Key legislative and policy obligations on public bodies with respect to energy efficiency and climate action

This note provides a non-legal summary of key legislative and policy obligations on public bodies with respect to energy efficiency and climate action. It covers existing obligations only. It is likely that additional obligations will emerge from the finalisation of the Fit-for-55 package at EU level and from future iterations of national policy.

This document is not intended to be a comprehensive description of all obligations. It is the responsibility of public bodies to ensure that they are aware of and compliant with all relevant legislation and policy obligations. All parties rely on the content of this document at their own risk.

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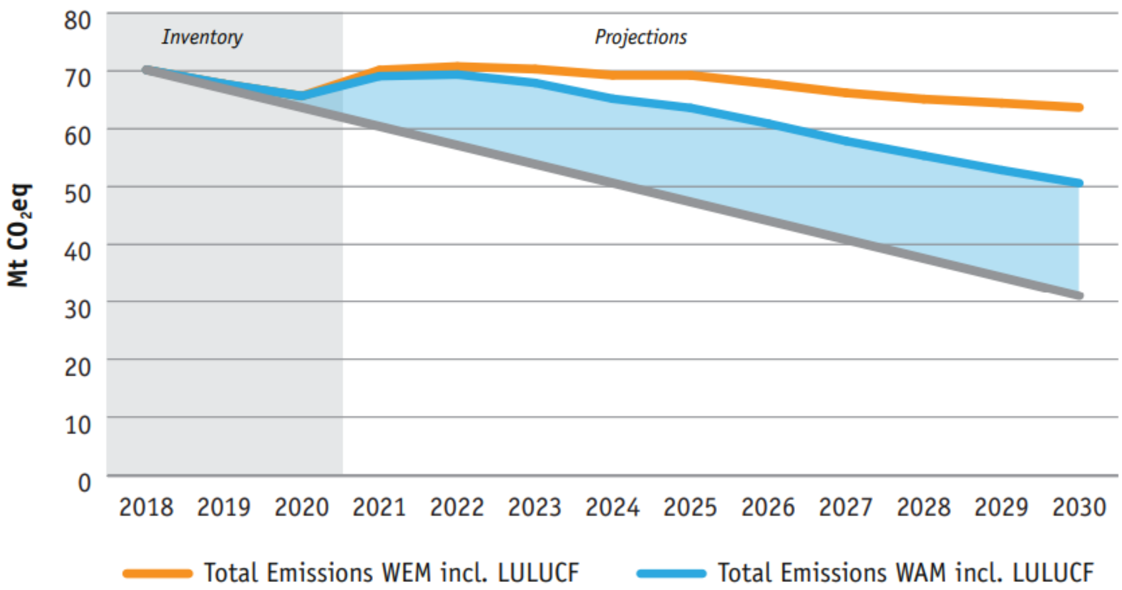
EU emissions targets

1. Ireland's greenhouse gas (GHG) emissions, and those of other EU Member States, can be split into two categories: those that are in the EU emissions trading scheme (ETS) and those that are not (non-ETS):
   - The ETS sector includes over 11,000 power stations and industrial facilities throughout the EU, as well as airlines that operate within the EU. ETS emissions are dealt with at EU level, with a target to reduce by 43% by 2030, relative to 2005 levels.
   - Almost all direct emissions from the public sector, as well as those from agriculture, transport, households and small industry are in the non-ETS sector. All non-ETS emissions are dealt with by Member States through legally binding targets.
2. Ireland has an EU-agreed target to achieve a 30% reduction in non-ETS sector emissions by 2030, relative to 2005 levels, with annual binding emissions limits set for each individual year to 2030, in accordance with the EU Effort Sharing Regulation (ESR) [1].
3. Under the EU Green Deal, the targets for the ETS and non-ETS sectors will be revised upwards "*in order to achieve the commitment, at EU level, to reach an economy-wide 2030 reduction in emissions of at least 55%, compared to 1990 levels. Legislative proposals to implement these targets were published in July 2021 and these are currently being negotiated at EU level.*" [2]

