Northern Ireland Assembly

Committee for Agriculture, Environment and Rural Affairs

OFFICIAL REPORT (Hansard)

Climate Change (No. 2) Bill: RaISe Briefing

30 September 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:
Ms Suzie Cave Northern Ireland Assembly

The Chairperson (Mr McAleer): We have an oral briefing from Suzie Cave on the Climate Change (No. 2) Bill.

Suzie, we will have to stop in 10 minutes for a scheduled meeting at the carbon battle bus. We will resume the session just after 11.00 am.

Suzie is from the Assembly's Research and Information Service (RaISe). She will brief the Committee, and Committee members will then ask some questions.

Ms Suzie Cave (Northern Ireland Assembly): The Bill paper explores some of the main comparisons among the Climate Change Bill, legislation in some of the other UK jurisdictions, legislation in the Republic of Ireland and the Department's Climate Change (No. 2) Bill.

A lot of the detail is in the appendices to my paper, to which members can refer. For the purposes of the briefing, however, I will refer to section 4 of the paper, which provides a summary of the points made in the tables, as well as the observations made. There is also a table that provides a more focused comparison of both Assembly Bills.

As I said, I will focus on section 4, particularly section 4.1. The Climate Change (No. 2) Bill has a smaller overall reduction target of an at least 82% reduction by 2050, and that can be compared with the net zero targets in the other legislative examples. The Climate Change Committee (CCC) suggests an at least 82% reduction in greenhouse gases (GHGs), but it also mentions net zero CO2 and the contribution from methane, which the No. 2 Bill does not. Similar to other jurisdictions, the reduction target is a net reduction target, meaning that all greenhouse gases contribute to the reduction. The key difference is that the Climate Change Bill requires all gases to go that bit further to contribute to zero, rather than the 82% reduction under the No. 2 Bill. Effectively, where some gases may not reduce enough, others may have to go further, through reductions and removal, to make up for the difference and, in so doing, create that balance.

The briefing paper asks some questions and makes some points for consideration. Those are in the blue boxes. For instance, does the at least 82% reduction mean that all greenhouse gases must contribute to the overall reduction rather than reach it individually? Will some gases have to go further to make up for those that cannot be reduced enough? If so, which gases will that be? According to the CCC advice, to achieve that at least 82% reduction means net zero CO2 and a 42% reduction in methane between 2020 and 2050. Although it is not stated in the Bill, will there be separate greenhouse gas reduction targets, similar to what the CCC has suggested?

In the private Member's Climate Change Bill, some gases have to go a bit further — say, beyond zero — to make up for those that cannot reduce enough to create the balance by 2045. The Climate Change (No. 2) Bill, compared with the other examples, offers a greater degree of flexibility with targets. For instance, the UK Climate Change Act 2008 allows the overall target percentage to be adjusted, and the amended Scottish Climate Change Act 2009 allows the year to be adjusted but not the percentage. That is comparable to the departmental Bill, which provides DAERA with the power to amend the target year, the amount and the baseline. Of course, that is subject to advice by the CCC and approval by the Assembly. In comparison, the Climate Change Bill allows for only the target year to be brought forward.

Again, there are some questions about that. Does the power to amend the emissions targets under the No. 2 Bill allow for a 2050 target to be brought forward or pushed back and allow for its percentage reduction to be reduced? Does it allow for separate emissions targets? How important is the power of adjustment to keep targets in line with changing methodologies? For example, as stated in the paper, we have already seen changes to the emissions reporting, with the addition of peatlands to the latest greenhouse gas inventory for Northern Ireland. There is more detail on that in the paper.

Similar to the UK Act and the Climate Change Bill, the Climate Change (No. 2) Bill also provides for five-year carbon budgets. Some of the differences, however, include that the Climate Change Bill provides for nitrogen budgets, whereas the Climate Change (No. 2) Bill does not. Both Bills require advice from the CCC when setting budgets. Under the Climate Change Bill, budgets are to be set under the climate action plan (CAP) by the Executive Office, but they are to be set through regulations made by DAERA under the Climate Change (No. 2) Bill. The Climate Change (No. 2) Bill also provides for carbon accounting practices, such as carbon setting principles, and includes timing for setting budgets. It also provides details on the ability to carry over emissions, and the impacts of carrying them over. The Climate Change Bill, however, does not appear to provide the same level of detail in that respect.

