

CENTRE FOR CROSS BORDER STUDIES

# Briefing Paper:

Climate Legislation in Northern Ireland and  
Cross-Border Cooperation

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## Introduction

In summer 2019, the United Kingdom government sets an ambitious target of 100% reduction in greenhouse gas emissions by 2050 compared to 1990, overturning the target set by the Climate Change Act 2008.<sup>1</sup> This was a result of the claim widely shared by public bodies, scientists and civil society that significant measures must be taken in response to global warming. Nevertheless, if the UK government and Parliament are supported and advised by an independent body such as the [Climate Change Committee](#) (CCC), what about devolved governments, especially when it comes to Northern Ireland? The latter recently saw the launch by a Member of the Legislative Assembly of proposed legislation that includes provision for an independent body overseeing climate change concerns. This was followed by the introduction of another climate change bill by Northern Ireland's Agriculture and Environment Minister. Importantly, Northern Ireland's geographical location offers a seemingly favourable context concerning cooperation on environmental management with the Republic of Ireland (RoI). However, while both governments are placing the challenges of protecting biodiversity and fighting against climate change in their respective governmental programmes, this Briefing Paper questions the extent to which such cooperation between the two jurisdictions is encouraged by the proposed legislation.

## Recent developments

The ['New Decade, New Approach'](#) agreement (NDNA) of January 2020 engaged the restored Northern Ireland Executive to bring forward a Climate Change Act to give environmental targets a strong legal underpinning. In addition, all-island cooperation and coordination to tackle climate breakdown constituted one of the Irish government's commitments included in NDNA. However, this is not the only official document referring to climate change concerns and solutions aiming to mitigate the effects of climate change. Indeed, the Northern Ireland Climate Change Adaptation Programme (NICCAP),<sup>2</sup> the Northern Ireland Department for the Economy's proposals for a new [Energy Strategy](#)<sup>3</sup> or even the Programmes for Government for each side of the border state the necessity to implement global, fair and tailored actions to the specificities of the island of Ireland and its respective jurisdictions. The CCC also published a significant report entitled ['Reducing emissions in Northern Ireland'](#), which detailed how Northern Ireland can reduce its greenhouse gas emissions to contribute to meeting UK-wide climate change targets set out in the Climate Change Act. In December 2020 Northern Ireland's Department of Agriculture, Environment and Rural Affairs (DAERA) launched a [public consultation on a Discussion Document on a Climate Change Bill](#) (CCB), whilst the MLA Clare Bailey, with the help of academics and environmentalists, introduced a CCB into the Northern

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<sup>1</sup> Sara Priestley, ["Net zero in the UK"](#), Briefing Paper, House of Commons Library, Number CBP8590 (16 December 2019), [last accessed 15/04/2021].

<sup>2</sup> The first NICCAP was launched in 2014, covering the period 2014-19. Following the UK Climate Change Risk Assessment in 2017, [NICCAP2](#) was drafted for 2019-24 by the Department of Agriculture, Environment and Rural Affairs.

<sup>3</sup> The Department for the Economy launched a public consultation on policy options for a new Energy Strategy for Northern Ireland on 31 March 2021 (see <https://www.economy-ni.gov.uk/consultations/consultation-policy-options-new-energy-strategy-northern-ireland>).

Ireland Assembly in March 2021. This was followed in July 2021 by the introduction to the Assembly of another CCB – the [Climate Change \(No.2\) Bill](#) – by the Minister of Agriculture, Environment and Rural Affairs, Edwin Poots MLA. While the question of which Bill should take precedence remains unclear, this Briefing Paper will focus on whether these legislative and policy initiatives encourage solutions to climate issues on a cross-border or all-island basis.

## Summary of legislative and policy initiatives

The 2019 Climate Change Committee (CCC) report rightly pointed out that Northern Ireland forms part of the all-island Integrated Single Electricity Market (I-SEM), along with the Republic of Ireland. With energy being one of the most important factors in determining climate action plans, the report recommended that “NI energy policy must be compatible with the Republic of Ireland to ensure an efficient market can operate on a level playing field” (p.34). To this end, the Climate Change Bill introduced by Clare Bailey explicitly asks that “when setting out policies and proposals in respect of energy production and supply, the advices and recommendations of the SEM Committee must be obtained and taken into account” (p.5).

The Northern Ireland Department for the Economy’s paper on policy options for a new Energy Strategy notes how “north-south interconnectors will be vital to guarantee more efficient outcomes for climate change and improve North-South security of supply” (p.127). However, the CCC report highlighted that there is currently only one major interconnector, which limits the transmission capacity of the network. Given the interconnected nature of energy production, distribution and consumption between the two jurisdictions on the island of Ireland, this could influence the future climate actions as Northern Ireland could be relying on renewable energy supply from the Republic of Ireland, such as offshore wind energy and natural gas. Moreover, the CCC reiterated its recommendation for Northern Ireland to work more closely with the Republic of Ireland’s [Climate Change Advisory Council](#) (CCAC) in a letter addressed to the Minister of Agriculture, Environment and Rural Affairs, Edwin Poots, on 1 April 2021.<sup>4</sup> This recommendation is indeed taken into account in Clare Bailey’s Bill, where the CCAC is defined as one of the bodies from which climate policies in Northern Ireland should take reference.

