



Community
Law & Mediation



JCFJ
JESUIT CENTRE
FOR FAITH & JUSTICE

Submission on the Climate Action and Low Carbon Development (Amendment) Bill 2020 ('the Bill')

1. Summary of Recommendations

- A. We propose that the wording in Section 3(3) of the Bill be changed as follows:
*'For the purposes of performing their functions under sections 4, 5 and 6, the Minister and the Government ~~shall~~ **must** have regard to the following matters:... (c) Climate Justice'*.
- B. We propose amending Section 3(3) of the Bill to include Just Transition and to contain the definitions of climate justice and Just Transition set out in Section 35 of the Climate Change (Scotland) Act 2009 act, as amended (see endnote).
- A. We propose amending Section 3(3)(k) of the Bill from *'the need to promote sustainable development'* to *'the need to promote sustainable development in line with the United Nations Sustainable Development Goals'* .
- B. We propose amending the Bill to incorporate the approach and definitions set out in Section 91 of the Climate Change (Scotland) Act 2009 act, as amended in respect of public engagement.
- C. We propose extending the list of expertise of members of the Climate Change Advisory Council to include social justice/equality and Just Transition.

2. Climate Action and Low Carbon Development (Amendment) Bill 2020 ('the Bill')

Community Law & Mediation, Jesuit Centre for Faith & Justice and the Society of St Vincent de Paul¹, informed by our work with communities experiencing poverty, social exclusion or inequality, have a number of concerns with the Bill, in particular the following:

- a. The failure to define climate justice or include Just Transition;
- b. The inadequacy of the provisions of the Bill regarding public engagement;
- c. The membership composition of the Climate Change Advisory Council.

(a) Climate Justice & Just Transition

i. Why are Climate Justice & Just Transition important?

It is clear that climate change is having and will continue to have a profound effect on all aspects of human life. What is also clear is that these effects will be felt most deeply by those experiencing poverty, social exclusion or inequality. These are the people and communities that are traditionally least responsible for climate change but they are also the people and communities with the least ability to adapt and respond to its effects.

There is also a risk that climate action policies will exacerbate existing inequalities (e.g. energy poverty) and climate adaptation policies will fail to take account of the difference in vulnerability of individuals and groups to the projected impacts of a changing climate.

Climate justice ensures that the specific needs of those experiencing poverty, inequality or social exclusion are taken into account when developing climate and sustainable development policies.

Just Transition is critical if we are to respect the rights of those most vulnerable to climate change and ensure that no worker or community is left behind in making the changes needed to achieve the emissions targets set out in the Bill.

ii. What has been said by the Citizen's Assembly, JOCCA and in the PFG on Climate Justice & Just Transition?

(a) Citizen's Assembly

The third Report and Recommendations of the Citizens' Assembly, "How the state can make Ireland a leader in tackling climate change" was published in April 2018. While the recommendations of the Citizens Assembly do not explicitly mention climate justice or a Just Transition, the aims of such are alluded to in Recommendations 3 and 7 and in Ancillary Recommendation 3 as follows:

- R3: 80% of the Members said they would be willing to pay higher taxes on carbon intensive activities subject to the following qualifications: 1. Any increase in revenue would be only spent on measures that directly aid the transition to a low carbon and climate resilient Ireland: including, for example, making solar panels more cheaply and easily available, retrofitting homes and businesses, flood defences, developing infrastructure for electric vehicles. 2. An increase in the taxation does not have to be paid by the poorest households (the 400,000 households currently in receipt of fuel allowance). 3. It is envisaged that these taxes build year-on-year.
- R7: 97% of the Members recommended that the State should end all subsidies for peat extraction and instead spend that money on peat bog restoration and making proper provision for the protection of the rights of the workers impacted with the

majority 61% recommending that the State should end all subsidies on a phased basis over 5 years.

- AR3: The agriculture sector in Ireland requires ongoing support to make a transition towards models of production which give rise to lower GHG emissions. Cognisance must be taken of the impact which the sector has on the economy, particularly the rural economy.

(b) [Joint Oireachtas Committee on Climate Action \(32nd Dail\)](#)

The report of the Joint Committee on Climate Action, 'Climate Change: A Cross-Party Consensus for Action' published in March 2019 stated that '*A central concern of the Committee is to ensure that climate action is fair and vulnerable citizens, workers and communities are protected.*' The Committee recommended the establishment of a Just Transition Taskforce whose remit was to include, inter alia, carrying out early assessments of the social and employment impacts of climate policies; and developing local economic diversification plans that support decent work and provide community stability in the transition.

(c) [Programme for Government \(June 2020\)](#)

The PFG states:

'This fundamental step change in ambition and broadening of our target horizon to a 7% reduction average per annum will be underpinned by the core philosophy of a Just Transition. We are committed to ensuring no sector of society or community is left behind in the movement to a low carbon future.'

