgets...***” (Head 12(1), emphasis added)

The implication of these provisions seems to be that, every five years, it is not just the carbon budget commencing ten years hence that is to be set. Rather, the two carbon budgets covering the immediate decade to come are also to be reviewed and possibly revised.

The logic of setting legally binding carbon budgets a decade in advance is to provide medium-term certainty about the climate policy environment.<sup>3</sup> By providing an opportunity to re-open the next two carbon budgets every five years, this element of certainty is removed. There may be good reasons to allow policymakers to review and possibly revise intermediate targets, for example to take account of changes in our understanding of climate science or falling technology costs (Torney and O’Gorman, 2020), but the implications of this choice need to be understood.

Two pathways could resolve this tension in the General Scheme:

- Specify that, every five years, only the carbon budget starting ten years hence is to be set, as in the UK CCA. Clearer valid circumstances in which an already-set carbon budget may be amended should be clearly specified, for example the circumstances identified in Head 13(1) (though see concerns regarding 13(1)(c) immediately below);
- Retain the current model but to add an explicit “no backsliding” provision that would specify that carbon budgets may only be strengthened.

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<sup>3</sup> For more detailed discussion of this point, see the accompanying background paper *What are framework climate change laws and why are they important?*

## ***5.2 Circumstances in which a carbon budget may be amended***

A related issue arises in Head 13, which deals with “Managing carbon budgets”. Head 13(1) sets out the circumstances in which a carbon budget may be amended, as follows:

- “(a) a significant change in greenhouse gas emissions accounting for the relevant inventories has occurred,
- (b) the State’s obligations under EU law or international agreements have been amended or revised,
- (c) There is a requirement to act quickly in response to economic and environmental occurrences and circumstances.” (Head 13(1))

Provisions (a) and (b) are unproblematic and in line with similar legislation in other jurisdictions. Provision (c) is more problematic, giving government wide latitude and, again, undermining the core intention of the carbon budget model to provide policy certainty. In order to preserve the intention to provide policy certainty, it is recommended either that Head 13(1)(c) is removed, or that it is more clearly specified that a carbon budget may only be amended following receipt of advice from the Climate Action Council, and that the “comply or explain” provision set out in Head 12(4) would apply in this instance.

## ***5.3 Banking and borrowing***

Head 13 also provides for what are often described as “banking” and “borrowing”. Where there is over-compliance with a carbon budget, banking allows carrying forward of any emissions reduction in excess of the carbon budget to the next budget period. Where a carbon budget is breached, borrowing allows for some of the budget from the next budget to be used to cover those excess emissions.

The provisions for banking (Head 13(3)) are unproblematic. The provisions for borrowing (Head 13(4)) are more problematic. Without adequate safeguards in the form of a limit, the borrowing provision potentially undermines the policy certainty provided by the carbon budget model by providing government with potentially unlimited ability to borrow from the budget of a future period and—more than likely—a future government. It is recommended that a safeguard provision be added to the borrowing provision. For example, the UK CCA provides for borrowing of no more than 1% of a later budget (S.17).

A more minor issue concerns Head 13(2), which states that “Not later than 6 months after a carbon budget period has expired and where the total carbon budget is less than or exceeds the adopted carbon account for that period...”. The Environmental Protection Agency typically publishes provisional GHG inventories for a given year in Q3 or Q4 of the following year, and publishes final GHG inventories in the second year after the year in question. Therefore, the timeline set out in Head 13(2) will need to be amended.

## ***5.4 “Comply or explain” provision***

Similar to the UK CCA, the General Scheme sets out a “comply or explain” provision regarding advice from the Climate Action Council on the setting of carbon budgets. That is to say, government must first seek advice from the Climate Action Council and then can either accept

the Council’s recommendation or, if it wishes to deviate from that advice, explain its reasoning for doing so.

The wording of the relevant text, however, seems to assume that government will deviate from the Council’s advice:

“In presenting the three draft economy-wide five-year carbon budgets to Government, the Minister shall outline *the reason, if any, for where the recommended carbon budget varies* from the advice of the Council.”

The wording “where the recommended carbon budget varies” seems to assume divergence. On this reading, the “if any” could refer not to whether there is any divergence but instead whether government has any reasons for that divergence. It is recommended that this language be tightened. The UK CCA, for example, contains the following language: “If the order makes provision different from that recommended by the Committee, the Secretary of State must also publish a statement setting out the reasons for that decision” (S.3(6)).

