



**Tithe an  
Oireachtais**  
Houses of the  
Oireachtas

**An Comhchoiste um Chumarsáid,  
Acmhainní Nádurtha agus Talmhaíocht**

**Tuarascáil Iniúchta AE Uimhir 2**

**COM (20011) 370 – Togra le haghaidh Treorach ó Pharlaimint  
na hEorpa agus ón gComhairle maidir le héifeachtacht  
fuinnimh agus lena n-aisghairtear Treoracha 2004/8/CE agus  
2006/32/CE**

**Márta 2012**

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**Joint Committee on Communications,  
Natural Resources and Agriculture**

**EU Scrutiny Report No 2**

**COM (2011) 370 - Proposal for a Directive of the European  
Parliament and of the Council on energy efficiency and  
repealing Directives 2004/8/EC and 2006/32/EC**

**March 2012**

**JOINT COMMITTEE ON COMMUNICATIONS, NATURAL RESOURCES AND  
AGRICULTURE**

**EU SCRUTINY REPORT**

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## **JOINT COMMITTEE ON COMMUNICATIONS, NATURAL RESOURCES AND AGRICULTURE**

### **EU SCRUTINY REPORT**

#### **COM (2011) 370 - Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC**

#### **1. INTRODUCTION**

At its meeting of 25<sup>th</sup> October 2011, the Joint Committee decided that COM (2011) 370 warranted further scrutiny. It was agreed to invite Officials from the Department of Communications, Energy and Natural Resources, the Sustainable Energy Authority of Ireland (SEAI) and the Commission for Energy Regulation (CER) to come before the Committee on 7<sup>th</sup> December 2011 and brief it on the proposal in more detail. Due to illness, the CER representative was unable to attend the meeting.

On the basis of the briefing from Officials, on the European Commission's explanatory memorandum and background documents, and on its own analysis of the proposal, the Joint Committee has prepared the following Report.

The Committee would like to thank the Officials from the Department of Communications, Energy and Natural Resources and the Sustainable Energy Authority of Ireland (SEAI) for coming before the Committee and sharing their valuable knowledge and experience in this area.

#### **2. SUMMARY OF THE PROPOSAL**

##### **2.1 Background**

Imported energy costs are rising and, in response, the EU has set itself a target of achieving 20% primary energy savings by 2020. It has made this objective one of the 5 headline targets of the Europe 2020 Strategy for smart, sustainable and inclusive growth.

The EU Commission believes that existing provisions, the Cogeneration Directive (2004/8/EC – CHP Directive) and the Energy Services Directive (2006/32/EC-ESD) have failed to fully exploit the potential of energy saving measures. It believes that energy efficiency is fundamentally important for competitiveness, security of supply and for meeting the commitments on climate change under the Kyoto Protocol.

Furthermore, energy efficiency is internationally recognised as the most cost effective means of reducing dependence on fossil fuels and is an essential component of Ireland's sustainable energy policy. For example, Ireland's demand for energy grew by 84% over the period 1990 to 2007 and has been projected to grow by a further 24% for the 2007 to 2020 period.

It should be noted that Ireland does have a **National Energy Efficiency Action Plan 2009 to 2020 (NEEAAP)**. In this plan the Government has 3 main targets:-

- 9% efficiency target by 2016;
- A national 20% efficiency target by 2020; and
- A 33% target for the public sector by 2020

## 2.2 Objectives

On the basis of the national energy efficiency targets set by Member States, the EU Commission estimated that the EU will only achieve half of the 20% target by 2020 (the base year was 2007). To give fresh momentum to energy efficiency, the EU Commission produced a new Energy Efficiency Plan (EEP) which sets out measures to achieve further savings in energy supply and use. This legislative proposal transforms certain aspects of EEP into binding measures. Its main purpose is to make a significant contribution to meeting the EU's 2020 energy efficiency target.

While the Directive is quite broad based, it focuses on 2 main issues: **Energy Efficiency (EE)** and **Combined Heat and Power (CHP)** which involves pulling together two significant Directives. The key areas in the proposal include:

- Energy efficiency in public spending and the renovation of public buildings (*Government*)
- Efficient generation of heat and electricity involving prioritising energy efficiency in the regulation of electricity and gas networks and increasing competitiveness through emissions trading and energy taxation opportunities (*industry*)
- Promoting energy efficient appliances, both in terms of ecodesign (product performance) and information labelling (*consumer*).