Climate Action and Low Carbon Development (Amendment) Act 2021

4. The Climate Action and Low Carbon Development (Amendment) Act 2021 [3] commits Ireland to reach a legally binding target of net-zero emissions no later than 2050, and a cut of 51% by 2030 (compared to 2018 levels). This target encompasses the ETS and non-ETS sectors.
5. These targets are aligned with Ireland's obligations under the Paris Agreement, and with the EU Green Deal[1] objective to achieve an economy-wide reduction in GHGs of at least 55% by 2030 and to achieve climate neutrality in the European Union by 2050.
6. Figure 1 presents Ireland's GHG emissions since 2018 and the EPA's latest emissions projections for two scenarios – with existing measures (WEM)[2] and with additional measures (WAM)[3]. The shaded area illustrates the 'gap' between the WAM scenario projections and the 51% target.

Figure 1: Ireland's GHG emissions under with-existing-measures (WEM) and with-additional-measures (WAM) scenarios[4]



Source: Figure 1, Ireland's Greenhouse Gas Emissions Projections 2021-2040 [4]

[1] The EU Green Deal is being implemented via the Fit-for-55 Package of legislation, which is under negotiation at EU level.

[2] The WEM scenario is '*a projection of future emissions based on the measures currently implemented and actions committed to by Government.'* [4]

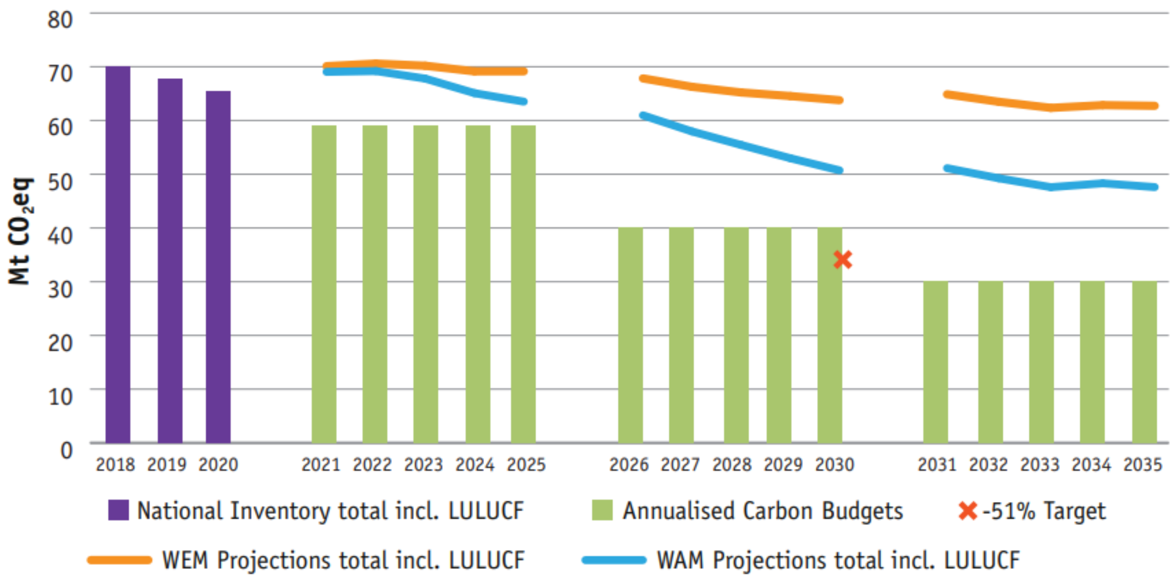
[3] The WAM scenario is '*the projection of future emissions based on the measures outlined in the latest Government plans at the time projections are compiled. This includes all policies and measures included in the WEM scenario, plus those included in government plans but not yet implemented…'* [4] It assumes full implementation of the relevant measures in the 2021 Climate Action Plan [2].

[4] LULUCF refers to land-use, land-use change and forestry. It comprises '*forest land, cropland, grassland, wetlands, settlements, other land and harvested wood products. This sector is a net source of carbon….[largely because of]…the CO2 emissions from grassland and wetlands, due to drainage of organic soils, offset somewhat by forest land, which acts as a major carbon sink.*' [23]

Carbon budget programme

7. The 2021 Act also establishes a system of five-year economy-wide carbon budgets. Each carbon budget will be proposed by the Climate Change Advisory Council (CCAC). Once each budget is approved, the Government will divide the overall carbon budgets into sectoral emissions ceilings.
8. The first carbon budget programme was approved by Government in February 2022 [5]. It provides for a 51% reduction in emissions by 2030 (4.8% per annum 2021-2025 and 8.3% per annum 2026-2030) and for 3.5% per annum reduction in the subsequent 5-year period (2031-2035) – see Figure 2.

