



**Isle of Man**

*Ellan Vannin*

**AT 20 of 2021**

**CLIMATE CHANGE ACT 2021**





**Isle of Man**

*Ellan Vannin*

## CLIMATE CHANGE ACT 2021

### Index

| Section   | Page      |
|---|-----------|
| <b>PART 1 – INTRODUCTORY</b>  | <b>5</b>  |
| 1 Short title.....  | 5         |
| 2 Commencement.....   | 5         |
| <b>PART 2 – DEFINITIONS</b>   | <b>6</b>  |
| 3 Interpretation.....   | 6         |
| 4 Greenhouse gases.....   | 8         |
| 5 Meaning of baseline.....  | 8         |
| 6 International carbon reporting practice.....  | 9         |
| 7 Measurement of emissions.....   | 9         |
| 8 Just transition principles and climate justice principle.....                               | 10        |
| <b>PART 3 – CARBON TARGETS AND INTERIM TARGETS</b>  | <b>10</b> |
| 9 The net zero emissions target.....  | 10        |
| 10 Setting of interim targets.....  | 11        |
| 11 Target-setting criteria.....   | 11        |
| 12 Domestic effort.....   | 12        |
| 13 Attribution of emissions to Isle of Man.....   | 12        |
| 14 Isle of Man share of emissions from international aviation and international shipping..... | 13        |
| 15 Determining Isle of Man emissions and removals.....  | 13        |
| 16 Isle of Man carbon offsetting schemes.....   | 13        |
| <b>PART 4 – PLANNING AND REPORTING DUTIES OF COUNCIL OF MINISTERS</b>                         | <b>15</b> |
| 17 Climate change plan.....   | 15        |
| 18 Content of climate change plan.....  | 16        |
| 19 Annual progress report.....  | 18        |
| 20 5-yearly emissions report.....   | 19        |
| <b>PART 5 – PLANNING AND REPORTING DUTIES OF PUBLIC</b>                                       |           |

|  |           |
|--|-----------|
| <b>BODIES</b>  | <b>21</b> |
| 21 Climate change duties of public bodies .....              | 21        |
| 22 Guidance to public bodies.....                            | 21        |
| 23 Reporting by public bodies on climate change duties ..... | 22        |
| 24 Designation of monitor.....                               | 22        |
| 25 Reporting by monitor .....                                | 23        |
| 26 Guidance to monitor.....                                  | 23        |
| 27 Power to direct monitor .....                             | 24        |
| <b>PART 6 – FOSSIL FUEL</b>                                  | <b>24</b> |
| 28 Fossil fuel and fossil fuel heating systems.....          | 24        |
| <b>PART 7 – REGULATION OF SINGLE USE PLASTICS</b>            | <b>25</b> |
| 29 Regulation of single use plastics .....                   | 25        |
| <b>PART 8 – REGULATIONS</b>                                  | <b>26</b> |
| 30 Regulations and Orders: general.....                      | 26        |
| 31 Application of UK legislation to the Isle of Man .....    | 26        |
| 32 Powers of entry.....                                      | 27        |
| 33 Regulations and Orders: fixed penalties.....              | 29        |
| <b>PART 9 – MISCELLANEOUS</b>                                | <b>31</b> |
| 34 Exercise of duties by Council of Ministers.....           | 31        |
| 35 Consultation.....   | 31        |
| 36 Climate impact assessments .....                          | 31        |
| 37 Amendments to enactments .....                            | 32        |
| <b>SCHEDULE</b>  | <b>33</b> |
| AMENDMENTS TO ENACTMENTS                                     | 33        |
| <b>ENDNOTES</b>  | <b>47</b> |
| TABLE OF ENDNOTE REFERENCES                                  | 47        |

**Isle of Man***Ellan Vannin*

## CLIMATE CHANGE ACT 2021

*Signed in Tynwald:* 20 July 2021  
*Received Royal Assent:* 14 December 2021  
*Announced to Tynwald:* 14 December 2021

**AN ACT** to set a target year of 2050 and to make provision for the setting of interim targets for the reduction of greenhouse gas emissions; to make provision about the mitigation of climate change and the enhancement of natural carbon storage; to impose climate change duties on public bodies; to make provision for energy generation and energy use and for the reduction and recycling of waste; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 – INTRODUCTORY

#### 1 Short title

The short title of this Act is the Climate Change Act 2021.

#### 2 Commencement

- (1) Parts 1 to 4, sections 21 to 23, sections 28, 29, 30(1), (2), (4), (5) and (6), 31, 34, 35 and 36 of, and paragraph 3(a) and (b) of the Schedule to, this Act come into operation on the day on which this Act is passed.
- (2) Section 37 of this Act comes into operation on the day on which this Act is passed to the extent that it is required to enable paragraph 3(a) and (b) of the Schedule to this Act to come into operation.
- (3) The remaining provisions of this Act come into operation on such day or days as the Council of Ministers may by order appoint and different days may be appointed for different provisions and for different purposes.<sup>1</sup>
- (4) An order under subsection (3) may include such consequential, incidental, supplemental, transitional, transitory or savings provisions as the Council

of Ministers considers necessary or expedient in connection with the coming into operation of any provision of this Act.

- (5) Section 35 (consultation) does not apply in relation to an order made under this section.

## PART 2 – DEFINITIONS

### 3 Interpretation

- (1) In this Act, unless the context otherwise requires —

“**baseline**” has the meaning given in section 5(1);

“**baseline year**” means —

- (a) in relation to carbon dioxide, the year specified in section 5(1); or
- (b) in relation to another greenhouse gas, the year specified for that gas in section 5(2);

“**biodiversity**” means the variability among living organisms from all sources (including terrestrial, marine, and other aquatic ecosystems) and the ecological complexes of which they are part, including diversity within and between species and of ecosystems;

“**carbon intensity**” means the amount of carbon by weight emitted per unit of energy consumed;

“**carbon sequestration**” has the meaning given in section 16(6);

“**carbon unit**” has the meaning given in section 16(6);

“**climate change**” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“**climate change duties**” means the duties of public bodies described in section 21;

“**climate change plan**” means the plan referred to in section 17;

“**climate justice principle**” has the meaning given in section 8(2);

“**current international carbon reporting practice**” has the meaning given in section 6(1);

“**Department**” means the Department of Environment, Food and Agriculture;

“**ecosystems**” means the dynamic complexes of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

“**ecosystem services**” means the direct and indirect contributions of ecosystems to human wellbeing;

- “**emissions**”, in relation to a greenhouse gas, means emissions of that gas into the atmosphere that are attributable to human activity;
- “**energy intensity**” means the ratio of total energy supplied to gross domestic product;
- “**greenhouse gas**” has the meaning given by section 4;
- “**international carbon reporting practice**” has the meaning given in section 6(1);
- “**interim target**” is a target set under section 10;
- “**Isle of Man emissions**”, in relation to a greenhouse gas, means emissions of that gas which are attributable to the Isle of Man under section 13;
- “**Isle of Man Government Action Plan**” means —
- (a) the Isle of Man Government Action Plan for Achieving Net Zero Emissions by 2050 Phase 1, laid before Tynwald Court on 21 January 2020, GD 2019/0101; and
  - (b) any other plan for achieving net zero emissions by 2050 that was laid before Tynwald before the coming into operation of section 17;
- “**Isle of Man removals**” has the meaning given by section 15(2);
- “**just transition principles**” has the meaning given by section 8(1);
- “**net Isle of Man emissions**” for a period, in relation to a greenhouse gas, means the amount of Isle of Man emissions of that gas for the period reduced by the amount of Isle of Man removals of that gas for the period;
- “**net Isle of Man emissions account**” means in relation to a year the aggregate amount of net Isle of Man emissions of greenhouse gases in that year;
- “**net zero emissions target**” has the meaning given by section 9;
- “**net zero emissions target year**” means the year specified in section 9;
- “**public body**” means a public authority within the meaning of section 6(1) of the *Freedom of Information Act 2015*;
- “**publish**” in relation to any document means publish in a manner likely to bring it to the attention of those affected by it;
- “**target-setting criteria**” means the criteria mentioned in section 11;
- “**United Nations sustainable development goals**” means the goals set out in “Transforming our world: the 2030 Agenda for sustainable development” adopted by the General Assembly of the United Nations by resolution A/Res/70/1 of 25 September 2015.
- (2) The Council of Ministers may make regulations that amend the definitions in subsection (1) of “public body” and “United Nations sustainable development goals”.