It goes on to state:

'The transformation to a low carbon, digital economy requires the concerted mobilisation of every element of Irish society. To succeed we need four interlocking elements:

- *Sustained leadership from government and the Oireachtas.*
- *Sustained engagement with citizens, sectors and regions.*
- *Support for the workers, sectors and regions most exposed to help them to benefit from the new economic opportunities afforded to us by the transition to a low-carbon digital economy.*
- *Protection for vulnerable families and communities least equipped to make the transformation.'*

iii. [What the Bill says about Climate Justice and Just Transition](#)

Section 3(3) of the Bill does not amend Section 3(2) of the Climate Action and Low Carbon Development Act 2015 ('the 2015 Act') in that it provides that:

'For the purposes of performing their functions under sections 4 [Climate Action Plans & Strategies], 5 [National Adaptation Framework] and 6 [Sectoral Adaptation Plans & Carbon Budgets] the Minister and the Government shall have regard to the following matters:... (c) Climate Justice'

Climate Justice is not defined and Just Transition is not mentioned in either the Bill or the 2015 Act.

iv. What we propose?

'Shall have regard to' creates a very weak obligation.

We propose that the wording in Section 3(3) of the Bill be changed as follows:

*'For the purposes of performing their functions under sections 4, 5 and 6, the Minister and the Government ~~shall~~ **must** have regard to the following matters:... (c) Climate Justice'*

Under the 2015 Act, which contained the same language as the Bill, a National Mitigation Plan for the period 2017 to 2022, was introduced which paid no heed and made no reference to the concept of climate justice. If climate justice is to be taken seriously, this language will need to be strengthened before the Bill passes into law.

The Climate Change (Scotland) Act 2009 act as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 provides a good example of how to remedy this gapⁱⁱ:

- a. Section 35(22) provides that in drawing up climate action plans, ministers must have regard to just transition principles (defined in section 35(c)) and climate justice principles(defined in section 35(23)) .
- b. Each plan must explain the extent to which it takes account of the just transition principles and how implementation of the plan will contribute to achievement of the UN Sustainable Development Goals (section 35(24)).

We propose amending Section 3(3) of the Bill to include Just Transition and to contain the definitions of climate justice and Just Transition set out in Section 35 of the Climate Change (Scotland) Act 2009 act, as amended (see endnote).

We propose amending Section 3(3)(k) of the Bill from *'the need to promote sustainable development'* to *'the need to promote sustainable development in line with the United Nations Sustainable Development Goals'*

(b) Public Engagement

i. Why is Public Engagement important?

The reasons why public engagement on climate change is important overlaps with the reasons why climate justice and Just Transition are important. There is potential for climate action to exacerbate existing inequalities, however, in looking at our response to the climate crisis, there is an opportunity to consider many of the issues faced by communities experiencing disadvantage e.g. workers' rights, energy poverty, health, housing, transport. It is imperative that communities are involved in the transition to ensure that it is 'just' and that their needs

are taken into account. Further, local knowledge and experience has the capacity to add considerable value to climate adaptation strategies.

There is another reason why public engagement is so important and this was highlighted in the Environmental Protection Agency Report in 2018ⁱⁱⁱ which stated that public engagement, including through deliberative forums and education campaigns, *'can facilitate societal buy-in for tough policy decisions by including the concerns of citizens in policymaking and increasing the legitimacy of decisions and actions taken. The participation of all of society will be crucial to achieve the necessary reduction in greenhouse gas emissions, demanding often transformative change in how we live our lives. Engaging those who are not aware of, interested in or cognisant of the climate crisis remains pressing and necessary.'*

Communities experiencing poverty, social exclusion and inequality are not currently engaged on climate change. While *awareness* of climate change has increased, other social and economic concerns, perceived as more immediate, are given priority by the public. In February 2020, GE exit polls showed that climate change was a key issue for only 6% of voters, with greater importance being attributed to issues like health, housing and homelessness. In the aftermath of the COVID-19 pandemic, it is likely that public appetite for climate action will be further diminished as concerns about jobs and economic security come to the fore. It is essential that public engagement is carried out in a way that is accessible, participatory and meaningful where the connection is made between 'end of the world' issues such as climate change and 'end of the month' issues such as jobs, food costs, energy costs, housing and health.

ii. *What has been said by the Citizen's Assembly, JOCCA and in the PFG on public engagement?*

(a) *Citizen's Assembly*

The Citizens' Assembly made two specific voted recommendations that directly pertain to the engagement of citizens in the transition to a low Carbon economy as follows:

- R5: 99% of the Members recommended that the State should enable, through legislation, the selling back into the grid of electricity from micro-generation by private citizens (for example energy from solar panels or wind turbines on people's homes or land) at a price which is at least equivalent to the wholesale price.
- R6: 100% of the Members recommended that the State should act to ensure the greatest possible levels of community ownership in all future renewable energy projects by encouraging communities to develop their own projects and by requiring that developer-led projects make share offers to communities to encourage greater local involvement and ownership.