## 6. Monitoring, enforcement and accountability

The monitoring and reporting obligations under the General Scheme represent a strengthening of the system set out under the 2015 Act. Part of this is a function of the introduction of the carbon budgeting approach. A principal weakness of the existing monitoring and reporting system stems from the fact that there are no quantitative targets in the 2015 Act. For this reason, it is harder to establish a benchmark against which to evaluate performance.<sup>4</sup> Therefore, a framework climate law with statutory quantitative targets and/or arrangements for setting such targets has, other things being equal, stronger potential for monitoring and reporting. Nonetheless, a number of aspects of the General Scheme could be strengthened.

### 6.1 Duty to meet carbon budgets

Most significantly, the current text regarding the obligation to meet carbon budgets is lacking substantially in precision. The relevant provisions are contained in Heads 2, 3 and 4. Head 2, setting out the overall policy planning framework, requires the government, when considering any of the relevant planning documents<sup>5</sup> for approval, to

“*endeavour to achieve* the national transition objective within the period to which the objective relates” (Head 2(4), emphasis added).

Head 3, which places a duty on the government to prepare a Long-Term Climate Strategy, requires the government to:

“specify the policy measures and sectoral mitigation measures that, *in the opinion of the Government, would be required* in order to manage greenhouse gas emissions and the removal of greenhouse gas *at a level that is appropriate and*

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<sup>4</sup> The “Climate Case Ireland”, taken by Friends of the Irish Environment (FIE), argued that the 2017 National Mitigation Plan failed to fulfil the government’s obligation under the 2015 Act to contribute to achieving the National Transition Objective. The High Court found against FIE in September 2019. An appeal by FEI was heard by the Supreme Court in July 2020. A judgement is awaited. For discussion of the case, see O’Neill and Alblas (forthcoming) and Alston et al. (forthcoming).

<sup>5</sup> The Long Term Strategy, National Adaptation Framework, Climate Action Plan, and carbon budgets.

*determined through the carbon budgetary process*, and enable the State to achieve the sectoral decarbonisation target ranges set through the carbon budgetary process as referred to in section X, and for furthering the achievement of the national transition objective”. (Head 3(4)(b), emphasis added)

Similarly, Head 4, which places a duty on the government to update annually the Climate Action Plan, requires the government to:

“provide an updated roadmap of actions, including sectoral actions that, *in the opinion of the Government, would be required to support delivery of*: (a) the policy measures and sectoral mitigation measures as provided under the National Long Term Climate Strategy, *within the ceilings of the 5 year carbon budget* and the sectoral decarbonisation ranges for the relevant period as adopted by Government, (b) the annual trajectory decarbonisation target range set for each sector”. (Head 4(3), emphasis added)

In none of these instances is there a clear obligation on the government to achieve the carbon budgets. By contrast, the UK CCA states very simply and clearly that:

“It is the *duty of the Secretary of State* ... to ensure that the net UK carbon account for a budgetary period *does not exceed the carbon budget*”. (UK CCA S.4(1), emphasis added)

It is recommended that such a provision or similar be included in the Bill. Indeed, without such an addition the purpose of the system of carbon budgeting is somewhat unclear.

### ***6.2 Requirement to report on achievement or otherwise of carbon budgets***

Additionally, it is recommended that provision be made to require the minister, following the end of a carbon budget period, to report to the Oireachtas on the achievement or otherwise of that budget. In the event of failure to achieve a carbon budget, the minister should also be required to report to the Oireachtas on the means by which this “carbon debt” will be rebalanced. Such arrangements are provided for in the UK CCA (S.18 and S.19).

Such provisions were set out in the 2019 Climate Action Plan, which stated that provision would be made for a requirement for the sectoral minister to, in the event of any deviation from the carbon budget or sectoral target range, to: (i) report such deviation to the Joint Oireachtas Committee on Climate Action; (ii) set out measures planned to remedy the shortfall; and (iii) respond to any recommendation from the Committee within three months (DCCAE, 2019, p. 36). It is recommended that such provisions be included in the Bill.

### ***6.3 Requirement to respond to Annual Review of the Climate Action Council***

In the General Scheme, relevant ministers are required to report to the Oireachtas on a range of matters pertaining to their sector. Additionally, the Climate Action Council is required to publish an annual review, details of which are substantially unchanged from the 2015 Act. Consideration should be given to requiring the minister to respond in detail to the recommendations made in Council’s annual review each year. Such a provision is included in the UK CCA (S.37). Doing so would strengthen the role of the Council in the accountability framework under the Bill.

#### ***6.4 Role of Joint Oireachtas Committee on Climate Action***

The Programme for Government committed, in line with the JOCCA report recommendations and the Climate Action Plan, to propose that the Oireachtas “establish a standing Joint Oireachtas Committee on Climate Action, with powers similar to the Public Accounts Committee” (Government of Ireland, 2020, p. 34). The JOCCA report recommended further that the role and functions of such a committee should be incorporated into the Bill, and that a range of functions for the Committee be set out in the Bill. Consideration should be given to including such provisions (Houses of the Oireachtas, 2019, pp. 11–12).