#### 4 Greenhouse gases

asp2009/12/10

- (1) In this Act, a “**greenhouse gas**” means any of the following gases —
  - (a) carbon dioxide;
  - (b) methane;
  - (c) nitrous oxide;
  - (d) hydrofluorocarbons;
  - (e) perfluorocarbons;
  - (f) sulphur hexafluoride;
  - (g) nitrogen trifluoride.
- (2) The Council of Ministers may make regulations that amend subsection (1) so as to —
  - (a) add a gas to the list; or
  - (b) modify the description of a greenhouse gas.
- (3) The power in subsection (2)(a) may be exercised only if it appears to the Council of Ministers that an international agreement or arrangement recognises that the gas to be added contributes to climate change.
- (4) Section 35 (consultation) does not apply in relation to regulations made under subsection (2).

#### 5 Meaning of baseline

asp2009/12/11

- (1) In this Act, “**baseline**” means the aggregate amount of —
  - (a) the net Isle of Man emissions of carbon dioxide for 2018; and
  - (b) the net Isle of Man emissions of each other greenhouse gas specified in subsection (2) for the year that is the baseline year for that gas.
- (2) The baseline year for greenhouse gases other than carbon dioxide is —
  - (a) for methane, 2018;
  - (b) for nitrous oxide, 2018;
  - (c) for hydrofluorocarbons, 2018;
  - (d) for perfluorocarbons, 2018;
  - (e) for sulphur hexafluoride, 2018;
  - (f) for nitrogen trifluoride, 2018.
- (3) The Council of Ministers may make regulations that amend a year mentioned in subsection (2).

- (4) Where the Council of Ministers have made regulations under section 4(2)(a) adding a greenhouse gas, the Council of Ministers must by regulations amend this section —
  - (a) to designate in subsection (2) a year as the baseline year for each added greenhouse gas; and
  - (b) to provide for the amount of net Isle of Man emissions of the gas for that year that is to be treated for the purposes of this Act as the amount of net Isle of Man emissions of that gas for that baseline year.

## 6 International carbon reporting practice

- (1) In this Act —
  - (a) “**international carbon reporting practice**” means accepted practice in relation to reporting for the purposes of —
    - (i) the protocols to the United Nations Framework Convention on Climate Change; and
    - (ii) such other agreements or arrangements at European or international level as the Council of Ministers may by regulations specify;
  - (b) “**current international carbon reporting practice**” means the most up-to-date international carbon reporting practice.
- (2) The Council of Ministers may by regulations amend this section for the purpose of providing a different standard to any of those described in subsection (1)(a) or (b), but may not do so unless it is satisfied that the standard that is being introduced is a standard that —
  - (a) is appropriate for the purpose of reporting such of the Isle of Man emissions data as are required by the United Kingdom to meet its reporting obligations under the United Nations Framework Convention on Climate Change of 9 May 1992; and
  - (b) is at least equivalent to the standards set by the Inter-Governmental Panel on Climate Change under that Convention.

## 7 Measurement of emissions

asp2009/12/18

- (1) For the purposes of this Act, greenhouse gas emissions, reductions of such emissions and removals of greenhouse gases from the atmosphere are measured or calculated in tonnes of carbon dioxide equivalent.
- (2) A “**tonne of carbon dioxide equivalent**” means one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (determined, in so far as reasonably practicable, consistently with current international carbon reporting practice).

## 8 Just transition principles and climate justice principle

asp2009/12/35 and 35C and drafting

- (1) In this Act, the “**just transition principles**” are the principles of taking action to reduce net Isle of Man 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 understanding and acceptance, so far as is reasonably practicable, through engagement with —
    - (i) workers, trade unions, communities, non-governmental organisations, representatives of the interests of business and industry; and
    - (ii) such other persons as the Council of Ministers considers appropriate;
  - (d) creates decent, fair and high-value work in a way that supports the overall economy and mitigates, where possible, negative effects on the workforce; and
  - (e) contributes to resource-efficient and sustainable economic approaches which help to address inequality and poverty.
- (2) In this Act, the “**climate justice principle**” is the principle 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.
- (3) The Council of Ministers —
  - (a) may make regulations that amend a definition in subsection (1) or (2); and
  - (b) may publish or approve guidelines on the just transition principles or the climate justice principle.

## PART 3 — CARBON TARGETS AND INTERIM TARGETS

### 9 The net zero emissions target

asp2009/12/A1 and drafting

- (1) The Council of Ministers must ensure that the net Isle of Man emissions account for the year 2050 (the “**net zero emissions target year**”) is at least 100% lower than the baseline (the “**net zero emissions target**”).

- (2) The Council of Ministers may make regulations that amend subsection (1) so as to substitute for the year 2050 an earlier year.
- (3) When exercising its power under subsection (2), the Council of Ministers must set the net zero emissions target year in accordance with the target-setting criteria in section 11.

## 10 Setting of interim targets

- (1) The Council of Ministers must make regulations on or before 1 April 2022 to set at least one interim target.
- (2) An interim target is a percentage target by which the net Isle of Man emissions account is to be lower than the baseline by a specified date.
- (3) The Council of Ministers may by regulations —
  - (a) set additional interim targets to that set under subsection (1); or
  - (b) amend an interim target.
- (4) When exercising its duty under subsection (1) or exercising a power under subsection (3), the Council of Ministers must set each interim target in accordance with the target-setting criteria in section 11.
- (5) When exercising its power under subsection (3), the Council of Ministers must not amend an interim target in a way that would —
  - (a) substitute a later date by which the target must be reached; or
  - (b) substitute a percentage target with a lower percentage target.

## 11 Target-setting criteria

asp2009/12/2B and drafting

- (1) The following are the criteria for modifying the net zero emissions target year or a baseline year or for setting or modifying an interim target —
  - (a) the objective of achieving the net zero emissions target;
  - (b) regard to the just transition principles and the climate justice principle;
  - (c) scientific knowledge about climate change;
  - (d) technology relevant to climate change;
  - (e) economic circumstances, in particular the likely impact of the net zero emissions target year or interim target on —
    - (i) the Isle of Man economy;
    - (ii) the competitiveness of particular sectors of the Isle of Man economy;
    - (iii) businesses; and
    - (iv) jobs and employment opportunities;

- (f) fiscal circumstances, in particular the likely impact of the net zero emissions target year or interim target on taxation, public spending and public borrowing;
  - (g) the likely impact on public health;
  - (h) the likely impact of the net zero emissions target year or an interim target on sustainable development, where applicable including the achievement of the United Nations sustainable development goals;
  - (i) energy policy, in particular the likely impact of the net zero emissions target year or interim target on energy supplies, the renewable energy sector and the carbon intensity and energy intensity of the Isle of Man economy;
  - (j) environmental considerations and, in particular, the likely impact of the net zero emissions target year or interim target on biodiversity, ecosystems and ecosystem services;
  - (k) international law and policy relating to climate change;
  - (l) current international carbon reporting practice.
- (2) The Council of Ministers may make regulations that amend the criteria in subsection (1).

## 12 Domestic effort

- (1) The Council of Ministers must ensure that effort towards meeting the net zero emissions target and any interim targets —
- (a) consists entirely of actions that are to be taken to —
    - (i) reduce Isle of Man emissions; and
    - (ii) increase Isle of Man removals; and
  - (b) does not include the acquisition of emissions reduction units.
- (2) In this section “emissions reduction units” means tradable units representing emissions reductions or removals generated in a jurisdiction other than the Isle of Man.

## 13 Attribution of emissions to Isle of Man

- (1) Emissions of a greenhouse gas are attributable to the Isle of Man if —
- (a) they are emitted from a source in the Isle of Man; or
  - (b) regulations specify that they are attributable to the Isle of Man.
- (2) The Council of Ministers may make regulations that provide that the emissions of specified greenhouse gases are attributable to the Isle of Man.
- (3) Regulations under subsection (1)(b) or (2) must specify the criteria for attributing such emissions to the Isle of Man as the Council of Ministers considers appropriate.

## 14 **Isle of Man share of emissions from international aviation and international shipping**

- (1) Except as provided for in regulations made under section 13(2), emissions from international aviation and international shipping are not attributable to the Isle of Man, whether they are emitted as a result of —
  - (a) the operations of an aircraft or a ship by a person who, being an individual, is resident in the Isle of Man or, being a person other than an individual, is registered in the Isle of Man; or
  - (b) the operations of an aircraft or a ship registered in the Isle of Man.
- (2) Regulations under section 13(2) may attribute emissions from international aviation and international shipping to the Isle of Man.
- (3) The attribution of such emissions must be in accordance with internationally recognised criteria for the allocation of carbon emissions but regulations may make provision for such exceptions, amendments and modifications as are relevant to the Island.
- (4) Regulations that attribute emissions from international aviation or international shipping to the Isle of Man must specify each greenhouse gas that is to be taken into account for the purpose of that attribution.
- (5) Once a greenhouse gas has been specified in accordance with subsection (4) the emissions of that gas must not cease to be taken into account as Isle of Man emissions of that gas.

