

Ireland

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^(LT) EC law; Electricity generation; Environmental law; Ireland; Renewable energy

National targets under the Renewables Directive

The Renewables Directive¹ set Ireland the target of reaching 13.2 per cent of electricity production from renewables by 2010. In its Communication of May 26, 2004 the European Commission placed Ireland in the group of countries that ranked second, described as having started to implement appropriate policies and for which there was “a mixture of positive and negative indications regarding the achievement of the 2010 targets”.² However, by 2005, the Irish energy regulator and transmission system operator (TSO) were of the view that Ireland would reach its 2010 target. By mid-2006, the Minister for Communications, Marine and Natural Resources (now the Minister for Communications, Energy and Natural Resources) (“the Minister”) had increased Ireland’s target to 15 per cent by 2010 and 30 per cent by 2020. Two key government publications—the *All-Island Energy Market: Renewable Electricity—A 2020 Vision* (2005) and a Green Paper, *Towards a Sustainable Energy Future for Ireland* (2006)—set policy development primarily in a timeframe that looks toward 2020.

Comparison with the targets of the Electricity Directive

The Electricity Directive³ required Member States to ensure full market opening at supply level by July 1, 2007. In Ireland, full retail contestability was introduced on February 19, 2005 pursuant to the Electricity Regulation Act 1999, as amended, and the European Communities (Internal Market in

1 Directive 2001/77 on the promotion of electricity produced from renewable energy sources in the internal electricity market [2001] O.J. L283/33.

2 COM(2004) 366 final, para.2.3.

3 Directive 2003/54 concerning common rules for the internal market in electricity and repealing Directive 96/92 [2003] O.J. 176/37.

Electricity) Regulations 2005. While a number of market participants are active in the supply market for larger customers, no independent suppliers as yet offer electricity to residential customers.

Conflicts with environmental legislation

While there are no fundamental conflicts between renewable energy and environmental legislation, competing interests must be accommodated within planning laws and procedures. This is a significant issue in Ireland where wind is the largest energy source in the renewables sector. Many local authority development plans include objectives aimed at protecting scenic amenities and preserving the character of particular views and/or they identify areas suitable for wind farms. Recent legislation and guidelines for local authorities (which are also the planning authorities in the first instance) aim to streamline planning applications for larger wind farms and to achieve a more systematic approach at local level (see below for further details).

It is also worth noting that, in certain cases, applications for planning permission must be accompanied by an Environmental Impact Statement pursuant to the Planning and Development Regulations 2001, as amended. These cases include applications for wind farms of more than five turbines or an output greater than 5MW; applications where a planning authority considers there would be significant effects on the environment; and applications in respect of prescribed sites. In respect of off-shore developments, a Foreshore Licence is required pursuant to the Foreshore Act 1933, as amended, the application for which must also be accompanied by an Environmental Impact Statement.

RES technologies (wind, solar, etc.) under support

Historically, large-scale hydro was the predominant source of renewable energy in Ireland. However, recent years have seen a major shift towards smaller scale developments, particularly wind. Support is available for power (and heat) generated by wind, solar, biofuels, biomass and hydro technologies, as detailed below.

Direct support mechanisms

Minimum price/feed-in tariffs

Renewable energy projects have been promoted in Ireland principally through a series of competitions under the Alternative Energy Requirement Programmes (AER) which began in 1994. Under AER, potential developers offered bids for supplying power to the Electricity Supply Board Public Electricity Supplier (ESB PES) under Power Purchase Agreements (PPAs) of up to 15 years. The Department of Communications, Marine and Natural Resources (now the Department of Communications, Energy and Natural Resources) (DCENR) awarded PPAs to the projects with the lowest bids in each technology category.

AER yielded mixed results. Deloitte’s *Review of the Electricity Sector in Ireland* of December 2005 noted

that “the scheme has only delivered approximately 33 per cent of the capacity awarded due to planning and economic issues”.⁴ This was attributed by Deloitte to project developers winning bids at unsustainably low prices and then encountering difficulties securing project financing; failing to secure planning consent before the right to the PPA expired (within five years); and failing to obtain connection offers in time (within five years). Later AER programmes required applicants to hold planning consents already, and steps were taken to address grid access and dispatch. These are outlined below.