Figure 2: Annualised carbon budgets and projected emissions data[4]



Source: Figure 2, Ireland's Greenhouse Gas Emissions Projections 2021-2040 [4]

9. The Government subsequently agreed sectoral emissions ceilings, which establish the maximum cumulative emissions that are permitted in a given sector of the economy over each 5-year carbon budget period and '*associated percentage changes in emissions, relative to 2018 levels*' [6]. The sectors[5] most relevant to the public sector are 'built environment', which has a budget reduction of 45% between 2018 and 2030, 'transport' (50% reduction) and electricity (75% reduction).

[5] Note that emissions from the public sector fall within several of the sectors for which sectoral emissions ceilings have been developed. So, the sectoral emissions ceilings do not include a single ceiling that encompasses all public sector emissions.

Legislative obligations on public bodies

Climate Action and Low Carbon Development (Amendment) Act 2021

10. The Climate Action and Low Carbon Development (Amendment) Act 2021 [3] requires all public bodies to perform their functions in a manner consistent with Ireland's climate ambition.
11. The Act requires each local authority to prepare a Local Authority Climate Action Plan, specifying the adaptation and mitigation measures to be adopted by the local authority – by March 2024.

Energy efficiency directive

12. The Energy Efficiency Directive (2012/27/EU [7]) was transposed into Irish legislation via SI 426 of 2014 [8] and has been updated via several amendments. These regulations "*set out a range of obligations on public bodies relating to the efficient use of energy so that the public sector will demonstrate an exemplar role, including in the areas of energy audits, energy efficient public procurement and purchase or lease of energy efficient buildings*".
13. Regulation 4 defines what is meant by a public body and the scope of the public sector.
14. Regulation 5(3) requires public bodies to report energy-related data to SEAI in accordance with procedures and methodologies specified by the SEAI.
15. Regulation 5(5) requires public bodies to publish an annual statement in accordance with a format specified by SEAI.
16. Regulation 8 obliges public bodies to only purchase or lease buildings with BERs of A3 or higher.
17. Amending regulations SI 646 of 2016 [9] oblige all public bodies to only purchase equipment and vehicles that are either listed on SEAI's Triple E register[6] or satisfy energy efficiency criteria published by SEAI[7].
18. Amending regulations SI 646 of 2016 [9] and SI 599 of 2019 [10] oblige public bodies that have individual buildings >500m^2 or have an annual energy spend >€35,000 to undertake energy audits on 4-year cycles in accordance with minimum criteria specified by SEAI.

Energy performance of buildings directive

19. Elements of the recast Energy Performance of Buildings Directive (2010/31/EU [11]) were transposed into Irish legislation via SI 243 of 2012.
20. Regulation 14 requires that public bodies secure and prominently display valid display energy certificates (DECs) in all buildings >250 m^2 that are occupied by public bodies and frequently visited by the public.
21. Regulation 14(6) obliges public bodies to implement BER advisory report recommendations for cost-optimal or cost-effective improvements in buildings that they occupy, within the period of BER certificates' validity[7].

[6] The Tripe E register is a benchmark list of products that all meet a minimum set of stringent energy efficiency criteria and are generally of a best-in-class efficiency standard. Typically, they are of higher quality, have longer operational lifetimes, are more expensive but can perform 10%-20% better from an energy perspective, when compared to standard alternatives. On a life cycle basis, they save money.

[7] Subject to certain provisions for exemption.

22. Regulation 8 requires organisations commissioning new buildings to consider the feasibility of installing high efficiency alternative energy systems and must take this into account in the design of such buildings.
23. Directive 2010/31/EU requires that all new buildings occupied or owned by public bodies be nearly zero-energy buildings (NZEB) [8]. Part L of the 2017 Building Regulations, which came into effect in January 2019, defines NZEB requirements in Ireland [12].
24. The Building Regulations also require the energy performance of buildings that undergo major renovations to be improved to "*cost optimal level in so far as this is technically, functionally and economically possible*" [12]. Major renovations are defined as renovations involving more than 25% of the surface area of the building envelope.