## 2.3 Implications for Ireland

The proposal, if adopted in its current form, could have significant implications for Ireland. Ireland already has set itself challenging national efficiency targets of 20% nationally and 33% for the public sector. This proposal would potentially introduce challenging targets and measures for the energy sector as a whole but particularly for the generation, distribution and transmission industries

The Commission envisages that it should be a matter, in the first instance, for Member States to set national energy efficiency targets, schemes and Programmes and decide whether these should be binding or indicative. The Commission, however, reserves the right to evaluate progress made in these targets in order to ascertain if it is likely they will ensure the EU targets are met. If progress made in these targets indicates the EU target is unlikely to be met, the EU can introduce mandatory targets for 2020, taking into account the individual starting points of Member States, their economic performance and early action taken.

Specific targets could prove very problematic. While Ireland supports improvement in energy efficiency, providing for the renovation of 3% of buildings owned by public bodies annually to cost optimal levels could prove very difficult financially in the current economic circumstances. High energy efficiency standards could be more readily achieved when purchasing new buildings.

Its introduction would also have major implications for the energy sector as a whole and specifically for the generation, distribution and transmission industries/stakeholders, particularly regarding metering and Billing requirements.

Other areas that could pose significant challenges for Ireland are the generation of electricity from 'co-generation' (simultaneous generation in one process of thermal energy

and electrical or mechanical energy) and in the development of 'district and cooling systems'.

## **2.4 Current Position regarding Proposal COM (2011) 430**

Discussions on the Proposal commenced in July 2011 under the Polish Presidency by the relevant Working Group. Two technical workshops were held (on obligation schemes and combined heat and power), last October, followed by bilateral meetings with all Member States last November.

A Council of Ministers meeting took place last November and a progress report on the directive discussions was presented by the Presidency. The Commissioner for Energy reiterated that further progress must be made if the 2020 energy targets are to be achieved.

Negotiations on the proposal will continue in the Council into 2012 and 2013, and legislation is targeted for introduction in January 2014. The Directive is an important priority on the energy side for the Danish Presidency and it is anticipated significant progress will be sought by the end of June. At that stage, the negotiations regarding the Directive, will move on to the Cypriot Presidency.

It will be transposed into Irish law in secondary legislation by the revocation of current Statutory Instruments which transpose Directive 2004/8/EC and 2006/32/EC on combined Heat and Power (CHP) and Energy Services (ESD).

The Directive may be discussed under any other business (item a) at the Telecommunications Council of Ministers meeting on 8<sup>th</sup> June 2012 which the Minister for Communications, Energy and Natural Resources will attend.

## **3. JOINT COMMITTEE MEETING WITH OFFICIALS**

As stated earlier, Officials from the Department of Communications, Energy and Natural Resources and the Sustainable Energy Authority of Ireland (SEAI) came before the Committee on 7<sup>th</sup> December 2011 and briefed it on the proposal in more detail. Due to illness, a Commission for Energy Regulation (CER) representative was unable to attend the meeting. A transcript of the meeting is contained at *Appendix 4*.

The Officials commenced by outlining a) the **main elements of each important article** of the Proposal and **b) the concerns for Ireland** (where applicable) as outlined below.

### **3.1. ARTICLE 3**

#### **3.1.1. Main elements**

Article 3 proposes that Member States would set a national energy efficiency target and review progress regarding the target by June 2014. The target will be expressed as an absolute level of primary energy.

The Commission has been working on revisions to the text as many Member States have indicated they would like to see the target reflect local circumstances better or at least allow Member States have some flexibility. In this regard, one proposed revision is to introduce a two step assessment in 2013 and 2015. There has also been discussion about the methodology to be used to assess progress.

#### **3.1.2. Concerns for Ireland**

This point follows on. The Department of Communications, Energy and Natural Resources and the SEAI use the PRIMES Model which is the methodology traditionally used by the Commission and what was used to produce Ireland's 2011 Energy Forecast. This forecast shows Ireland's position vis a vis it's National Action Plan targets. While Ireland has a national target, as previously stated, it does not support a 'binding' national target at this juncture.