## 15 **Determining Isle of Man emissions and removals**

- (1) The amount of Isle of Man emissions and Isle of Man removals of a greenhouse gas for a period must, in so far as reasonably practicable, be determined consistently with current international carbon reporting practice.
- (2) In this Act “**Isle of Man removals**”, in relation to a greenhouse gas, means removals of that gas from the atmosphere due to land use, sea-bed use, land-use change, forestry activities or a technological solution in the Isle of Man.
- (3) The Council of Ministers may make regulations that amend the definition in subsection (2).

## 16 **Isle of Man carbon offsetting schemes**

- (1) The Council of Ministers may make regulations that make provision for one or more offsetting schemes (“**schemes**”) to operate to encourage activities that consist of, or that cause or contribute directly or indirectly to, the reduction in greenhouse gas emissions or the removal of greenhouse gases from the atmosphere.

- (2) Without limiting the power conferred in subsection (1), regulations under that subsection may, in particular, make provision for –
- (a) designating a person or body (including a Department or other public body) to administer a scheme;
  - (b) requiring the payment by persons using a scheme of such fees or charges as are reasonably required to cover the reasonable costs incurred in operating the scheme;
  - (c) requiring the creation and maintenance of a register or registers of information and specifying what may or must be included in a register;
  - (d) establishing and maintaining accounts in which carbon units may be held, and between which they may be transferred;
  - (e) setting the value of carbon units and the method of calculation of units that is consistent with international carbon reporting practice;
  - (f) creating a fund for use for development and administration of carbon sequestration projects on private or public land or the seabed;
  - (g) the publication of details of sequestration projects;
  - (h) the payment of incentives (including grants or loans) for private or charitable sequestration projects and the circumstances or conditions for receiving such incentives;
  - (i) permitting the leasing of public land or the seabed to a person for the purposes of carbon sequestration projects and setting such conditions as may be required in the lease;
  - (j) specifying the methodology for calculating the amount of Isle of Man emissions and Isle of Man removals of a greenhouse gas for the purposes of section 15, including measures to be taken for ensuring their accurate calculation;
  - (k) the measurement of activities by reference to the amount (in tonnes of carbon dioxide equivalent) of the reduction of greenhouse gas emissions, or removals of greenhouse gas from the atmosphere, for which those activities are to be regarded as responsible;
  - (l) specifying other standards which must be met to ensure that projects are sustainably and responsibly managed, including specifying the circumstances when a climate impact assessment is required to be made;
  - (m) specifying the projects which may, or must not, be included in a scheme; and
  - (n) specifying measures for avoiding the double counting of carbon units or tonnes of carbon.

- (3) Regulations under subsection (1) may make provision for monitoring compliance with the requirements of the scheme, including provision for —
- (a) the keeping of records by the participants in the scheme;
  - (b) the provision of information by the participants and others;
  - (c) the audit and verification of that information; and
  - (d) the inspection of any land or the seabed that is the subject of a project registered under a scheme.
- (4) Regulations may not permit a scheme to include a carbon sequestration project that is set out in the Isle of Man Government Action Plan or in a climate change plan.
- (5) Subsection (4) does not preclude the Isle of Man Government from identifying, endorsing or otherwise recommending a project for inclusion in a scheme provided that there may not be included in a scheme any project in respect of which there has been, or will be made available, government funding.
- (6) In this Act —
- “**carbon unit**” means a unit of a kind specified in regulations made under subsection (1) and which represents —
- (a) the removal of an amount of greenhouse gas from the atmosphere; and
  - (b) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions;

“**carbon sequestration**” means the long-term storage of carbon which acts to prevent it from being emitted or remaining in the atmosphere.

## PART 4 — PLANNING AND REPORTING DUTIES OF COUNCIL OF MINISTERS

### 17 Climate change plan

- (1) On the coming into operation of this section, the Isle of Man Government Action Plan continues to have effect as if it were a climate change plan and remains in operation until 1 April 2022.
- (2) The Council of Ministers must ensure that there is a climate change plan in effect at all times after 1 April 2022.
- (3) Before a climate change plan, or any amendment to a climate change plan, takes effect —
- (a) in the case of a climate change plan, the public must be consulted on the matters that are proposed to be contained in it;

- (b) in the case of an amendment to a climate change plan that relates to a matter that has not been consulted upon under paragraph (a), any person (or representative of such a person) to whom the amendment relates, and any other person that the Council of Ministers considers appropriate to consult, must be consulted on the proposed amendment; and
  - (c) the climate change plan or the amendment, as the case may be, must be laid before Tynwald for approval.
- (4) A climate change plan, or any amendment to such a plan, that is laid under subsection (3)(c) —
- (a) must come into force no later than 1 April that next occurs after it is approved; and
  - (b) remains in effect for 5 years or until the date on which the next subsequent climate change plan comes into effect, whichever is the earlier date.
- (5) An amendment to a climate change plan does not have the effect of extending the period that the plan remains in force.

## 18 Content of climate change plan

- (1) A climate change plan must include —
- (a) the Council of Ministers' proposals and policies for reducing the Isle of Man's emissions and increasing Isle of Man removals, having regard to the net zero emissions target;
  - (b) the Council of Ministers' proposals and policies for meeting interim targets (if any) during the plan period;
  - (c) the timescales over which the proposals and policies mentioned in paragraphs (a) and (b) are expected to take effect; and
  - (d) an assessment of the progress towards implementing proposals and policies, being —
    - (i) in the case of the first such plan, those set out in the Isle of Man Government Action Plan; and
    - (ii) in the case of each subsequent plan, those set out in the immediately preceding climate change plan and in proposals for compensating or changing domestic effort, during the plan period, where it is reported that an interim target set previously has not been met.
- (2) A climate change plan may include proposals and policies in relation to —
- (a) energy generation and supply;
  - (b) transport (including international aviation and shipping);
  - (c) business and industry;
  - (d) residential and public buildings;

- (e) waste management;
  - (f) land use, land use change and forestry;
  - (g) use of the Island's territorial waters and sea bed;
  - (h) agriculture;
  - (i) changes to proposals and policies made in previous plans;
  - (j) carbon sequestration; and
  - (k) any other proposal or policy that the Council of Ministers considers appropriate.
- (3) A climate change plan must explain how the proposals and policies set out in the plan are expected to affect —
- (a) the Isle of Man economy, including —
    - (i) competitiveness of particular sectors;
    - (ii) businesses; and
    - (iii) jobs and employment opportunities;
  - (b) fiscal circumstances, in particular the likely impact of policies and proposals on taxation, public spending and public borrowing;
  - (c) policies or proposals on public health;
  - (d) energy policy, in particular the likely impact of the net zero emissions target, or an interim target, on energy supplies, the renewable energy sector and the carbon and energy intensity of the Isle of Man economy; and
  - (e) environmental considerations and, in particular, the likely impact of the net zero emissions target or an interim target on biodiversity, ecosystems and ecosystem services.
- (4) A climate change plan may also set out the Council of Ministers' proposals and policies regarding —
- (a) the respective contributions towards meeting the net zero target or any interim targets that must be made by particular sectors of the Isle of Man economy; and
  - (b) how the respective contributions towards meeting the net zero target or any interim targets by particular sectors of the Isle of Man economy may be achieved.
- (5) Each climate change plan must —
- (a) have regard to the just transition principles and the climate justice principle; and
  - (b) explain the extent to which it takes account of those principles.
- (6) The plan must explain how the implementation of the plan is expected to contribute to sustainable development, where applicable, including the achievement of the United Nations sustainable development goals.

- (7) In this section, the “plan period” means the period beginning with the date on which the climate change plan comes into force and ending 5 years after that date (unless another climate change plan takes effect before the end of that period).
- (8) The Council of Ministers may by regulations amend this section to —
  - (a) amend the matters that must or may be contained in a climate change plan; or
  - (b) amend the plan period.