Clean vehicles directive

25. The Clean Vehicles Directive (2019/1161 [13]) was transposed into Irish legislation via SI 381 of 2021 [14]. It defines 'clean vehicles' and establishes national targets for their public procurement.
26. Regulation 8 requires contracting authorities and contracting entities (as defined for the purposes of public procurement) to report procurements of vehicles through SEAI's monitoring & reporting (M&R) system.

Public sector targets

27. The 2023 Climate Action Plan (CAP 2023 [15]) reaffirmed out two high-level targets for public bodies that had been originally introduced in previous iterations of the plan[9]:
    - The public sector must improve its energy efficiency by 50% by 2030. This target builds on the previous 33%-by-2020 efficiency target and is based on public bodies' existing baselines, most of which are 2009 (or earlier).
    - The public sector must reduce its GHG emissions by 51% by 2030[10]. Every public body will be assigned a public-body-level emissions reduction target "*based on an absolute tonnage of GHG emissions. The total tonnage target will be a 51% reduction of direct energy-related emissions (thermal and transport consumption), plus projected supply side reductions in indirect energy-related emissions from electricity. The baseline for the methodology is the period 2016 to 2018...*" [15]

    The detailed methodologies underpinning these targets are described in SEAI's *M&R-2030 Methodology Guidance* document [16].

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[8] A nearly zero energy building (NZEB) "*means a building that has a very high energy performance… The nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby"* [22].

[9] The 2019 CAP [21] also introduced a target for all public buildings to have a building energy rating (BER) of B. However, this target has not been carried forward into the 2021 or 2023 CAP.

[10] This target was originally introduced in CAP 2019 as a 30% target [21]. It was subsequently increased to 51% in CAP 2021 [2].

Climate Action Mandate

28. A Climate Action Mandate applies to all public bodies, except local authorities, commercial semi-state bodies and schools. The purpose of the mandate is "to highlight what public bodies must do and how they must prioritise their climate action". The current mandate, which will be reviewed annually, includes the targets set out in §27 and the elements[11] set out in §29-40 below [15].

29. Public bodies must embed climate action into their organisations, by establishing green teams and board-level climate & sustainability champions, and by providing training and staff workshops on climate issues. All senior management must complete a training course on climate action leadership in 2023.

30. Public bodies must report on the following in their annual reports:
    - Implementation of the mandate
    - GHG emissions
    - Sustainability activities
    - Compliance with circular 01/2020 on offsetting emissions from air travel [17].

31. Public bodies must evaluate the feasibility of digitising paper-based processes.

32. Public bodies with energy spends >€2m must achieve ISO 50001 certification by the end of 2024. All other public bodies must implement energy management programmes in accordance with SEAI guidance and report on same to SEAI.

33. Public bodies must implement green public procurement (GPP) in accordance with EPA guidance [18], must cease using disposable cups (etc.) and must specify low-carbon construction methods and cement materials "*as far as practicable for directly procured or supported construction projects from 2023*".

Transport

34. See §43.

35. Public bodies must promote the use of bicycles and shared mobility options "*by creating and maintaining facilities…that support such options, including secure and accessible bicycle parking, shared mobility parking, and charging stations, as appropriate, with a view to achieving the Smarter Travel Mark, which is currently being developed as part of the Sustainable Mobility Pathfinder Programme.*"

36. Public bodies must phase out the use of parking in buildings that have access to more sustainable alternatives.

Buildings

37. Public bodies may not install fossil-based heating systems after 2023 in new buildings or buildings undergoing major renovation[12].

38. By the end of 2023, all public bodies should develop building stock plans, which should set out how they "*intend to decarbonise their portfolio through a combination of new buildings construction, retrofit of existing buildings, and the management of leased properties*". As part of

[11] The mandate is described in detail in box 10.2 on pages 107-109 of CAP 2023 [15]

[12] Subject to certain provisions for exemption.

these plans, public bodies should "*consider the long-term (to 2050) retrofit key performance indicators to upgrade all their building stock*".