Clare Bailey’s Private Member’s Climate Bill also urges the Department of Agriculture, Environment and Rural Affairs to take into account “any advice and recommendations from any of the bodies in Part V of the Northern Ireland Act 1998” (p.6), which refers to the North-South Ministerial Council (NSMC) and its implementation bodies, as well as the British-Irish Council (BIC). This corresponds with Ireland’s [Programme for Government](#), which commits to engagement to “explore how bodies established under the Good Friday Agreement (GFA) can ensure that there is a joined-up approach to environmental issues on an all-island basis and seek to develop an all-island strategy to tackle climate breakdown and the biodiversity crisis”

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<sup>4</sup> [The letter of the CCC](#) is the result of a request from NI officials in February 2021 for further evidence on the economic costs of setting and delivering a 2050 emissions target for NI.

(p.104). Furthermore, the Private Member's Climate Bill also demands that any climate action plan proposals should take into account the "transboundary element of carbon and nitrogen flows from RoI, Scotland, Wales and England which could have a negative impact on the environment of NI, including its waters and atmosphere" (p.5). Accordingly, the NSMC and the BIC should provide adequate frameworks to discuss these issues.

Finally, whilst cross-border elements are included in Clare Bailey's Climate Bill, despite not exhaustive, it is noticeable that by contrast the discussion paper published by DAERA was mainly focused on technical issues, such as emission targets, and the cross-border or all-island dimensions were largely absent. It did not consider questions such as should there be deeper coordination between Northern Ireland and the Republic of Ireland in terms of climate change legislation given the proximity of the two territories, nor whether the potential transboundary connections to Scotland, Wales, or England should be included. This has been carried into the Department's bill, where the approach is essentially based on the target emissions within the territory of Northern Ireland without explicit and sustained reference to the impacts coming from neighbouring jurisdictions.

## Recommendations

Green transport infrastructure will play an important role in climate actions. For example, whilst the policy options for a new Energy Strategy for Northern Ireland highlighted the importance of the development of electric vehicles, the report of the CCC indicated that cross-border solutions should be encouraged on this issue. It concluded that "an adequate supply of public charging points on both sides of the border with consistent standards and a shared access system will avail of the prevalence of longer cross-border journeys in electric vehicles" (p.46). Moreover, the CCC also suggested that more car journeys should be replaced by walking, cycling and public transport. Therefore, ongoing projects such as the '[North West Greenway Network](#)' connecting Derry and Donegal should be further encouraged in climate legislation.

It is also essential to refocus on the institutional framework provided by the Good Friday/Belfast Agreement, and especially the North South Ministerial Council and the British Irish Council. Indeed, the Centre Cross Border Studies has previously recommended that these institutions should be revitalised as invaluable platforms for post-Brexit environmental cooperation.<sup>5</sup> The NSMC should, for example, facilitate and encourage cooperation and knowledge sharing in terms of environmental impact and building of common projects with a view to maximising the opportunities offered by the Peace Plus programme 2021-27. Furthermore, EU funds as well as other funds available in the Republic of Ireland and Northern Ireland, if coordinated would create political synergies between the two jurisdictions that could have greater impact in addressing climate change. The BIC, meanwhile, encompasses

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<sup>5</sup> Centre for Cross Border Studies, "[The Belfast/Good Friday Agreement and \(post-Brexit\) cross-border environmental cooperation](#)" (June 2019), p.5.

a larger area beyond the island of Ireland and represents an ideal space for cooperation given that the negative effects of climate change will not be contained by any terrestrial or maritime borders. This has been recognised by the BIC, which has recommended its member Administrations examine the potential for better collaboration and information sharing on research projects including coordinated and co-funded research on climate change.<sup>6</sup>

## Conclusion

The geographical, economic and other specificities of the island of Ireland constitute a pertinent reason for its two jurisdictions to work together in tackling climate change, with the potential to extend cooperation across the Irish sea. The private member's Bill on Climate Change introduced by Clare Bailey to the Northern Ireland Assembly takes into account recommendations put forward by the Climate Change Committee, but without necessarily presenting a structured approach to the need for cross-border (or "transboundary") cooperation. Nevertheless, the fact that this Bill provides a legislative reminder of the role of institutions created by the 1998 Agreement could give a new lease of life to North-South and East-West cooperation on the noble concern of climate change. However, this cooperation cannot be optimised if there is a divergence of climate targets between two jurisdictions. The explanatory and financial memorandum of the Department's Bill sets out its preference for the CCC's recommendation, meaning at least 82% of reduction by 2050. The Bill is thus based on this target and stresses the net Northern Ireland emission and its contribution to the UK-wide Net Zero objective, while making no connection to potential transboundary impacts and their related political and policy frameworks. This absence could prove to be regrettable for cross-border cooperation in addressing climate change. Clause 16(3) of the Bill demands that each Northern Ireland department provide the Department with its proposals and policies in its areas of responsibility, and the same provision can be found in Republic of Ireland's revised Climate Bill 2021. This could well have given a strong legal-footing for a more effective sectoral coordination in fighting climate change across the island of Ireland and between these islands.