### **3.2. ARTICLE 4**

#### **3.2.1. Main elements**

Article 4 deals with requirements for public bodies. Essentially, the key objective here is that Member States would renovate 3% of the floor area owned by public bodies, a public inventory would be compiled and energy management systems and efficiency plans would have to be introduced in the first instance and then implemented.

Member States have made suggestions for alternative approaches to this annual renovation target and concerns have been raised about the feasibility of implementing a 3% target. Alternatives include having an equivalence approach where Member States could take the most cost effective measure relevant to their public bodies. There is wide divergence across Europe in the management of public bodies. In some Member States, for instance, local and municipal authorities have their own autonomy and implementing national targets 'across the board' could prove very problematic for central Governments.

In addition, Some Member States have questioned the scope, financial feasibility and appropriateness of the 3% target and have pointed out their concerns that such an obligation would need to be supported by additional sources of financing.

#### **3.2.2. Concerns for Ireland**

While Ireland supports the concept of a National Inventory it has concerns about the costs involved. Likewise, a 3% target for renovating public buildings is an ambitious one and would represent a significant cost for the public sector, particularly in the current economic climate. Ireland believes that an energy usage target would be more beneficial and realistic than a renovation target per se.

### **3.3. ARTICLE 5**

#### **3.3.1. Main elements**

Article 5 focuses on encouraging public bodies to purchase products, services and buildings with a high energy efficiency performance rating.

Revisions to the text to date include aspects of cost effectiveness, economic feasibility, technical suitability and the need for sufficient competition.

#### **3.3.2. Concerns for Ireland**

Ireland does not have major objections to this article and broadly supports it. It is in line with Ireland's national policy and with the forthcoming Green Public Procurement Action Plan which will be published shortly with the Department of Environment, Community and Local Government acting as the lead Department. The plan will act as a blueprint to ensure that energy efficiency considerations are taken into account when public bodies procure products, services and capital projects.

### **3.4. ARTICLE 6**

#### **3.4.1. Main elements.**

Article 6 deals with Obligation Schemes. The objective here is to move to a point where Member States will establish obligation schemes equivalent to 1.5% of final energy savings by energy savings companies in any one year, excluding transport. These energy savings will be published. An alternative approach can be adopted under Article 6.9 here. This article has generated considerable debate so far among Member States and is one of the central articles of the Proposal.

At Council meetings, it has emerged that Member States are seeking greater flexibility in the design of the schemes that will not adversely impact on national schemes that are already in place, including those in France, Italy and the United Kingdom. There is resistance to the establishment of a scheme of mutual recognition of schemes across Member States and it is anticipated that there will be further negotiations in this regard.

Regarding the 1.5% target, it is anticipated that a number of Member States will seek a gradual increase, potentially starting from a lower level to achieve higher savings over time. Concerns have also been voiced and questions asked over how early action can be accommodated within the overall targets set.

#### **3.4.2. Concerns for Ireland**

As stated above, an alternative approach can be adopted under Article 6.9. This gives some scope to allow for more detail regarding the overall framework of the scheme whether it will allow flexibility to combine elements of an existing obligation scheme with other policy approaches. Ireland's policy approach is consistent with having an obligation scheme under the Better Energy Programme. This commenced in 2011 as a voluntary obligation scheme with 25 energy supply companies. To reach the 1.5% target, however, there will have to be a five fold increase on the first phase figure, which is an extremely challenging task.

### **3.5. ARTICLE 7**

#### **3.5.1. Main elements**

Article 7 deals with energy audits. The Commission proposes the promotion of energy audits to final consumers, with the aim of stimulating activity in domestic households and Small and Medium Enterprises (SME)s. It also proposes that the first audit take place by June 2014 and every 3 years thereafter. There is broad agreement that these audits are beneficial as a way of encouraging energy savings. There are concerns, however, about the mandatory requirements for larger companies, in particular, on the grounds of proportionality and the resulting administrative burden. There is also a desire that implementation of the article focuses on the recommendations arising from audits and energy management systems. Some Member States advocate the development of a European Energy Audit Standard which should be reflected in the Directive.

There are indications that the 3 year audits may be changed to a 5 year time frame.