Another difference is that the No. 2 Bill provides for a duty on all Northern Ireland Departments to achieve targets and budgets. In the UK and Republic of Ireland examples, the responsibility is put on the Government and Ministers. The Climate Change Bill, however, is not clear on that aspect.

Again, there are some points for consideration there. I will not go through all of them, but they are clearly set out in the blue boxes after each paragraph. Who is best placed and resourced to produce the targets and budgets? Will it be the Executive Office, under the Climate Change Bill, or DAERA, under the No. 2 Bill? Will Northern Ireland Departments be held accountable for achieving targets and budgets under the No. 2 Bill? Will they be responsible for making sure that sectors comply with targets? How can they ensure that sectors will comply? Will they have any powers to make them do so? Are there any forms of sanctions or fines for not meeting targets? Will the targets, under both Bills, be enforceable in court? I have provided an example, which is that commentary on the Dutch Climate Act suggests that targets under it are not enforceable in a court of law.

The Climate Change (No. 2) Bill also provides for minimum reporting requirements by DAERA on budget implementation, progress and target statements. Again, that is similar to what happens in other UK jurisdictions, with non-binding progress advice from the UK CCC. That compares with the Climate Change Bill, which requires an independent climate commissioner to provide annual CAP reports, also with advice from the CCC.

The Climate Change Bill requires reporting annually for a wider range of targets than those in the No. 2 Bill. The Climate Change Bill has provision for legislative review of the Act by the climate commissioner. The No. 2 Bill does not have such provision, however. It has a reporting duty for public bodies, unlike the private Member's Bill, which refers to the fact that the duty is voluntary under section 60 of the 2008 UK Act.

Again, there are some considerations listed. Is progress reporting best carried out by an independent body, under the Climate Change Bill, or by DAERA, under the No. 2 Bill? Moreover, will annual reporting on a wider range of targets under the Climate Change Bill require more resources, expertise and costs compared with the reporting under the Climate Change (No. 2) Bill? How will the CCC be able to deal with that extra range of targets and more frequent reporting under the Climate Change Bill compared with how it currently operates in other jurisdictions, which is similar to what is set out in the No. 2 Bill?

The Climate Change (No. 2) Bill provides for a partial regulatory impact assessment (RIA), a rural needs impact assessment and a cost analysis based on CCC advice. The explanatory and financial memorandum (EFM) states that there are likely to be impacts on the rural and agriculture sector, owing to efforts to reduce emissions. It also states that full impacts will need to be determined once policies and approaches are produced. In comparison, the Climate Change Bill did not provide for an RIA or a rural-proofing exercise at the Bill development stage.

On costs, similar to the Climate Change Bill, the EFM for the Climate Change (No. 2) Bill states that it is difficult to quantify costs accurately at this stage. It does, however, provide overall estimations and projections using data and advice from the UK CCC. Some of those are presented in the paper. It also shows the comparison with the Climate Change Bill, which did not provide any form of costings. The CCC provided the closest estimations to that target, which are for net zero by 2050 but not for 2045. The paper sets out some points on that and on the extra £900 million that could be needed, on top of the costs for achieving 82%, in order to achieve net zero.

The Ulster Farmers' Union (UFU) commissioned research by KPMG, and it was published in August 2021. It looked at the potential impacts of the Climate Change Bill on the agriculture sector. It also considered the potential economic loss and suggested that total economic output would fall by between 8% and 66% across the sectors that were analysed. That having been said, there has not been any specific impact analysis done for all sectors across both Bills.

Section 4.2 of the paper looks at other areas of consideration. Those targets —.

The Chairperson (Mr McAleer): Suzie, would you mind if we took a wee break at this juncture? We have a scheduled visit to the carbon battle bus. We will come straight back up again. Is that OK, Suzie?

Ms Cave: That is no problem at all.

The Chairperson (Mr McAleer): Thanks for starting earlier than anticipated and for agreeing to the break. We will be back in 15 or 20 minutes. Is that OK, Suzie?

Ms Cave: No problem.