In 2006, DCENR published terms and conditions for participation in REFIT, an estimated €119 million programme to support construction of 400MW of renewable generation until 2010. REFIT supports electricity generation powered by biomass, hydropower or wind. It differs from AER in that it involves a fixed “feed in” support for each technology rather than least cost support determined by competitive process. In addition, for the first time suppliers other than ESB are entitled to financial support to purchase the electricity generated and the purchase price of the electricity can be negotiated between generators and suppliers.

In order to participate, renewable generators apply to DCENR. If successful, the generator may enter into a PPA with a licensed supplier, in return for which the supplier is guaranteed a reimbursement of out of market costs through the use of a Public Service Obligation (PSO) levy. Support will not extend beyond 15 years or 2024. On September 29, 2006 the Minister announced allocation of support under REFIT to 55 new plants with a combined capacity of 608MW, 98 per cent of which is wind.

Both REFIT and AER may create interesting challenges in the context of the single electricity market between Ireland (Republic) and Northern Ireland which is scheduled for implementation on November 1, 2007. It may be necessary to renegotiate all PPAs in the context of a mandatory gross pool to the extent that the market rules prohibit bilateral physical power transactions (although the concept of “intermediaries”, developed by the regulators in Ireland and Northern Ireland, provides an alternative course of action in certain circumstances). In addition, the availability of a wholesale market price in the single electricity market may have material implications for all existing PSO support mechanisms in light of the conditions attached to the EU state aid approvals in respect of these programmes.

Investment subsidies (state budget/EU grants)

Government investment subsidies support a range of renewable technologies under the following mechanisms:

- A capital grants programme is being rolled out, through which €65 million will be made available from 2006 to 2010 for innovative domestic and commercial schemes using biofuels, combined heat and power (CHP), large-scale

wood heating systems and domestic renewable heat technologies. In response to a high level of interest, the Government indicated its intention in its Budget 2007 to bolster the Greener Homes scheme with an additional €20 million between 2007 and 2009. The Budget also proposes an allocation of an additional €4 million during 2007 towards the commercial sector, which will be widened to include additional technologies such as solar panels and non-commercial buildings (such as community or sports facilities). A further additional allocation of €3 million during 2007, to be administered by Sustainable Energy Ireland, would go to pilot programmes to support SMEs in assessing their energy usage and efficiency.

- In 2004 an Energy Crops Scheme was introduced with aid of €45 per hectare for areas sown under energy crops, pursuant to Art.88 of Regulation 1782/2003,⁵ which establishes common rules for direct support schemes for farmers. The scheme comes within the ambit of the Single Payment scheme overseen by the Department of Agriculture and Food. Agricultural raw materials including short rotation coppice can be grown under this scheme provided the crops are intended primarily for use to produce products considered to be biofuels and for electric and thermal energy produced from biomass. Budget 2007 proposes to increase the premium to €80 per hectare. It also proposes establishment of grants for willow and miscanthus and grant aid for the purchase of specialised harvesting machinery.

Tax incentives

Government tax incentives support a range of renewable technologies under the following mechanisms:

- In July 2006 the Minister invited parties seeking excise relief for biofuels to apply under a competitive application process open for a five week period. This competition had been heralded in late 2005 when the Government indicated that €205 million would be foregone in excise relief over 2006 to 2010. The legislative basis of the competition is s.98A of the Finance Act 1999, as amended. Relief from payment of mineral oil tax⁶ is available in respect of biofuels where the Minister for Finance is satisfied that the biofuel is essential to a pilot project in Ireland either to produce biofuel or to test the technical viability of biofuel for use as motor fuel. The Finance Act 2006 amended this so that relief is no longer limited to pilot projects; it is now extended to other projects approved by the Minister in the period until December 31, 2010. The Government expects this relief to support the use and production of around 163 million litres of biofuels per year, said to represent 2 per cent of transport fuels by 2008.
- A scheme of tax relief for corporate investment in certain renewable energy projects is provided

5 [2003] O.J. L384/1.