#### **3.5.2. Concerns for Ireland**

Ireland supports this approach which is consistent with national policy. Sustainable Energy Ireland (SEI) has been proactive in this regard and has pushed for energy audits and energy management systems, particularly in large industries. Australia is a very good example of how this approach works well and a public reporting mechanism is embedded into the senior management structure of companies. Ireland attests that creating similar mechanisms should not necessarily create significant additional administrative burdens.

### **3.6. ARTICLE 8**

#### **3.6.1. Main elements**

Article 8 concerns metering and informative billing. The Commission proposes the introduction of smart meters where consumers meters measure actual energy consumption rather than the conventional bimonthly billing which is the norm at present. It also wants consumers to be able to request metering data be made available to third parties such as energy companies. It is anticipated that this billing should be available to consumers free of charge by 1 January 2015.

Council discussions have indicated that Member States are generally supportive of achieving energy savings through behavioural change. There are concerns, however, about informative billing and the ability to roll-out smart meters. This article has to contend with the whole area of gas and electricity regulation (commonly known as the 'Third Package') which has been the subject of several Directives in recent years that is still at a crucial stage of implementation in many Member States, including Ireland.

#### **3.6.2. Concerns for Ireland**

Ireland broadly supports this approach as it aims to provide consumers with accurate and timely data. Several provisions in the article would impact on the cost/benefit analysis that has been carried out by the Commission for Energy Regulation (CER). Ireland though is probably ahead of a number of Member States because it has an advanced and accurate cost benefit and trial data available resulting from gas and electricity metering trials conducted by CER.



Furthermore, the CER has concluded consultations on the roll out of electricity and gas smart meters. This demonstrates its commitment to proceed with a national roll out of smart meters based on the positive results from its analysis to date. Even so, it is unlikely a national roll-out could be achieved until 2017 or 2018. This proposal gives an indicative date of 2015 for national roll-out which is too ambitious from an Irish view point. A number of other Member States take the same position in this regard and it is likely that the implementation date will be changed.

### **3.7. ARTICLE 10**

#### **3.7.1. Main elements**

Article 10 proposes that by 1 January 2014 Member States establish National Heating and Cooling Plans (HCP)s for high efficiency co-generation and district heating systems and that national spatial plans be in line with national heating and cooling plans.

The article contains a lot of detail around the need for new terminal generation installations over 20 MW to have regard for the objective of having combined heat and power systems. In cases where major installations are being refurbished, permits would have to have regard for the potential for combined heat and power and district heating.

Revisions on this article are underway and it is anticipated negotiations will be ongoing for some time. Cost benefit issues are of particular concern here and it is anticipated that revisions will stipulate that any national heating and cooling plans would be subject to cost benefit analysis. The Commission has indicated a willingness to agree to this stipulation

#### **3.7.2. Concerns for Ireland**

Ireland has significant concerns given the country's climate, population dispersal and the nature of industry located here. The concerns centre around the potential cost to consumers, practical concerns regarding market competition, priority dispatch and the electricity market structures which would be disproportionately affected.

The costs, for instance, of retrofitting an existing plant would be extensive, notwithstanding exemption conditions provided for in article 10.6.

The Department of Communications, Energy and Natural Resources position is that many of the existing Directives in this area need to work together, in terms of the Renewable Energy Directive and gas and electricity regulation (Third Package) and employ a greater level of joined up thinking. The proposal doesn't deal with existing rights and obligations under other relevant proposals and how they can continue to operate in tandem with this Directive.

Regarding Spatial Planning, Ireland's climate, geography and population dispersal would mitigate against having a blanket planning requirement requiring this country to assess the potential for district heating and cooling. The Department of Environment, Community and Local Government also holds this position and advises strongly that Ireland needs to proceed cautiously and should not support the creation of a legal obligation at EU level.

### **3.8. ARTICLE 12**

#### **3.8.1. Main elements**

Article 12 deals with transmission and distribution. The Commission proposes that regulators would ensure that network tariffs and regulations provide incentives to network users to implement energy efficient measures such as smart grids. It proposes that by 30 June 2013, Member States would adopt plans to assess the energy efficiency potential of infrastructure and identify measures to improve network infrastructure. Transmission system operators and distribution system operators would provide priority access and dispatch for high efficiency co-generation.

Council discussions indicate a need for greater analysis regarding the role of combined heat and power with regard to access and dispatch needs, in particular, comparing it to existing renewable energy sources and the Combined Heat and Power Directive.