The Chairperson (Mr McAleer): Thank you. Members, we will take a break until we get back from the battle bus.

The evidence session was suspended from 10.47 am to 11.26 am.

The Chairperson (Mr McAleer): The meeting has resumed following our visit to the carbon battle bus. Suzie, thank you very much for your indulgence by waiting for us and being willing to resume your presentation. Do you want to pick up where you left off?

Ms Cave: Surely. I apologise, because I appreciate that it was quite a rush through the first part of section 4. I will continue now with section 4.2, on other areas of consideration in the No. 2 Bill, which are mainly things that it does not include that the Climate Change Bill does, as well as other examples.

I have already gone over this bit, so, briefly, on targets, the No. 2 Bill does not suggest net zero CO_2 or provide a contribution from methane similar to that advised by the CCC. It does not provide for the same range of targets as in the Climate Change Bill, such as those for biodiversity, soil quality and water quality. Similar to that Bill, however, the No. 2 Bill does not provide for a separate methane target like the one in New Zealand. We discussed that a bit in the previous briefing paper.

There also appears to be a bit of a difference between the baselines that are used in the two Bills. Similar to the UK Act, the No. 2 Bill uses two baseline years for its greenhouse gases: 1990 for CO2, methane and nitrous oxide; and 1995 for the remaining greenhouse gases. The private Member's Bill uses 1990 for all greenhouse gases. Some further clarity may therefore be needed on the different approaches that are used in the two Bills.

Some points to consider are whether DAERA feels that net zero CO2 emissions are not necessarily required in order to reach the overall 82% reduction target and whether it considers biodiversity, water quality etc to be covered under existing and proposed frameworks and strategies, such as the environmental improvement plan, or strategy, under the UK Environment Bill, or covered under the existing water framework directive and nitrates directive.

CAPs are mentioned in the Climate Change Bill and are provided across other jurisdictions. The No. 2 Bill does not appear to mention a climate action plan specifically or sectoral plans similar to those mentioned in the private Member's Bill. Similar to the UK Act, however, the No. 2 Bill requires DAERA to submit a report to the Assembly outlining the implementation of carbon budgets. That report is to include proposals and policies that will be taken forward by Departments to meet those budgets. It also refers to plans, policies and strategies produced at departmental level that will feed in to the DAERA report. Both of those measures are mentioned in clause 16 and clause 29. Are those provisions similar to the CAP and the sectoral plans in the Climate Change Bill? How will Departments cooperate on their duty to produce policies and plans? Could there be an overall cross-departmental plan or strategy, or will there be individual departmental plans?

Unlike the private Member's Climate Change Bill, the Climate Change (No. 2) Bill does not provide for set-up of or reporting by an independent climate commission, and there is no provision for legislative review provisions. Similar to other examples in the paper, neither Bill appears to provide for enforcement of targets through offences, fines or sanctions.

Finally, in the Climate Change (No. 2) Bill, there does not appear to be specific provision for terms such as "just transition" or "transboundary" considerations. While climate Acts in Scotland and the Republic of Ireland (ROI) provide for just transition principles, none of the other jurisdictions explored in the paper, including the Republic of Ireland, mention transboundary or cross-border provisions. A few questions arise from that. Do just transition principles need to be written into the provisions? Is the Department considering addressing just transition through further policy and plans? With no mention of it in the Republic of Ireland's Act, how will both Bills ensure cooperation and consideration of cross-border impacts, in that it is a two-way process? Will further development of any approaches, budgets or plans under both Bills take into account the sectoral emissions ceilings and sectoral plans that are to be developed under the Republic of Ireland's Act?

I appreciate that that was a quick fly-through of the main body of the paper. There is a lot more detail in the appendices, and members may wish to explore that with me.

The Chairperson (Mr McAleer): That is great. Thank you very much for that, Suzie. A number of members wish to ask questions.

Mr McGuigan: Thank you very much, Suzie. As always, this is very useful. It is useful to build a picture of similarities and differences between the Bills. Some of it may call into question things that the Minister said during the debate on the Climate Change (No. 2) Bill about what was in that Bill. It is even clearer now, from this piece of work, that there is nothing in it on transboundary issues, and that is a very big gap, particularly on an island and also between this island and neighbouring islands.