## **19 Annual progress report**

- (1) The Council of Ministers must lay an annual progress report before Tynwald, no later than July each calendar year, which includes the information described in subsection (2) in relation to the financial year ending on the 31 March last occurring before the laying of the annual progress report (“reporting period”).
- (2) A Minister must, at the sitting at which an annual progress report is laid or the next subsequent sitting, move that the report be received by Tynwald.
- (3) The annual progress report must contain a statement on the following matters —
  - (a) progress, relevant to the reporting period, in relation to the current climate change plan;
  - (b) any changes to the plan made during the reporting period or proposals to change the plan and the reasons for those changes;
  - (c) the way the just transition principles and the climate justice principle have been implemented;
  - (d) the extent to which biodiversity, ecosystems and ecosystem services have been enhanced, protected or otherwise affected during the period; and
  - (e) the extent to which the actions have contributed to sustainable development, including the achievement of the United Nations sustainable development goals.
- (4) The annual progress report may contain details of the following matters —
  - (a) any new sources of emissions identified during the reporting period;
  - (b) any perceived or actual barriers to emissions reductions;
  - (c) if an action has not been completed by the date specified in the plan for that action, or is unlikely to be completed by the date specified for it, the reason for the non-completion and the proposals for completing the action;

- (d) any unforeseen consequences, arising from the actions that have been identified during the reporting period and any action that has been taken or is planned to be taken to address them;
  - (e) the extent to which the regulation and order making powers under the Act have been used during the reporting period;
  - (f) any actions undertaken which are not in the plan but which have or will contribute to emissions reduction;
  - (g) information relating to research conducted or scientific advice received over the reporting period;
  - (h) any other information the Council of Ministers considers appropriate.
- (5) The Council of Ministers may by regulations amend this section to amend the matters that must be contained in the annual progress report.

## 20 5-yearly emissions report

- (1) Subject to subsection (2), the Council of Ministers must report to Tynwald in respect of every 5 year period, beginning with the coming into operation of this section, on the progress towards the net zero emissions target in that period.
- (2) If an interim target has been set —
- (a) if the interim target date occurs before the end of a 5-yearly reporting period, the Council of Ministers must report to Tynwald in respect of the period between the last report and the interim target date on the progress towards the net zero emissions target (and, in the case of an interim target date occurring within 5 years of the coming into operation of this section, the report must be in respect of the period beginning with the coming into operation of this section and the interim target date);
  - (b) if the interim target date occurs on a date that is later than the end of the 5-yearly reporting period, the Council of Ministers must report to Tynwald in respect of the 5 yearly reporting period.
- (3) A report referred to in subsection (1) or (2) must be laid before Tynwald no later than 2 years after the end of the 5-yearly reporting period and a Minister must, at the sitting at which it is laid or the next subsequent sitting, move that the report be received by Tynwald.
- (4) A 5-yearly report must state in relation to the net Isle of Man emissions —
- (a) the baseline;
  - (b) the amount of net Isle of Man emissions for the reporting period and each individual year of the reporting period;
  - (c) the percentage by which the amount of net Isle of Man emissions for each year of the 5-yearly reporting period is lower or higher than the baseline;

- (d) the mean average percentage by which the amount of net Isle of Man emissions for all years in the 5-yearly reporting period is lower or higher than the baseline;
  - (e) the percentage by which the amount of net Isle of Man emissions in the 5-yearly reporting period is lower or higher than the amount for each preceding reporting period;
  - (f) whether the reduction (if any) in emissions achieved during the 5-yearly reporting period contributes sufficiently towards meeting the net zero emissions target and any interim targets, having regard to the information contained in the report (and any report for a previous period).
- (5) The Council of Ministers must use current international carbon reporting practice for the purposes of assessing and reporting on the matters referred to in subsection (4).
- (6) If the methods used to determine net Isle of Man emissions change and that change is such as to require adjustment of an amount for any earlier reporting period, the report must —
- (a) specify the adjustment required and state the adjusted amount; and
  - (b) explain why the adjustment is required.
- (7) An adjustment of an amount for an earlier 5-yearly reporting period, in so far as reasonably practicable, must be made in accordance with current international carbon reporting practice.
- (8) The 5-yearly report may contain such other information as the Council of Ministers considers appropriate.
- (9) Where no interim target following the period to which the 5-yearly report relates has been set the report may include a recommendation in relation to the setting of future interim targets and the amount of such targets.
- (10) If a recommendation referred to in subsection (9) is made, the reasons for the recommendation must be included in the report.
- (11) The recommendation of a target under subsection (9) creates no duty for the target to be set at that level or at all.
- (12) In this section “5-yearly reporting period” means the period in subsection (2)(a) or (b), as the case may be.
- (13) The Council of Ministers may by regulations amend this section to —
- (a) amend the contents of the 5-yearly report; or
  - (b) amend the 5-yearly reporting period to a shorter period.

## PART 5 – PLANNING AND REPORTING DUTIES OF PUBLIC BODIES

### 21 Climate change duties of public bodies

asp2009/12/44 and drafting

- (1) A public body, in performing its duties, must act in the way that it considers best to contribute to –
  - (a) the meeting of the net zero emissions target by the net zero emissions target year;
  - (b) the meeting of any interim target;
  - (c) supporting the just transition principles and the climate justice principle;
  - (d) sustainable development, including the achievement of the United Nations sustainable development goals; and
  - (e) protecting and enhancing biodiversity, ecosystems and ecosystem services.
- (2) The Council of Ministers may make regulations that impose additional duties relating to the mitigation of climate change upon public bodies or remove such duties.

### 22 Guidance to public bodies

asp2009/12/45 and drafting

- (1) A public body may request guidance from the Council of Ministers as to the manner in which it may or must comply with its duties under section 21(1) or regulations made under section 21(2).
- (2) The Council of Ministers may give such guidance and assistance to a public body as is reasonable to help that body comply with section 21(1) and any regulations made under section 21(2).
- (3) The Council of Ministers –
  - (a) must, before 1 April 2022, give general guidance to public bodies in relation to how a public body may fulfil its climate change duties;
  - (b) must regularly review and update that guidance having regard to new knowledge and methods to mitigate climate change; and
  - (c) may provide additional guidance to individual public bodies in relation to how that public body may fulfil its climate change duties.
- (4) A public body must have regard to any guidance given to it under this section.
- (5) Before giving guidance under subsection (2) or (3), the Council of Ministers must consult –

- (a) the public body that has requested the guidance; and
  - (b) such other persons as the Council of Ministers considers appropriate.
- (6) The Council of Ministers must publish any guidance given under this section.

## 23 Reporting by public bodies on climate change duties

asp2009/12/46 and drafting

- (1) The Council of Ministers must make regulations before 1 June 2022 —
- (a) requiring public bodies to prepare reports on compliance with their climate change duties;
  - (b) requiring any public body found, following an investigation under section 24(2) or 27(1), to be failing to comply with its climate change duties, to prepare a report on the actions it has taken, is taking or intends to take to secure future compliance with those duties;
  - (c) setting out what information the reports must contain;
  - (d) setting out the form and manner of the reports;
  - (e) setting out the period within which the reports must be sent to the Council of Ministers.
- (2) A public body that has requested guidance under section 22 is not obliged to give a report under this section until it receives the guidance.
- (3) A public body that prepares a report under subsection (1) must publish it.

## 24 Designation of monitor

asp2009/12/47, 48, 49 and drafting

- (1) The Council of Ministers may designate one or more persons (“monitor”) to investigate whether public bodies are complying with their climate change duties, having regard to any guidance given under section 22.
- (2) A monitor may carry out an investigation into —
- (a) a public body’s compliance with its climate change duties;
  - (b) whether a public body is having regard to guidance given under section 22.
- (3) The monitor, if the monitor considers that it is necessary to do so for the purposes of or in connection with an investigation, may —
- (a) by notice in writing, require any public body to provide any relevant document or relevant information in the possession, or under the control, of the public body;
  - (b) require any person who possesses or controls any document or information referred to in paragraph (a) to provide an explanation of the document or information; and

- (c) take copies of, or extracts from, any document or information produced in accordance with paragraphs (a) and (b).
- (4) Nothing in this section authorises a monitor to require the disclosure of anything which a person would be entitled to refuse to disclose on grounds of privilege in criminal or civil proceedings.

## 25 Reporting by monitor

asp 2009/12/50 and drafting

- (1) The Council of Ministers may direct a monitor to prepare a report in respect of—
  - (a) the monitor's activities under this Part;
  - (b) investigations carried out by the monitor;
  - (c) its use of resources in carrying out its functions under this Part;
  - (d) any other matters the Council of Ministers may direct.
- (2) The report may include information relating to a continuing investigation only if the Council of Ministers directs that information to be included.
- (3) The monitor must send the report to the Council of Ministers.
- (4) The Council of Ministers must lay the report before Tynwald.

## 26 Guidance to monitor

asp2009/12/51 and drafting

- (1) The Council of Ministers may give guidance to a monitor designated under section 24(1).
- (2) Before giving guidance under subsection (1), the Council of Ministers must consult —
  - (a) the monitor; and
  - (b) such other persons as the Council of Ministers considers appropriate.
- (3) The monitor must have regard to any guidance given by the Council of Ministers to it in relation to the exercise of its functions under this Part.
- (4) The Council of Ministers may vary or revoke guidance given under this section and where guidance is varied to a substantial extent, subsection (2) applies.
- (5) The Council of Ministers must publish any guidance given under this section.