In the General Scheme, as in the 2015 Act, relevant ministers are required to report annually to the Oireachtas on sectoral progress. In order to allow for more sustained, robust and informative scrutiny of progress, it is recommended that ministers under the sectoral climate reporting provisions be required to report to the Joint Oireachtas Committee on Climate Action instead of to the full house of the Dáil and the Seanad. In addition, the minister with overall responsibility for climate action could be required to report also to the Dáil and Seanad annually.

#### ***6.5 Allocation of compliance costs to departmental votes***

The Climate Action Plan provided for a system whereby if a sector “has caused significant cost to the Exchequer arising from the purchase of emissions allowances from other countries, the costs of purchasing allowances will be shown in that Department’s vote” (DCCAE, 2019, p. 36). Consideration should be given to enshrining this provision in the Bill.

### **7. Just transition and citizen engagement**

The somewhat belated focus on just transition and citizen engagement in Ireland’s approach to climate action is to be welcomed. The Programme for Government committed to publish a Just Transition Plan, to guide the work of a permanent Commission for Just Transition, and to establish the Just Transition Commissioner on a statutory basis (Government of Ireland, 2020, pp. 38–39). Consideration could be given to enshrining these commitments in the Bill, perhaps using the Spanish Climate Change and Energy Transition Bill as a template.

The government may, in the interests of enacting the Bill quickly, be planning to give statutory effect to these commitments through separate stand-alone legislation. Even in this scenario, there would be merit in including provision for just transition in the Bill. For example, just transition could be added to the list of considerations that the government must “have regard to” in the preparation of any of the various policy planning frameworks it is required to prepare under the Bill.<sup>6</sup> Moreover, the reference to “climate justice” in Head 2(4) could be expanded upon to give it greater clarity and focus.

Citizen engagement on climate action is undoubtedly important, and Ireland has drawn attention internationally through its use of a citizens’ assembly to deliberate on climate change (Devaney et al., 2020a, 2020b). Nonetheless, it is not clear that specific mechanisms for public engagement ought to be enshrined in the Bill. Such mechanisms may well benefit from

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<sup>6</sup> Under the General Scheme, these encompass the Long Term Strategy, the National Adaptation Framework, the Climate Action Plan, and carbon budgets (Head 2(3)).

flexibility and adaptability and therefore may not be amenable to inclusion in primary legislation.

## 8. Other provisions

Two other provisions of the General Scheme are worthy of mention, if only to highlight their novelty and progression beyond what is provided for in the 2015 Act.

The first of these is Head 15, which concerns the role of local government. This represents a significant strengthening of the 2015 Act, and requires local authorities to prepare climate action plans at least once every 5 years (Head 15(1)). These are required to be consistent with national policy as set out *inter alia* in the Long Term Strategy, the National Adaptation Framework, and the Climate Action Plan. These plans must focus on both adaptation and mitigation (Head 15(2)). A first set of climate action plans published by local authorities over the past year focused predominantly on adaptation. These plans built on *Local Authority Adaptation Strategy Development Guidelines* issued by the Department of Communications, Climate Action and Environment in December 2018 that, as the name suggests, focused on adaptation. The move to require local authorities to focus on mitigation as well as adaptation is to be welcomed.

The other provision of note in the General Scheme is Head 16 dealing with sale of fossil fuel vehicles. Detailed text for this Head was not included in the General Scheme. Instead, the following was included:

“A Head is being prepared to address the commitment in the National Development Plan and Climate Action Plan to introduce legislation to ban the sale of new fossil fuel cars from 2030 and to stop the granting of NCTs from 2045.” (Head 16)

This is among the more striking elements of the General Scheme. The Programme for Government went a step further, promising that the Bill would ban the importation of second hand petrol and diesel cars from 2030 as well as banning the sale of new petrol and diesel cars (Government of Ireland, 2020, p. 34). Placing such a provision in primary legislation will have the effect of giving strong policy certainty to consumers and businesses. As the only sectoral policy measure contained in the bill, it may appear slightly out of place and is in tension with the principle that a framework climate law should provide for setting of overall targets but not specific policies. On the other hand, some other framework climate laws include sector-specific targets and measures. The French Energy Transition Law (2015) and Energy and Climate Bill (2019) contain a wide range of specific policies, including a CO<sub>2</sub> performance standard for thermal power plants and an obligation to install PV on new supermarkets and warehouses and on top of parking shades, to give just two examples (Ecologic, 2020, p. 25).

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