On Monday night, it may well have been Clare who — certainly somebody — asked the Minister to be specific about the just transition. He seemed to indicate that it was in the Climate Change (No. 2) Bill, but nobody can find it, and your research suggests that there is nothing in it on the just transition. Again, that is a major gap in legislation on this issue.

I have a couple of questions. The Minister was asked about amending targets and whether they or the budgets could be moved either way. He seemed to indicate that targets would only be moved in one, more-ambitious, direction, by the Minister responsible for them. That is not clear from my reading of the Bill, and it is not clear from your research. Will you give your view on that?

There are other issues. In this Bill, DAERA and the Minister seem to have much more responsibility for a lot of the work that, in the other Bill, falls to the Assembly or the Executive or is shared out among Ministers. In the other Bill, for example, the carbon action plans have to go through a consultation period of 16 weeks and then get the agreement of the Assembly. In this Bill, a lot of the power rests with the Agriculture Minister. Could you discuss those two points in a bit more detail?

Ms Cave: Certainly. In relation to the power of adjustment, the overlying target is "at least 82%". The wording is that it has to be at least 82%. If one were to consider lessening that target or causing any reduction, one would have to consider that that figure is already stated in the Bill. The private Member's Bill specifically states that the target period can only be brought forward. Under that Bill, however, amendments can be made to the overall target through regulation, which would undergo the usual process of requiring CCC advice and being presented to the Assembly to undergo resolution. There is more detail on any regulations that might be produced under the Climate Change (No. 2) Bill, under specific clauses that deal with the regulation production side of things. Anything that adjusts the overall target would have to go through resolution by the Assembly.

In relation to your point about the powers that are given to DAERA, those powers are across all Departments. That is the first time that we have seen each individual Department being held responsible and accountable in a piece of legislation like this. In other jurisdictions, it is stated that it is the responsibility of the Ministers and the Government in general. I understand that, in the private Member's Bill, it is the Executive Office. That is new terminology compared with the other UK jurisdictions. Again, any powers that are given to each Department, and anything that would create a change to the legislation, still has to undergo the normal regulatory process. The production of carbon budgets, under regulations or secondary legislation, and any amendments to those targets, will still undergo Assembly approval. A question could be asked around whether that will then undergo public consultation in the way that amendments to primary legislation normally do. That is in relation to your point about the consultation period in the private Member's Bill.

Mr McGuigan: I have a brief point in relation to the rural proofing aspects. On page 15 of your briefing, you have stated that the EFM in the No. 2 Bill says:

> *"This may lead to a requirement for some behavioural changes in terms of farming practices, changes in land-use and/or a need to reduce outputs from the sector e.g. in terms of livestock numbers."*

The Minister is therefore saying that his Bill will require behavioural changes in agricultural practices, changes in land use and reduced outputs, to include reduction in the numbers of livestock. You could ask why a just transition is not included to ensure that that does not have a negative impact on the agriculture sector and rural communities. I could make this argument in relation to the private Member's Bill as well as this one. Was any work done in the Department on the positives? Sometimes, all we hear about are the negatives, and we do not hear about the economic advantages across all sectors that can be achieved through any climate legislation.

Ms Cave: I am not aware of an awful lot, at this stage, that has been produced. I can only go on what has been produced by the CCC to date. There were the KPMG costings, but those were in relation to the private Member's Bill. I cannot answer your question, off the top of my head, about positive outcomes, Philip. That may be something that the Department could answer, given the impact assessments that it has been doing or is going to be providing across sectors as well. I cannot provide any more detail on that at the moment.

Mr McGuigan: OK, thank you. That is important work for the Department.

Mr Harvey: I want to make a comment rather than ask a question, Suzie. I welcome your key points; indeed, the detail and content in all your research is excellent. In your key points, you state that the Bill:

> *"Provides for a partial Regulatory Impact Assessment".*

I am wondering about that word "partial". Why is it not a full impact assessment? That is what I was concerned about.

Ms Cave: The EFM explains that a more comprehensive assessment of the impacts will need to be done once the policies, plans and strategies are developed. The Bill provides the overarching principles at this stage, and further detail comes by way of secondary legislation. On the back of that, a more-detailed impact assessment will be needed.