**27 Power to direct monitor**

asp2009/12/52 and drafting

- (1) A monitor must carry out an investigation if the Council of Ministers directs it to do so.
- (2) The Council of Ministers may give directions to a monitor relating to the exercise of its functions under this Part.
- (3) A monitor must comply with a direction given under this section.

## PART 6 – FOSSIL FUEL

**28 Fossil fuel and fossil fuel heating systems**

- (1) In this section —
  - (a) “building” has the same meaning as in section 33(2) of the *Building Control Act 1991*;
  - (b) “fossil fuel” has the same meaning as in the Energy Act 2013 of Parliament;
  - (c) “fossil fuel heating system” does not include a heating system that provides heat by means of electricity derived from the burning of fossil fuel by the Manx Utilities Authority.
- (2) A person who installs a fossil fuel heating system on or after 1 January 2025 —
  - (a) in a new building; or
  - (b) for use in a new building,commits an offence.  
Maximum penalty —  
(summary) — a fine of level 5 on the standard scale;  
(on information) — a fine.
- (3) The Council of Ministers may make regulations to —
  - (a) amend a definition in subsection (1); or
  - (b) exempt a building from the application of subsection (2).
- (4) For the purposes of implementing the requirements of a climate change action plan, the Council of Ministers may make regulations to make provision in respect of the use of a fossil fuel or fossil fuel heating systems including provisions to —
  - (a) prohibit the installation of a fossil fuel heating system;
  - (b) prohibit the replacement of a heating system with a fossil fuel heating system;

- (c) prohibit the installation of a fossil fuel heating system in a building other than a building to which subsection (2) applies;
  - (d) prohibit or regulate the production, supply, acquisition or use of fossil fuel;
  - (e) regulate the price at which fossil fuel for heating systems may be sold;
  - (f) specify the work that is to be regarded as installation of a fossil fuel heating system;
  - (g) specify the work that is to be regarded as a replacement of a fossil fuel heating system;
  - (h) specify the parts of a heating system that are to be regarded as a fossil fuel heating system;
  - (i) specify a building in respect of which the regulations do not apply;
  - (j) exempt the Manx Utilities Authority from the application of any provisions made under regulations.
- (5) When conducting a public consultation under section 35 in respect of proposals for regulations under this section, the Council of Ministers must also consult with organisations in the Island appearing to it to represent those who will be affected by the regulations, including both consumers and suppliers of fossil fuel or heating systems using fossil fuel, and such other organisations as it thinks appropriate.

## **PART 7 – REGULATION OF SINGLE USE PLASTICS**

### **29 Regulation of single use plastics**

- (1) The Department may make regulations –
  - (a) prohibiting or restricting the manufacture, supply, distribution, use, sale, trade or disposal of specified plastics;
  - (b) enabling charges to be imposed for the supply of specified plastics;
  - (c) making provision for the appointment of a person or body to administer charges in respect of plastics or impose duties on them;
  - (d) requiring records to be kept relating to a charge and to supply the records in a specified form to a specified person.
- (2) Regulations may specify –
  - (a) plastics that are exempt from the application of the regulations;
  - (b) persons who are exempt from the prohibitions or restrictions.
- (3) Regulations may provide for enforcement powers and for the appointment of persons to enforce any provision of the regulations.

## PART 8 – REGULATIONS

### 30 Regulations and Orders: general

- (1) Any power conferred by this Act on the Council of Ministers or the Department to make regulations or orders includes power to make such consequential, incidental, supplementary, transitory, transitional or saving provision as the Council of Ministers or the Department, as the case may be, considers appropriate.
- (2) Regulations or orders under this Act may modify any enactment (including this Act).
- (3) Regulations or orders may create offences, provided that the penalty upon conviction of a person of an offence must not exceed –
  - (a) on summary conviction, a fine of level 5 on the standard scale; and
  - (b) on conviction on information, a fine.
- (4) The procedure in section 30 (“approval required”) of the *Legislation Act 2015* applies in relation to the making of regulations or orders under this Act (except an order under section 2).
- (5) Regulations or orders under this Act may enable the Council of Ministers or the Department, or such other person as may be specified in the regulations or order, to issue a direction or guidance to a person.
- (6) The power to make regulations or an order is subject to section 35.

### 31 Application of UK legislation to the Isle of Man

- (1) The Council of Ministers or the Department may by order apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the order, any UK legislation to which this section applies.
- (2) An order under this section may include provision repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of any UK legislation applied to the Island by the order.
- (3) This section applies to –
  - (a) any provision of UK legislation; or
  - (b) any instrument of a legislative character made under UK legislation,

which relates, directly or indirectly, to climate change action, or mitigating potentially negative consequences arising from climate change, and to environmental protection.
- (4) For the purposes of subsection (3), provisions that relate to climate change action, or mitigating potentially negative consequences arising from

climate change, or to environmental protection, include provisions relating to —

- (a) the generation and regulation of renewable energy and the technologies associated with renewable energy;
  - (b) the conservation, protection and restoration of biodiversity, ecosystems and improving the natural environment;
  - (c) waste and resource management;
  - (d) air and water quality, including the regulation of air and water pollutants and their sources; and
  - (e) the control of products that fail to meet standards specified for the protection of the environment.
- (5) The Council of Ministers may by order amend subsection (4).
- (6) An order made under this section must have annexed to it a text of the instrument applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.

## **32 Powers of entry**

- (1) The Department may authorise a person (“authorised officer”) for the purposes of taking any enforcement action required under section 28 or under any regulations or order under this Act.
- (2) Regulations or an order made under this Act may enable an authorised officer to enter premises where the authorised officer has reasonable grounds for suspecting that an offence has been committed or there has been any other contravention of the regulations, order or Act, as the case may be.
- (3) An authorised officer, upon producing, if so required, some duly authenticated document showing the officer’s authority, has a right at all reasonable hours —
  - (a) to enter any premises for the purpose of ascertaining whether there is or has been on the premises any contravention of section 28 or a provision of regulations or an order under this Act; and
  - (b) to enter any business premises for the purpose of ascertaining whether there is on the premises any evidence of any contravention of any of such provisions.
- (4) Admission to any premises used only as a private dwelling-house may not be requested unless 24 hours’ notice of the intended entry has been given to the occupier.
- (5) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises for any such purpose as is mentioned in subsection (3) and either —

- (a) that admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice may by warrant signed by the justice authorise the authorised officer to enter the premises, if need be by reasonable force.

- (6) Every warrant granted under this section continues in force for a period of one month.
- (7) An authorised officer entering any premises by virtue of this section, or of a warrant issued under it, may take with him or her such other persons as that authorised officer considers necessary, and on leaving any unoccupied premises which the authorised officer has entered must leave them as effectively secured against unauthorised entry as he or she found them.
- (8) An authorised officer entering premises by virtue of this section, or of a warrant issued under it, may inspect any records (in whatever form they are held) relating to a matter under the Act, or any regulations or order made under it, and, where any such records are kept by means of a computer —
  - (a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and
  - (b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the officer such assistance as he or she may reasonably require.
- (9) An authorised officer exercising any power conferred by subsection (8) may —
  - (a) seize and detain any records which the officer has reason to believe may be required as evidence in proceedings under any of the provisions of this Act or of regulations or orders made under it; and
  - (b) where the records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away.
- (10) Nothing in this section —
  - (a) compels a person to supply any privileged information; or
  - (b) confers a right on a person who enters premises in exercise of the powers in this section to seize such information.
- (11) If any person who enters any premises by virtue of this section, or of a warrant issued under it, discloses to any person any information obtained

by that person in the premises with regard to any trade secret or privileged information, he or she is guilty of an offence, unless the disclosure was made in the performance of his or her duty.

Maximum penalty —

(summary) — a fine of level 5 on the standard scale;

(on information) — a fine.