39. Public bodies that consume over 50 GWh per annum and sectoral groups defined within CAP 2023 as large public bodies[13] "should commence a deep retrofit of at least one building in 2023."

40. SEAI will work with sectoral groups to develop renovation targets in 2023.

Climate Action Roadmaps

41. Every public body to which the mandate applies must prepare a Climate Action Roadmap in accordance with guidance developed by SEAI and the EPA [19].

42. Initial roadmaps must be prepared by the end of Q1 2023 and second iterations by the end of Q3 2023[14]. Public bodies are obliged to update their roadmaps each year, in line with annual updates to the mandate.

Other policy obligations

43. From January 2023, public bodies may only procure zero-emission vehicles unless the vehicle is exempt under via SI 381 of 2021 [14].

Local authorities

44. See §11 (Local Authority Climate Action Plans)

Commercial semi-states

45. The Climate Action Framework for the Commercial Semi State Sector, which was approved by Government in 2022, reiterates that the two headline public sector targets for 2030 set out in CAP 2023 (see §27) apply to all commercial semi-state companies [20]. The framework incorporates five areas of commitment:

    - Governance of climate action objectives
    - Emissions measurement and reduction target
    - Emissions valuation in investment appraisal
    - Circular economy and green procurement
    - Climate-related disclosures

[13] See "Large Public Bodies" on pages 105-106 of CAP 2023 [15].

[14] These revised deadlines are set out in letter dated 11 January 2023 from DECC [24].

References

[1] European Parliament & Council of the European Union, “Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013,” 2018.

[2] Government of Ireland, “Climate Action Plan 2021 - Securing our Future,” 2021.

[3] “No 32 of 2021 - Climate action and low carbon development (amendment) act 2021,” 2021.

[4] EPA, “Ireland's greenhouse gas emissions projections 2021-2040,” 2022.

[5] Government of Ireland, “Carbon budgets 2022,” 2022.

[6] Government of Ireland, “Sectoral emissions ceilings,” 2022.

[7] European Parliament & European Council, “Directive 2012/27/EU on energy efficiency, ammending directives 2009/125/EC and 2010/30/EU and repealing directives 2004/8/EC and 2006/32/EC,” 2012.

[8] “SI 426 of 2014 - European Union (energy efficiency) regulations 2014,” 2014.

[9] “SI 646 of 2016 - European Union (energy efficiency) (amendment) regulations 2016,” 2016.

[10] “SI 599 of 2019 - European Union (energy efficiency) (amendment) regulations 2019,” 2019.

[11] European Parliament & European Council, “Directive 2010/31/EU on the energy performance of buildings (recast),” 2010.

[12] DHPLG, “TGD Part L - conservation of fuel & energy - buildings other than dwellings,” 2020.

[13] European Parliament & Council of the European Union, “Directive amending directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles,” 2019.

[14] “SI 381 of 2021 - European Communities (clean and energy efficient road transport vehicles) (amendment) regulations 2021,” 2021.

[15] Government of Ireland, “Climate Action Plan 2023 - Changing Ireland for the Better,” 2022.

[16] SEAI, “M&R-2030 methodology guidance”.

[17] Department of Public Expenditure & Reform, “Circular 01/2020: Procedures for offsetting the emissions associated with official air travel,” 2020.

[18] EPA, “Green public procurement,” [Online]. Available: https://www.epa.ie/publications/circular-economy/resources/green-public-procurement.php. [Accessed 30 01 2023].

[19] SEAI & EPA, “Public sector bodies climate action roadmaps guidance,” 2022.

[20] NewERA, “Framework for the commercial semi-state sector to address climate action objectives”.

[21] Government of Ireland, “Climate Action Plan 2019 - to tackle Climate Breakdown”.

[22] “SI 4 of 2017 - Building regulations (amendment) regulations 2017,” 2017.

[23] EPA, “LULUCF,” [Online]. Available: https://www.epa.ie/our-services/monitoring--assessment/climate-change/ghg/lulucf/#. [Accessed 30 01 2023].

[24] DECC, “Public sector bodies climate action roadmaps - updated timelines,” 2023.