Mr Harvey: You go on to state that there would be a:

> *"cost analysis based on CCC advice"*

and how that would impact agriculture. It is all very good. That is all. Thank you.

The Chairperson (Mr McAleer): Are you going to come in, Clare? We can see you now.

Ms Bailey: Can you hear me OK? I cannot see you guys.

The Chairperson (Mr McAleer): The last time I saw you, you were driving the bus. *[Laughter.]* We can see you OK.

Ms Bailey: Thank you again, Suzie. Your reports are so valuable, as always.

I want to look at the difference in scope between the two Bills. Can you comment on that? I am thinking *[Inaudible owing to poor sound quality.]* For example *[Inaudible owing to poor sound quality.]*

The Chairperson (Mr McAleer): We are losing you, Clare. The audio is not right.

Ms Bailey: Yes, I am losing you; it is coming and going. Can you hear me now?

The Chairperson (Mr McAleer): We can hear you now.

Ms Bailey: Suzie, do you have any thoughts about the difference in scope between the two Bills? My Bill is wider in scope than the No. 2 Bill? *[Inaudible owing to poor sound quality.]*

Ms Cave: Do you mean specifically in relation to the targets, or the other principles that are written into the Bills?

Ms Bailey: The other principles *[Inaudible owing to poor sound quality.]*

Ms Cave: Yes —

Ms Bailey: I am just wondering —

Ms Cave: I am sorry; go ahead.

Ms Bailey: My Bill, for example, is wider in scope and has a few other details in it *[Inaudible owing to poor sound quality.]*

Ms Cave: I think I picked up a bit of what you were saying; you can correct me if I do not cover it. I will look at some of the areas that the Climate Change (No. 2) Bill does not explore in comparison to your Bill. I have looked at the specific terminology in the Bills. The terminology relating to "just transition" or the examples that are given in the private Member's Bill are not specifically mentioned in the Climate Change (No. 2) Bill. DAERA should, maybe, clarify whether that will come through supplementary or secondary legislation or whether those principles could be written into that Bill. Obviously, Scotland goes that bit further than the private Member's Bill with its Just Transition Commission and those aspects.

Another difference is the transboundary element. There does not appear to be any mention of it in the Climate Change (No. 2) Bill, but there is very little mention of that in legislation from the other UK jurisdictions or even down South. Something could be written in there about the transboundary element, with consideration of both directions.

In the Climate Change (No. 2) Bill, there are no provisions for setting up a climate commissioner similar to that set up by the private Member's Bill. The legislative review aspect that is written in the private Member's Bill does not appear to be in the Climate Change (No. 2) Bill. Off the top of my head, those are some of the main differences.

Ms Bailey: Thank you very much for that. You mentioned the KPMG report. I have been thinking about that. I assume that you have read through the report. Do you have any thoughts on it?

Ms Cave: Yes. I understand that there is an awful lot of —.

Ms Bailey: *[Inaudible owing to poor sound quality]* level of finance *[Inaudible owing to poor sound quality.]* Can you hear me?

The Chairperson (Mr McAleer): Clare, you are cutting in and out. The broadcast might improve if you do not use the camera.

Ms Bailey: Is that any better? Can you hear me now?

The Chairperson (Mr McAleer): We cannot see you, but we can hear you. That is good.

Ms Bailey: OK. Suzie, you mentioned the KPMG report. Do you have any thoughts on it, having gone through it? The report used farm-level financial information to develop models but then stated:

> *"Subsidies and grants were not included when calculating each farm's income".*

That will automatically skew figures, particularly given the high dependency of farm incomes on subsidies here. Are the figures in the report misleading? If you were to calculate farm incomes now without including subsidies, would you find that the impact on farm incomes was just as devastating?

Ms Cave: Clare, I will be honest. I have not been through the report in an awful lot of detail.

Ms Bailey: OK, dead on.

Ms Cave: I felt that there was merit in mentioning the report, but *[Inaudible owing to poor sound quality.]* It was one of the only *[Inaudible owing to poor sound quality.]*

Ms Bailey: No worries, thank you very much.

Ms Cave: I can look at in more detail, certainly, but I will be honest and say that I have not been through it in that amount of detail as yet.