- (12) In this section “privileged information” means information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

### **33 Regulations and Orders: fixed penalties**

- (1) Regulations or an order made under this Act may make provision conferring on such person (an “administrator”) as may be specified in the regulations or order the power by notice to impose a fixed monetary penalty (which may be a variable fixed penalty) on a person who breaches the regulation or order (as the case may be).
- (2) Regulations or an order may only confer such a power in relation to a case where the administrator is satisfied on the balance of probabilities that the breach has occurred.
- (3) For the purposes of this section a “fixed monetary penalty” is a requirement to pay to an administrator a penalty of an amount specified in or determined in accordance with the regulations or order (as the case may be).
- (4) Regulations or an order may not provide for the imposition of a fixed monetary penalty that is —
- (a) unreasonable, having had regard to the severity of the breach of the regulations or order in question; and
  - (b) in any circumstance, in excess of the amount of a fine of level 5 on the standard scale.
- (5) Where an administrator proposes to impose a fixed monetary penalty on a person, the administrator must serve on that person a notice of what is proposed (a “notice of intent”) that complies with subsection (6).
- (6) The notice of intent may offer the person the opportunity to discharge the person’s liability for the fixed monetary penalty by payment of a specified sum (which must be less than or equal to the amount of the penalty) within a specified period.
- (7) If the person does not so discharge liability —
- (a) the person may make written representations and objections to the administrator in relation to the proposed imposition of the fixed monetary penalty within a specified period; and

- (b) the administrator must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty.
- (8) Where the administrator decides to impose the fixed monetary penalty, the notice imposing it (“the final notice”) must include information as to —
- (a) the grounds for imposing the penalty;
  - (b) how payment may be made;
  - (c) the period within which payment must be made;
  - (d) any early payment discounts or late payment penalties;
  - (e) rights of appeal and the grounds on which a person may appeal specified in subsection (9); and
  - (f) the consequences of non-payment.
- (9) For the purposes of subsection (8)(e) the grounds on which a person may appeal against a decision of the administrator include the following —
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (10) If regulations or an order confer power on an administrator to require a person to pay a fixed monetary penalty or a variable monetary penalty, the regulations or order (as the case may be) may include provision —
- (a) for early payment discounts;
  - (b) for the payment of interest or other financial penalties for late payment of the penalty, such interest or other financial penalties not in total to exceed the amount of that penalty;
  - (c) for enforcement of the penalty.
- (11) Provision under sub-paragraph (10)(c) may include —
- (a) provision for the administrator to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
  - (b) provision for the penalty, and any interest or other financial penalty for late payment to be recoverable, on the order of a court, as if payable under a court order.
- (12) The regulations or order may not provide for the making of an appeal other than to a court of summary jurisdiction.
- (13) If the regulations or order make provision for an appeal in relation to the imposition of any requirement or service of any notice, they may include provision suspending the requirement or notice pending determination of the appeal.
- (14) Any monetary penalty received under regulations or an order made under this section forms part of the General Revenue.

## PART 9 – MISCELLANEOUS

### 34 Exercise of duties by Council of Ministers

The Council of Ministers, in exercising the functions conferred on it by this Act, must do so in a way that –

- (a) contributes to sustainable development, including the achievement of the United Nations sustainable development goals;
- (b) supports the just transition principles and the climate justice principle; and
- (c) protects and enhances biodiversity, ecosystems and ecosystem services.

### 35 Consultation

Except as otherwise provided in this Act, before exercising any power to make regulations or an order under this Act, the Council of Ministers, or the Department, as the case may be, must consult –

- (a) any person to whom the regulations or order relate, or person appearing to the Council of Ministers or the Department, as the case may be, to represent such person; and
- (b) any other person that the Council of Ministers or the Department, as the case may be, considers appropriate.

### 36 Climate impact assessments

- (1) The Council of Ministers must make regulations, by no later than 31 December 2023, to require climate impact assessments to be prepared in accordance with the requirements set out in the regulations.
- (2) Regulations under subsection (1) may include any of the following –
  - (a) require public bodies to prepare a climate impact assessment;
  - (b) specify the circumstances when a climate impact assessment must or need not be prepared by a public body;
  - (c) specify the matters that must be considered or assessed when preparing a climate impact assessment, including an explanation of how an activity is expected to directly or indirectly contribute to achieving a reduction in emissions;
  - (d) specify the contents of a climate impact assessment;
  - (e) specify the information that must be published after a climate impact assessment has been prepared, and the manner and timing of publication; or
  - (f) require a public body to take a climate impact assessment into account when approving a policy or change in policy, making a decision on a procurement matter or making any other decision.

- (3) Until regulations are made under subsection (1), the Council of Ministers must require Government departments, when approving a policy or approving a change in policy, making a decision on a procurement matter or making any other decision, to take account of the impact that the policy or decision will have on climate change.

### **37 Amendments to enactments**

The Schedule (amendments to enactments) has effect

## SCHEDULE

## AMENDMENTS TO ENACTMENTS

[Section 37]

**1 Forestry Act 1984 amended**In the *Forestry Act 1984* —

- (a) in sections 2(2) (powers of entry etc.), 5(3)(a) (forestry covenants) and paragraph 1(3) of Schedule 2 (settled land), after “his” insert **or her**;
- (b) in section 2(3) for “£1,000” substitute **level 3 on the standard scale**;
- (c) in section 7(4) (byelaws) for “£2,500” substitute **level 4 on the standard scale**;
- (d) for the Part headed “Turbaries” substitute —

**Peatland****8 Registration of peatland**

- (1) The Department must establish and maintain a register of peatland areas.
- (2) The Department may keep the register in any form it considers appropriate, including in electronic form.
- (3) The register must include a map on which the location of all registered peatland areas must be indicated.
- (4) The Department must allow any person to inspect the register at its offices free of charge during normal office hours and to take a copy of any entry contained in the register, and of any relevant extract from the map referred to in subsection (3), at such reasonable charge (if any) as the Department may determine.

**8A Registration considerations and reviews**

- (1) The Department may register any peatland area in the Island.
- (2) The power of the Department to register peatland includes —
  - (a) the power to include in the register the peatland belonging to the Department; and
  - (b) the power to amend or delete any particulars in the register in such manner as the Department considers appropriate.

- (3) When considering whether to register a peatland area, the Department –
- (a) must consult the Wildlife Committee on the proposed registration;
  - (b) must be reasonably satisfied on the advice of the Wildlife Committee that the peatland is capable of being used for the purpose of carbon sequestration if it is adequately maintained; and
  - (c) may take into account such other considerations as appear to the Department to be in the interests of good peatland management.
- (4) As soon as practicable after particulars of any peatland have been entered on the register, or the particulars have been amended or deleted, the Department must serve a notice (a “registration notice”) on the owner and the occupier of the land comprising the peatland –
- (a) stating that such particulars have been entered, amended, or deleted on the register;
  - (b) stating the consequences of the registration, and in particular, the prohibition on disturbing registered peatland; and
  - (c) setting out the right of the owner or occupier to apply for a review of the Department’s decision.
- (5) The owner or occupier of the land, within 3 months of being served the notice under subsection (4), may apply to the Department, in such manner as may be specified in the notice, for a review to restore, amend or delete the particulars of the peatland on the register.
- (6) Upon a determination of a review under subsection (5) the Department may confirm, restore, amend or delete the particulars on the register made the subject of the review (a “review decision”).

## **8B Disturbance of registered peatland areas prohibited**

- (1) Any person who disturbs peatland in a registered peatland area otherwise than in accordance with an authorisation granted by the Department under section 8C is guilty of an offence and is liable –
- (a) on summary conviction to a fine not exceeding level 5 on the standard scale; or
  - (b) on conviction on information, to a fine.
- (2) In proceedings for an offence under this section it is a defence to prove that –

- (a) the action in question was taken in the exercise of a right, or in the performance of an obligation, conferred or imposed by an enactment other than this Act;
- (b) an emergency arose that resulted in the peat being disturbed; or
- (c) the person disturbing the peatland did so accidentally and notified the Department of the disturbance as soon as reasonably practicable after the disturbance.

### 8C Application for authorisation to disturb peatland in registered peatland area

- (1) A person having such interest in a registered peatland area as enables the person, with or without the consent of another to disturb the peatland in that area may apply to the Department for an authorisation to disturb it.
- (2) On an application for an authorisation the Department may —
  - (a) grant the authorisation subject to such conditions as the Department may consider expedient in the interests of good peatland management; or
  - (b) refuse the authorisation.
- (3) An authorisation may be granted —
  - (a) for the purpose of inspecting the land;
  - (b) for scientific or archaeological research;
  - (c) for the repair or restoration of peatland;
  - (d) any other purpose that the Department may reasonably permit.
- (4) Before refusing an authorisation, or granting it subject to conditions, the Department must —
  - (a) consult such persons or bodies of persons as appear to it to have special knowledge of, or interest in, the peatlands of the Island;
  - (b) consider any written representations made by the applicant;
  - (c) notify the applicant of its intentions and, if the applicant so requests in writing, give the applicant an opportunity of making oral representations to a person appointed by the Department for that purpose; and
  - (d) if the applicant makes representations in accordance with paragraph (c), consider the report of the person so appointed.
- (5) Where the Department refuses an authorisation, it must notify the applicant of its reasons for doing so.