6 As of December 2006, mineral oil tax for biofuels is €368.05 per 1,000 litres when used as a propellant and €47.36 per 1,000 litres when used as other substitute fuel.

4 Deloitte, *Review of the Electricity Sector in Ireland*, Final Report, December 9, 2005, p.241.

pursuant to s.486B of the Taxes Consolidation Act 1997, as amended. Relief is available for investment in the ordinary share capital of an Irish incorporated and resident company which exists solely for the purpose of undertaking a qualifying renewable energy project. Projects must fall into at least one of four qualifying categories, specifically solar power, wind power, hydropower and/or biomass. The Government's 2007 Budget extends this scheme for a further five years, subject to EU approval.

- The transport sector benefits from 50 per cent relief from vehicle registration tax for hybrid electrical vehicles pursuant to s.135C of the Finance Act 1992 as amended. The Finance Act 2006 extended this relief to flexible fuel vehicles (vehicles that derive power from an internal combustion engine capable of using a blend of ethanol and petrol, where such blend contains a minimum of 85 per cent ethanol). Budget 2007 foresees similar relief for electric cars and a general restructuring of vehicle registration tax and annual motor tax to reward use of lower-emission vehicles.
- Several other measures aimed generally at supporting small businesses were announced in Budget 2007. These include an extended and expanded Business Expansion Scheme (subject to European Commission approval). The scheme allows individual investors to obtain income tax relief on investments in each tax year provided that the company is a qualifying company pursuant to the Taxes Consolidation Act 1997 as amended.

Priority to grid access/dispatch

Grid connection

One of the key impediments to development of renewable generating capacity has perceived concerns about instability and constraints on the transmission system. In 2003 the Commission for Energy Regulation (CER) introduced a moratorium on new wind farm connections owing to concerns about the "intermittent" nature of wind power affecting the security and stability of the power system. However, by 2004, a separate Grid Code for Wind was published and the moratorium was lifted.

By 2006 there were approximately 3,000MW of renewable energy waiting for connection to the grid, roughly six times the amount of such capacity that was already connected. In order to facilitate the processing of these applications, the CER issued a direction to system operators to process 1,300MW worth of applications in two batches, collectively known as Gate 2.

The first 500MW of applications were identified on a first come first served basis and the second 800MW according to system optimisation criteria. In order to facilitate Gate 2, the CER directed that applications for connection of conventional plant could not be dealt with during Gate 2 processing. However, the TSO was directed to reserve 800+MW of grid capacity in the South West on the basis that additional conventional generation capacity would be required by 2009. On November 14, 2006 the CER published a list of the

121 applicants that qualified for Gate 2, equivalent to 1,348MW of capacity, almost all of which is wind. To speed up the process, the CER has determined that planning permission is not a pre-condition for inclusion in Gate 2.

If all connection offers in Gate 1 and 2 are accepted, an additional 4,751MW will be added to the network. According to the CER,⁷ there is a clear prospect of Ireland having the largest share of wind to total generation of any synchronous system in the world, which will pose major technical and economic challenges. In response to this, the CER indicates that it has requested the TSO to update the study carried out in 2004 on the economic impact of increasing wind penetration. Findings of an All-Island Grid Study covering Ireland (Republic) and Northern Ireland, due towards the end of 2007, are also eagerly awaited to assist system planning. Size and criteria for a Gate 3 connection process will be considered after completion of Gate 2.

Grid dispatch

There are no current arrangements whereby renewable energy has priority dispatch over conventional power sources. The governments of Ireland and Northern Ireland established a working group in an effort to obtain further information on the resource potential for different RES-E technologies on the island of Ireland in 2020, the extent to which partially dispatchable and non-dispatchable generation can be accommodated, network development options and the economic implications of the policy options. The working group recommended the All Island Grid Study which is due to be completed towards the end of 2007.

Financial support schemes

The evolution of AER Programmes, discussed above, culminating in the current REFIT programme has increased the bankability of PPAs under which renewable energy is sold and which under the current programme typically lasts for 15 years.

Support to technological innovations

Support for technological innovation is managed chiefly through capital grants administered by Sustainable Energy Ireland,⁸ discussed above. The Government's Budget 2007 signalled the possibility of increased research and development tax credit for enterprises.