(b) *Joint Oireachtas Committee on Climate Action (32nd Dail)*

The JOCCA's Report contained recommendations on Citizen and Community Engagement. It stated that there is *'a need to further engage and involve the public to allow a deeper conversation about climate change and its impacts, as well as create the opportunities for*

citizens to engage in meaningful local decision making about climate action. A stronger understanding of climate change, climate action, climate justice and the positive activities by the State would allow better engagement and buy-in from society into the process. The Citizens' Assembly demonstrated that there are potentially high levels of public support for policies that are explained and justified with a large degree of deliberation and public debate. Conversely, there are plenty of examples nationally and internationally where, when efforts at communication have been inadequate, broad resistance has resulted from changes imposed upon communities....The Committee is of the view that strong communities are essential to effect change from the ground up and make the transition to a low carbon society. Top down policies alone won't achieve this.'

(c) Programme for Government (June 2020)

The PFG states that *'we will develop a new model of engagement with citizens, sectors and regions as an early priority for government, building on the learning of recent years. It shall embrace:*

- *Dialogue on a structured basis, so that the diverse elements of society can input into the process. There will be a specific youth dialogue strand.*
- *A process of accountability on progress, including an annual review.*
- *Promotion of citizen, sectoral and regional involvement in delivering actions within their own sphere of influence.'*

iii. *What the Bill says about public engagement?*

Section 4 (4) of the Bill provides that when preparing updates to the climate action plan the Minister *'may consult with such persons (including members of the public) as he or she considers appropriate'*. Section 4(8) provides that the Minister *shall* do so in the case of the national long term climate action strategy (section 4(8)).

Section 5 (3) provides that before submitting a national adaptation framework to the Government for approval, the Minister shall:

- (a) publish, in such manner as he or she considers appropriate, a draft of the national adaptation framework that he or she proposes to make,*
- (b) publish a notice on the internet and in more than one newspaper circulating in the State inviting members of the public and any interested parties to make submissions in writing in relation to the proposed national adaptation framework within such period (not exceeding 2 months from the date of the publication of the notice) as may be specified in the notice, and*
- (c) have regard to any submissions made pursuant to, and in accordance with, a notice under paragraph (b).'*

iv. *What we propose?*

The Bill is very weak on public participation in the preparation of climate action plans and long term strategies. It should not be discretionary and there should be an obligation to consult the public on these annual revisions, to provide opportunities for the public to become informed, and to engage with climate policy decision-making.

The Climate Change (Scotland) Act 2009 act as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 again provides guidance. This Act contains a provision in relation to public engagement^{iv} which sets out a requirement, inter alia, to prepare and publish a public engagement strategy setting out the steps they intend to take to inform the public about the targets set out by the Act; encourage them to contribute to the achievement of those targets and identify actions which the public may take to contribute to the achievement of the targets.

We propose amending the Bill to incorporate the approach and definitions set out in Section 91 of the Climate Change (Scotland) Act 2009 act, as amended.

(c) *Membership of the Climate Change Advisory Council*

Section 9 of the Bill provides:

(1) The Advisory Council shall consist of—

- (a) a chairperson, and
- (b) not fewer than 8 and not more than 10 ordinary members (including ordinary members to whom *subsection (2)* applies).

(2) Each of the following shall, *ex officio*, be ordinary members of the Advisory Council:

- (a) the Director General of the Agency;
- (b) the Director of Teagasc - The Agriculture and Food Development Authority; and
- (c) the Director of the Irish National Meteorological Service, Met Éireann.

(4) In nominating and appointing the chairperson and the ordinary members under subsection (3), the Minister and the Government shall -

(a) have regard to the range of qualifications, experience and competence necessary for the proper and effective performance of the functions of the Advisory Council and ensure that each member has knowledge of, or expertise in, at least one of the following areas:

- (i) climate science;
- (ii) transport policy;
- (iii) energy policy;
- (iv) agricultural policy;
- (v) behavioural and communication science;
- (vi) biodiversity and eco-system services;
- (vii) economics;
- (viii) finance;
- (ix) political sociology or ethics in relation to climate, and

(b) use their best endeavours to ensure an equitable balance between men and women in the composition of the membership of the Advisory Council.

We question the necessity of having ex officio members at all and the limited list of required expertise. We propose extending the list of expertise to include social justice/equality and Just Transition.

We propose extending the list of expertise of members of the Climate Change Advisory Council to include social justice/equality and Just Transition.