- (6) An authorisation —
  - (a) must be in writing;
  - (b) must specify —
    - (i) the registered peatland area to which it relates;
    - (ii) the purpose for which the authorisation has been given; and
    - (iii) the conditions subject to which it is granted; and
  - (c) remains in force for such period as may be specified.
- (7) A condition subject to which an authorisation is granted remains in force until it is complied with, notwithstanding the expiry of the period specified under subsection (6)(c).
- (8) The Department must apply for an authorisation under this section if it wishes to disturb a peatland area not belonging to the Department or any other Department.

#### **8D Action to prevent disturbance of peatland in registered peatland area**

- (1) Where it appears to the Department that —
  - (a) a person intends to disturb peatland in a registered peatland area; and
  - (b) an authorisation may be required in respect of that disturbance,

the Department may serve on the person a stop notice in writing prohibiting the disturbance of such peatland until the stop notice is withdrawn or the expiration of 14 days beginning with the service of the notice, whichever is the sooner.
- (2) Despite subsection (1), if it appears to the Department that —
  - (a) a person intends to disturb any peatland in a registered peatland area;
  - (b) an authorisation may be required in respect of that disturbance ; and
  - (c) action under subsection (1) is unlikely to be effective,

the Department may apply to the High Court for an injunction restraining the person or any other person specified in the application from so doing.
- (3) The Court may, on an application made under subsection (2) grant an injunction or make such other order, on such terms, as it thinks just and expedient.

**8E Restoration of disturbed peatland**

- (1) Where any peatland in a registered peatland area has been disturbed otherwise than in accordance with an authorisation, the Department may serve on the occupier of, or any person having an interest in, the registered peatland a rehabilitation notice containing any of the requirements mentioned in subsection (4).
- (2) Without prejudice to section 8D, but subject to section 8F, if any person on whom a rehabilitation notice has been served is in contravention of the notice, or causes or permits another to be in contravention of the notice, the person is guilty of an offence and liable —
  - (a) on summary conviction to a fine not exceeding level 5 on the standard scale; and
  - (b) on conviction on information, to a fine.
- (3) If any person is convicted of an offence under subsection (2), the Department may itself execute the requirements contained in the relevant rehabilitation notice and recover from that person the expenses incurred by it in so doing.
- (4) The requirements referred to in subsection (1) are —
  - (a) to carry out such works preparatory to peatland rehabilitation as may be specified in the notice;
  - (b) to seed with or plant on the registered peatland such plants of such species or description, and within such time as may be specified; and
  - (c) to carry out such works for the protection and care of the registered peatland under rehabilitation, and for such period, as may be specified.
- (5) The Department may —
  - (a) withdraw a rehabilitation notice served under subsection (1);
  - (b) vary or waive a requirement imposed under subsection (1); or
  - (c) extend the period for compliance with any such requirement.

**8F Appeals**

- (1) The owner or occupier of, and any other person having an interest in land comprising the peatland may appeal to a High Bailiff in such manner as may be prescribed in rules of the court if the person is aggrieved —
  - (a) by a review decision taken by the Department —

- (i) to enter particulars of any peatland on the register;
- (ii) to amend particulars of any peatland on the register;
- (iii) to delete particulars of any peatland on the register;  
or
- (b) by a decision taken by the Department —
  - (i) to grant a an authorisation;
  - (ii) to refuse to grant an authorisation;
  - (iii) to impose any condition upon the granting of an authorisation; or
  - (iv) to rescind an authorisation; or
- (c) by the service of a rehabilitation notice under section 8E(1).
- (2) A hearing of the appeal —
  - (a) may be held in private if the applicant so requests that it be held in private; but
  - (b) it must be held in public if no request has been made by the applicant under paragraph (a) or if the applicant has made the request but the High Bailiff has determined that it is in the public interest for the proceedings to be held in public.
- (3) Applicants may appear in person or by their approved representative.
- (4) The High Bailiff may confirm, vary or reverse the decision of the Department.
- (5) The Department must give effect to a decision of the High Bailiff under this section, including by making such alterations to the register as may be necessary.

## **8G Rights of entry upon land**

- (1) Any person duly authorised in writing by the Department may at any reasonable time enter upon any land for any of the following purposes —
  - (a) ascertaining whether an offence has been, or is being, committed under this Part of this Act (entitled “Peatland”);
  - (b) ascertaining whether any notice served or condition imposed under this Part has been complied with;
  - (c) surveying it in connection with any proposal to grant an authorisation,
  - (d) serving a notice imposing a condition under this Part;
  - (e) carrying out any works required under section 8E(1).
- (2) If it is shown to the satisfaction of a justice of the peace that —

- (a) admission to any land has been refused;
- (b) refusal of admission is anticipated;
- (c) the land is unoccupied;
- (d) the occupier of the land is temporarily absent; or
- (e) application for admission would defeat the object of the entry,

and there is reasonable ground for entry upon the land for a purpose mentioned in subsection (1), the justice may by warrant authorise a person authorised by the Department to enter upon the land, by reasonable force if need be.

(3) No warrant under subsection (2) is to be made on the ground mentioned in subsection (2)(a) or (b) unless the justice is satisfied that notice of the Department's intention to apply for the warrant has been given to the occupier.

(4) A warrant under subsection (2) continues in force until the purpose for which entry is necessary has been satisfied.

- (5) A person authorised under this section to enter upon any land —
- (a) if so required before or after entering on the land, must produce evidence of his or her authority to enter;
  - (b) may take on to the land such other persons and such equipment as are necessary for the purpose in question;
  - (c) if the land is occupied, must not demand admission to the land as of right unless notice of the intended entry has been served on the occupier not less than 24 hours before the demand;
  - (d) upon entering, if the land is unoccupied or the occupier is temporarily absent, must leave the land as effectually secured as the authorised person found it.

(6) If a person (P) intentionally obstructs another person in the exercise of a power conferred on the other person by this section, P is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 8H Offences

- (1) Proceedings for an offence under this Part must not, without the consent of the Attorney General, be instituted otherwise than by the Department.
- (2) In any such proceedings before a Court of Summary Jurisdiction the Department may appear by any officer authorised by the Department for the purpose.

- (3) Proceedings for an offence under this Part may be brought within a period of 6 months from the date when the offence was discovered by the Department, but no such proceedings shall be brought more than 2 years after the commission of the offence.
- (4) For the purposes of subsection (3), a certificate of the Chief Forestry Officer of the Department as to the date on which such evidence as is there mentioned came to his or her knowledge shall be conclusive evidence of that fact.
- (5) When imposing any penalty for an offence under this Part, the court shall have regard to any benefit accruing as a result of the offence to the person convicted.

## 8I Compensation

- (1) Where land is registered under section 8A, the Department may pay compensation to any person having at the time of the making of the registration notice an interest in land to which the registration relates who, on a claim made to the Department within the time and in the manner prescribed by regulations, shows that the value of his or her interest is less than it would have been if the registration had not been made.
- (2) The amount of the compensation to be paid under subsection (1) shall be equal to the loss of value in the land caused by the registration.
- (3) For the purposes of subsection (1), an interest in land shall be valued as at the time when the land was registered.
- (4) For the purpose of assessing any compensation payable under this section, the rules set out in section 5 of the *Acquisition of Land Act 1984* (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (5) No claim shall be made under this section in respect of any registration under section 8A unless the Department has made a decision to register land under that section and given notice in accordance with subsection (4) of that section.

## 8J Interpretation

In this Part —

“**authorisation**” means an authorisation of the Department required by section 8C(1);

“**peat**” means dead and partially decomposed plant remains that have accumulated in situ under waterlogged conditions;

“**peatland**” means an area with a naturally accumulated peat layer (with or without surface vegetation), or an area regarded by the Wildlife Committee as practicable to restore to active peatland;

“**the register**” means the register maintained under section 8(1);

“**registered peatland**” means peatland particulars of which are entered in the register;

“**registration notice**” means a notice under section 8A(4);

“**rehabilitation notice**” means a notice under section 8E(1);

“**review decision**” means a determination under section 8A(6);

“**stop notice**” means a notice under section 8D(1).