Finally, beyond these bills and their reference (or not) to cross-border concerns, the weight of civil society is sizeable and community organisations on the island of Ireland and Great Britain may push for their respective governments to engage in the kind of cross-border cooperation they have long realised is the only realistic means of addressing the share challenge of climate change. This is why creating mechanisms for proper engagement of governments with civil society on the issue of climate change, and ensuring transparency should also constitute parameters to be taken into account in the development of legislation on climate change.

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<sup>6</sup> See [Communiqué of BIC Environmental Ministerial Meeting in Dublin \(22-23 March 2018\)](#), p.10.



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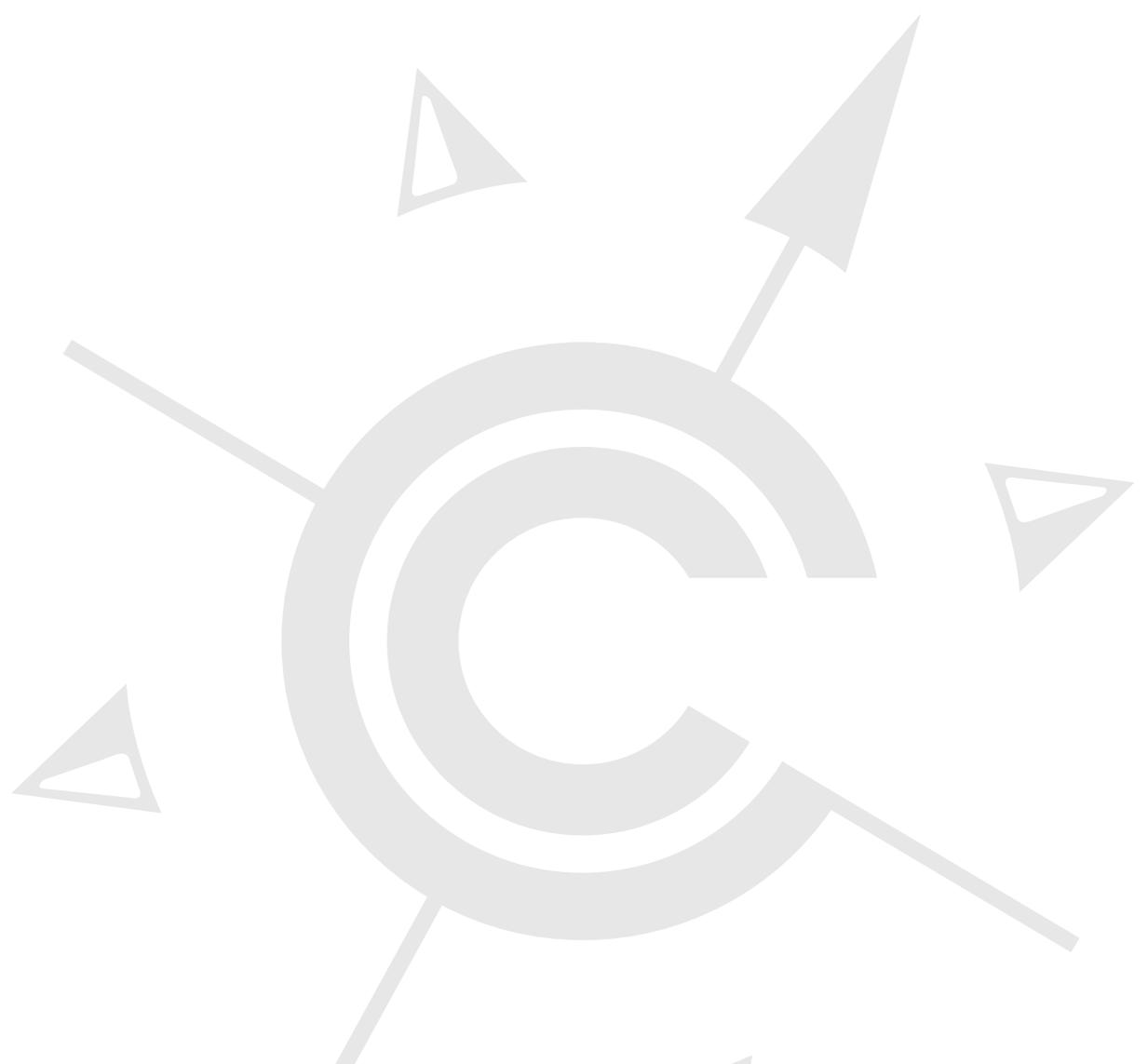
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