ⁱ Community law & Mediation

Community Law & Mediation (CLM) was established in 1975 as the first independent, community-based law centre in Ireland. Today, CLM supports more than 3,000 people every year through its range of services, which include free legal advice and representation; information and education; and mediation and conflict coaching. It operates two Community Law Centres, CLM Limerick and CLM Northside (Dublin). CLM's legal services, which include legal representation, focus on areas which disproportionately affect those experiencing poverty, social exclusion or inequality and include housing, social welfare, employment, equality, and access to education and other services. CLM is currently setting up a *Centre for Environmental Justice* which will focus on the intersection between equality and environmental issues.

Jesuit Centre for Faith & Justice

The Jesuit Centre for Faith and Justice is an agency of the Irish Jesuit Province, dedicated to undertaking social analysis and theological reflection in relation to issues of social justice, including housing and homelessness, penal policy, environmental justice, and economic ethics. Environmental protection has emerged as a key element of social justice debates in recent decades. This has occurred in parallel to growing awareness of the negative impacts of our relationship with the natural environment, and of environmental degradation on vulnerable populations and future generations. Science has described the intricate web of relationships in which people play an active part. In the face of increasing environmental crises, the fundamental web of creation in which humanity finds itself requires a new respect, a new justice.

The Society of St Vincent de Paul

The Society of St. Vincent de Paul (SVP) was founded in Ireland in 1844. It is the largest voluntary charitable organisation in Ireland operating in over 1,200 local conferences. Our focus is on a practical approach to dealing with poverty, alleviating its effects on individuals and families through working primarily in person-to-person contact by a unique system of family visitation and seeking to achieve social justice and equality of opportunity for all citizens. We are committed to identifying the root causes of poverty and social exclusion in Ireland and, in solidarity with poor and disadvantaged people, to advocate and work for the changes required to create a more just and caring society

ⁱⁱ Section 35(22) of the Climate Change (Scotland) Act 2009 act as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 states that ‘In preparing a [climate action]plan under subsection (1), the Scottish Ministers must have regard to—(a) the just transition principles (see section 35C), and (b)the climate justice principle.

Section 35 (23) provides ‘In subsection (22)(b), the “climate justice principle” is the importance of taking action to reduce global emissions of greenhouse gases and to adapt to the effects of climate change in ways which— (a)support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects, and (b)help to address inequality.

Section 35(24) provides that ‘Each plan under this section must explain—(a)the extent to which it takes account of the just transition principles, (b)how the implementation of the plan is expected to contribute to the achievement of sustainable development, including the achievement of the United Nations sustainable development goals.’

Section 35C provides: ‘(1)In this Act, the “just transition principles” are the importance of taking action to reduce net Scottish emissions of greenhouse gases in a way which— (a)supports environmentally and socially sustainable jobs, (b)supports low-carbon investment and infrastructure, (c)develops and maintains social consensus through engagement with workers, trade unions, communities, non-governmental organisations, representatives of the interests of business and industry and such other persons as the Scottish Ministers consider appropriate, (d) creates decent, fair and high-value work in a way which does not negatively affect the current workforce and overall economy, (e) contributes to resource efficient and sustainable economic approaches which help to address inequality and poverty.

ⁱⁱⁱ EPA Report, ‘*Deepening Public Engagement on Climate Change: Lessons from the Citizens’ Assembly*’ Devaney et al, 2018

^{iv} Section 91 of the Climate Change (Scotland) Act 2009 act as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 provides:

(1)The Scottish Ministers must prepare and publish a strategy (a “public engagement strategy”) setting out the steps they intend to take to—

- (a)inform persons in Scotland about the targets specified by virtue of this Act;
- (b)encourage them to contribute to the achievement of those targets.

(2)The public engagement strategy must, in particular, identify actions which persons in Scotland may take to contribute to the achievement of the targets referred to in subsection (1)(a).

(3)The public engagement strategy must be published no later than 31 December 2010.

(4)The Scottish Ministers—

- (a)may, from time to time; and
- (b)must, before the end of the period mentioned in subsection (5), review the strategy.

(5)The period referred to in subsection (4)(b) is the period of 5 years beginning with the day on which—

- (a)the strategy is first published; or
- (b)the strategy was last reviewed under subsection (4).

(6) Where, following a review under subsection (4), the Scottish Ministers vary the public engagement strategy, they must, as soon as reasonably practicable after so doing, publish the strategy as so varied.

(7) A strategy published under subsection (6) must contain an assessment of the progress made towards implementing the steps set out in earlier strategies.

(8) The public engagement strategy may be published in such manner as the Scottish Ministers consider appropriate.

(9) The Scottish Ministers must lay the public engagement strategy before the Scottish Parliament as soon as reasonably practicable after it is published.