## 8K Regulations and codes

- (1) The Department may make such regulations as it considers are necessary or desirable to carry the provisions of this Part into effect.
- (2) Without prejudice to the generality of that power, regulations may —
  - (a) make provision with respect to the entry, amendment and deletion of particulars on the register;
  - (b) prescribe the procedure for applications under section 8A for a review and for the determination of such applications and such regulations may make provision for the exercise of functions with respect to those matters;
  - (c) exempt any person or class of persons from any of the provisions of this Part.
- (3) Regulations made by the Department under this section must not come into operation unless they are approved by Tynwald.
- (4) The Department may by order approve any code of practice issued (whether by the Department or not, and whether in the Island or elsewhere) for the purpose of —
  - (a) giving practical guidance to persons engaged in agriculture and forestry with respect to activities which may be detrimental to registered peatland; and
  - (b) promoting what appears to it to be desirable practices by such persons for avoiding or minimising damage to registered peatland.
- (5) A contravention of a code of practice as for the time being approved under this section shall not by itself give rise to any criminal or civil liability; but if, in any proceedings whether civil or criminal, it is alleged that a person has contravened a provision of this Act, a

- failure to comply with a code of practice that at that time was approved may be relied upon as tending to establish liability.
- (6) An order under subsection (4) and a code of practice approved under the order shall be laid before Tynwald. **22**;
- (e) in section 9(3) (access to mountains), after “he” insert **66** or she **22**;
- (f) in section 12 (interpretation) —
- (i) after the definition of “the Department” insert —
- 66** “**disturbance**” in the context of peatland includes the digging of the peatland, planting on or removing plants from the peatland, removing turf, covering the peatland or draining the peatland. **22**;
- (ii) after the definition of “trees” insert —
- 66** “**the Wildlife Committee**” means the Wildlife Committee established under section 1(2) of the *Endangered Species Act 2010*. **22**; and
- (g) omit paragraph 1(1)(i) of Schedule 1 (functions etc. of the Department).

## 2 Licensing and Registration of Vehicles Act 1985 amended

In section 13 (regulations as to licencing and registration) of the *Licensing and Registration of Vehicles Act 1985* —

- (a) [Inserted subsection (1)(aa)]
- (b) [Inserted subsection (1A)]
- (c) [Amended subsection (4)]

## 3 Electricity Act 1996 amended

In the *Electricity Act 1996* —

- (a) [Inserted section 2(6A), (6B) and (6C)]
- (b) [Inserted section 2(8A)]
- (c) in section 7(2) (regulations as to safety and supply), after “regulations under this section” insert **66** or section 12 **22**;
- (d) in section 12(1) (restriction on supply by other persons), after “subsection (2)” insert **66** and (3) **22**;
- (e) for subsection 12(2) substitute —
- 66** (2) The Department may make Regulations to specify who may —
- (a) supply electricity to another person without the permission of the Authority;
- (b) operate as a small-scale renewable energy generator; or
- (c) participate in small-scale renewable energy generation.
- (3) In this section —

- (a) “small-scale renewable energy generator” means an owner of plant used or intended to be used for small-scale renewable energy generation, whether or not the person is also operating or intending to operate the plant;
- (b) “small-scale renewable energy generation” means the use, for the generation of electricity, of any plant —
  - (i) which, in generating electricity, relies wholly or mainly on a source of energy or a technology mentioned in paragraph (d); and
  - (ii) the capacity of which to generate electricity does not exceed the specified maximum capacity;
- (c) “specified maximum capacity” means the capacity specified by the Department in Regulations;
- (d) the sources of energy and technologies are —
  - (i) biomass;
  - (ii) biofuels;
  - (iii) fuel cells;
  - (iv) photovoltaics;
  - (v) water (including waves and tides);
  - (vi) wind;
  - (vii) solar power;
  - (viii) geothermal sources;
  - (ix) combined heat and power systems with an electrical capacity of 50 kilowatts or less.

- (4) The Department may by Regulations amend subsection 3(c) or (d).
- (5) Regulations may not be made under this section before consulting the public, the Authority and any interested party on the proposed regulations. **22**.

#### 4 Building Control Act 1991 amended

In the *Building Control Act 1991* —

- (a) at the end of section 11(1)(b) (passing and rejection of plans) insert **23** or **24** and after section 11(1)(b) insert —
  - 23**(c) in the case of plans deposited on or after 1 January 2024 for the construction of a new building which includes the installation of a fossil fuel heating system, the installation of which is not permitted under the *Climate Change Act 2021* —
    - (i) the applicant cannot reasonably demonstrate that the installation will be completed before 1 January 2025; and

- (ii) the plan does not include an alternative heating system that is permitted;
- (d) in the case of plans deposited on or after 1 January 2025 for the construction of a new building, the plans include a fossil fuel heating system the installation of which is not permitted under the *Climate Change Act 2021*. ~~22~~;
- (b) after in section 15(2) (lapse of deposit plans), insert —
- ~~23~~ (3) Subsection (4) applies in a case where —
  - (a) plans have, in accordance with building regulations been deposited with a building authority before 1 January 2025 for a new building or buildings;
  - (b) the plans include the installation in a building or buildings of a fossil fuel heating system which is not permitted under the *Climate Change Act 2021*.; and
  - (c) the installation of that system is not completed in a building to which the plans apply before 1 January 2025.
- (4) If this subsection applies, this Act and the building regulations shall apply as if no plans had been deposited in relation to the building.
- (5) In the case where a plan relates to a single building that is subject to an approval, subsection (4) —
  - (a) applies, whether or not construction has commenced; and
  - (b) does not affect the validity of plans, nor preclude construction from continuing, in relation to the building where the installation of the fossil fuel heating system intended to provide heat to that building was complete before 1 January 2025.
- (6) In the case where a plan relates to multiple buildings that are the subject of a single approval, subsection (4) —
  - (a) applies to the individual buildings within the development, whether or not construction of the individual building or any other building within the development has commenced; and
  - (b) does not affect the validity of plans, nor preclude construction from continuing, in relation to any individual building where the installation of the fossil fuel heating system intended to provide heat to that building was complete before 1 January 2025.
- (7) For the purposes of subsection (5) and (6) the installation of a fossil fuel heating system is deemed to be complete when it is capable of functioning to provide heat to the building in which it is installed

to the extent set out in the plans approved by the building authority. **22**.

## 5 Customs and Excise Act 1993 amended

[Inserted section 1(3)(ac) of the *Customs and Excise Act 1993*]

## 6 Town and Country Planning Act 1999 amended

In the *Town and Country Planning Act 1999* —

(a) after section 2(2) (development plan) insert —

**23**(2AA) The development plan must also take into account the following climate change policies established under the *Climate Change Act 2021* —

- (a) the maximisation of carbon sequestration;
- (b) the minimising of greenhouse gas emissions;
- (c) the maintenance and restoration of ecosystems;
- (d) biodiversity net gain;
- (e) the need for sustainable drainage systems; and
- (f) the provision of active travel infrastructure. **22**;

(b) after section 2A(1) (national policy directives) insert —

**23**(1A) A national policy directive or a development plan must be issued before 1 January 2025 that takes into account the following climate change policies established under the *Climate Change Act 2021* —

- (a) the maximisation of carbon sequestration;
- (b) the minimising of greenhouse gas emissions;
- (c) the maintenance and restoration of ecosystems;
- (d) biodiversity net gain;
- (e) the need for sustainable drainage systems; and
- (f) the provision of active travel infrastructure. **22**;

(c) after section 6(3)(d) (meaning of “development”) insert —

**23**(da) the removal or blocking of drainage in peatland (as defined in the *Forestry Act 1984* and the restoration of peatland by the Department; **22**).

## 7 Town and Country Planning (Development Procedure) Order 2019 amended

After paragraph 2 of Schedule 1 to the Town and Country Planning (Development Procedure) Order 2019, insert —

**23**2A All applications except those for approval for change of use,

**reserved matters, replacement windows and doors in conservation areas and minor changes**

- (1) This paragraph applies to applications for planning approval except those referred to in sub-paragraph (2).
- (2) This paragraph does not apply to —
  - (a) an application for change of use only;
  - (b) an application for approval of reserved matters;
  - (c) an application to replace a window or a door of a building in a conservation area; and
  - (d) a minor changes application.
- (3) Every application to which this paragraph applies must —
  - (a) demonstrate that the application has been made having regard to the following climate change policies established under the *Climate Change Act 2021* —
    - (i) the maximisation of carbon sequestration;
    - (ii) the minimising of greenhouse gas emissions;
    - (iii) the maintenance and restoration of ecosystems;
    - (iv) biodiversity net gain;
    - (v) the need for sustainable drainage systems; and
    - (vi) the provision of active travel infrastructure; or
  - (b) explain why consideration of one or more of those policies is not practicable in relation to the proposed development. **22**.

## ENDNOTES

### Table of Endnote References

<sup>1</sup> ADO – SD2022/0135 – see table below for details.

| <b>Provision</b>                   | <b>SD Number</b> | <b>Date in operation</b>   |
|------------------------------------|------------------|--|
| Sections 30(3), 32 and 33          | SD 2022/0135     | 11/05/2022, but only for purposes connected to the making of regulations under section 29.             |
| Section 37                         | SD 2022/0135     | 11/05/2022, to the extent required to enable paragraphs 2 and 5 of the Schedule to come into operation |
| Paragraphs 2 and 5 of the Schedule | SD 2022/0135     | 11/05/2022   |