Ms Bailey: All right, Suzie. Thank you.

Mr Blair: I add my thanks to that expressed by the others for the very detailed work in the report. One could argue that we should be used to that by now with the reports, but we should not be. We should say, "Thanks" and reflect on it every time.

I do not want to push you for an opinion, because I know the constraints that are upon you in that regard. I am happy with the comparison that the report draws between issues around cross-departmental or even individual departmental responsibilities in relation to reporting and the actions expected of Departments and cross-sectoral action plans. The differences have been drawn out. Is it possible to receive a further report on the likely implications of those differences and any learning that there can be from other experiences? I assume that you would need a request from the Committee to do that, but I assume that it is possible. Can you confirm that?

Ms Cave: Certainly. Further exploring the duty on specific Departments may also be quite timely in relation to the green growth strategy and how that may feed in, because cross-departmental working is one element of it as well.

Mr Blair: Have there been any implications from having joint responsibility in the Climate Change Committee and individual Departments in Scotland, for example? How does that compare with the two options that are on the table here? Have any lessons been learned? Do the cross-sectoral plans that we suggested in the Climate Change Bill but that are not in the Climate Change (No. 2) Bill exist elsewhere? What have the differences been, what lessons have been learned etc? I assume that that would be a separate piece of work and that we would need to request it.

Ms Cave: Yes, if the Committee agree, it can make that request. I could then talk to you in a little more detail to tease out and explore those issues a bit more.

Mr Blair: Suzie, I make that request, for your information and the benefit of my colleagues. Those are pretty significant differences between the two Bills. They have potentially far-reaching implications and are worth further exploration.

Thanks, again, for what you have given us so far. It is very useful.

Mrs Barton: Suzie, thank you very much for your very informative report. It makes very interesting reading. I want to ask about the monitoring of carbon leakage.

Ms Cave: Yes. Sorry, Rosemary. Go ahead.

Mrs Barton: There seems to be very little in the reports about that. Do you have any comments on that?

Ms Cave: It was one aspect that I picked up. There is very little detail on that, even in the other jurisdictions. I touched on that when I looked at the ROI Act. It has specific provisions, albeit there is not an awful lot of detail in the Act, and that may be reflected in what comes through the carbon action plans and sectoral emissions targets.

Carbon leakage is mentioned in the ROI Act. I picked up that it was not specifically mentioned in either of the Northern Ireland Bills and suggested that that could be further explored.

Mrs Barton: Yes. OK. Thank you.

Mr Irwin: Suzie, thank you for your presentation and report. I think that I picked up that the Climate Change Bill has no rural needs proofing or costings, whereas the Climate Change (No. 2) Bill does. Is that right, or do I have it wrong?

Ms Cave: That is correct. Nothing was produced on those during the Bill development stage of the Climate Change Bill. The Climate Change (No. 2) Bill has a rural needs assessment, and I imagine that it expects that further detail will be provided once the secondary legislation or any regulations are developed.

There is nothing specifically new on the costings, but the Climate Change (No. 2) Bill refers to the previous work of the CCC and what it produced in its balanced pathway approach, with an at least 82% reduction in greenhouse gas emissions. One of the questions that I asked about the Bill is whether those costings from the CCC relate to its target of reducing greenhouse gas emissions by 82% or its target of net zero CO2 and a 42% reduction in methane. Those are not explicitly mentioned in the Climate Change (No. 2) Bill. Will that have any bearing on the costs or are there any differences from the CCC's analysis?

Mr Irwin: That is OK. Thank you.

The Chairperson (Mr McAleer): And Harry.

Mr Harvey: I was in, Chair. That is me finished.

The Chairperson (Mr McAleer): Sorry, Harry. You were in previously. That is great.

No other members wish to ask a question or make any comments. Suzie, I take this opportunity to thank you for another excellent piece of work with your research paper and for attending today, despite it being a disjointed attendance. That was our fault because we had to nip outside to the carbon battle bus.

Suzie, thank you very much. No doubt we will see you again as we further progress our deliberations on both Bills.

Ms Cave: Thank you.

The Chairperson (Mr McAleer): OK, Suzie. Take care.