Green certificates

REFIT, discussed above, was chosen in Ireland instead of a system of trading in renewable obligation certificates (though such a system is in use in Northern Ireland).

⁷ CER Direction to the System Operators regarding Criteria for Gate 2 Renewable Generator Connection Offers, June 16, 2006 (CER/06/112), paras 3.3-3.4.

⁸ www.sei.ie.

Indirect support mechanisms

Greenhouse emissions

The relevant legislative framework for emissions trading has been closely modelled on the European Directive on emissions trading.⁹ As with other countries within the EU Emissions Trading Scheme, this involves the permitting of relevant installations, the preparation and submission to the European Commission of a national allocation plan, the distribution of allowances, the monitoring and reporting of emissions, the surrender of allowances and the tracking of this in a registry. In Ireland the Environmental Protection Agency is responsible for this. There is no other emissions trading scheme in Ireland. Proposals for a carbon tax were rejected at the end of 2004.

Transmission/grid expansion

As indicated above, works are underway to connect a significant volume of renewable generation to the grid. Some projects receiving connection offers are clustered around deep reinforcement work to the grid. In addition, as mentioned above, an All-Island Grid Study is underway in preparation for the single electricity market.

Environmental and planning regulations

The following 2006 initiatives aimed to ease the planning process for wind power:

- The Planning and Development (Strategic Infrastructure) Act 2006 amends the Planning and Development Act 2000 so that planning applications for wind farms with more than 50 turbines or an output greater than 100MW may be made directly to An Bord Pleanála (rather than local authorities) if the Board considers that the project is of strategic, economic or social importance; contributes substantially to fulfilling the National Spatial Strategy or regional planning guidelines; or would have a significant effect on the area of more than one planning authority. This has the potential to expedite significantly the planning process for large wind farms.
- In 2006 the Minister for the Environment, Heritage and Local Government published revised *Wind Energy Development Guidelines for Planning Authorities* to replace 1996 guidelines. The guidelines were issued under s.28 of the Planning and Development Act 2000, thereby requiring planning authorities and An Bord Pleanála (the Planning Appeals Board) to have regard to them while performing their functions. The guidelines call for planning authorities to incorporate a policy on wind energy into their development plans. A methodology is provided by which authorities should identify suitable locations for wind energy development subject to design and landscape planning, natural heritage, environmental and amenity considerations and tourism and recreation.

⁹ Directive 2003/87 establishing a scheme for greenhouse gas emission allowance trading within the European Community and amending Directive 96/91 [2003] O.J. L275/32.

Other legal considerations

A single electricity market is being developed on the island of Ireland covering Ireland (Republic) and Northern Ireland as part of a broader project to create all island markets in electricity and gas. The single electricity market will allow participants to buy and sell wholesale electricity throughout the island of Ireland, regardless of location. The broad objectives are to maximise security of supply, efficiency, practicality, equity and competitiveness. Implementation of the single electricity market is scheduled for November 1, 2007. It is thought that under the new market arrangements renewable generators will be entitled to priority dispatch subject to system security considerations, and will have the option of acting as price setting or price taking generation. It will also be necessary to ensure the effective management of different types of support for renewable energy across the island.¹⁰

Concluding remarks

The Irish renewables sector has reached a dynamic period and the Renewables Directive provided a key impetus for this. Collectively, recent measures evidence an increasingly cohesive approach to the promotion of renewables within the integrated framework of the first Government policy statement on energy in many years. In addition to providing specific support for research and development and investments through grant aid, tax relief and support mechanisms, the latest measures also seek to address some of the key impediments to renewable development, not least of which are delays associated with planning and grid connection.

Taken together, such measures represent positive development of the renewable sector, as evidenced by the interest shown in recent initiatives including REFIT and the Mineral Oil Tax Relief II Scheme, as well as the confidence demonstrated by the Minister's decision to increase Ireland's 2010 renewable electricity target. Added to the imminent reorganisation of the energy market on the island of Ireland, these developments point to continuing progress in the sector.

¹⁰ Further information on development of all aspects of the SEM is available at www.allislandproject.org.