#### **3.8.2. Concerns for Ireland**

Ireland has significant concerns regarding the provision of priority dispatch. In essence, if everything with high efficiency has priority dispatch than nothing has priority. Ireland seeks flexibility given this country's market structure and the possible implications for the single electricity market.

### **3.9. ARTICLE 14**

#### **3.9.1. Main elements**

Article 14 deals with energy services. The objective is to promote the energy services market and to include measures such as a public list of energy service providers; model contracts for energy performance contracting in the public services in particular and the dissemination of energy service information to consumers. The article is broadly supported by the Member States.

#### **3.9.2. Concerns for Ireland**

Ireland supports the article. In particular, Ireland welcomes the development of model contracts for the public sector and is keen to develop this policy further.

### **3.10. ARTICLE 15**

#### **3.10.1. Main elements**

Article 15 promotes energy efficiency by removing existing regulatory barriers such as split incentives. This is particularly relevant to the rental market where, at present, there is no onus on either landlords or tenants to push for energy efficient measures in a property.

The article also aims to reduce legal and administrative barriers as regards public purchasing. It gives public bodies and local authorities greater flexibility in how they spend their budgets.

#### **3.10.2. Concerns for Ireland**

Ireland supports the article.

### **3.11. ARTICLES 17 AND 18**

#### **3.11.1. Main elements**

Articles 17 and 18 deal with delegated acts. The proposal seeks to delegate powers to the Commission regarding areas such as the mutual recognition of Obligation Schemes; cost benefit analysis schemes; and harmonised efficiency reference values. It is proposed to give the Commission these powers for an indeterminate period of time but the EU Council or EU Parliament can revoke them. There has been an increasing move to delegating powers to the Commission to align existing Directives with the provisions of the Treaty on the Functioning of Europe (TEFU).

#### **3.11.2. Concerns for Ireland**

Ireland is cautious about conferring this level of delegated power on the Commission.

### **3.12. ARTICLE 19**

#### **3.12.1. Main elements**

Articles 19 deals with the requisite review and monitoring arrangements that will have to be put in place to implement this Directive fully. The Directive proposes that by 30 April each year, Member States will report progress towards their national efficiency targets. Those reports may form part of the National Reform Programme introduced under broader EU requirements. The Departments of Foreign Affairs and An Taoiseach will be the lead Departments for the reform programme.

It is difficult to be certain as to the outcome of the progress reports. Depending on what they contain, the Commission may issue recommendations to Member States and ultimately decide to introduce mandatory targets.

Negotiations at Council level have indicated that Member States have reservations about the timing of certain report obligations and, in particular, the availability of accurate statistical data.

#### **3.12.2. Concerns for Ireland**

SEI is the body in Ireland that gathers and collates data on energy forecasting. There needs to be due attention paid to the timing of any progress reports. The figures are normally not available until November of the following year which is a problem shared with a number of other Member States.

The Department of Communications, Energy and Natural Resources has highlighted that there are numerous reporting obligations under the various EU Directives and national reform programme. Ireland has urged the Commission to harmonise and streamline the reporting requirements insofar as this is possible.

#### 4. CONCLUSIONS AND RECOMMENDATIONS

Based on a worthwhile and productive discussion, the Joint Committee made the following recommendations as detailed below.

- There needs to be a strong focus on the development of **new technologies** in the individual Member States. In Ireland, given our wind and tidal resources, a *Super European grid* would allow Ireland to fully harness its natural resources and generate energy for internal and external use in a sustainable way. If the technology was developed to make *electric cars* efficient and compatible with petrol driven cars, it has the potential to radically transform the private transport sector and significantly reduce toxic emissions.
- Individual Member States need to have the **flexibility to set their own priorities** and in certain areas actually exceed EU targets. Parts of this Directive are very prescriptive and have the potential to cause significant difficulties and yet Ireland will exceed other targets with ease. There is no facility in the Directive to 'balance' the ability of Member States to perform well in certain areas while not in other areas because of a low starting point or because of reasons outside its control such as in Ireland's case, our climate, peripheral location and population dispersal.
- There are real and serious concerns about the other areas covered by **Article 10** of the Directive. These concern technical logic issues, spatial planning issues, economic case issues and spatial planning. The *district heating proposals*, in particular, present major challenges to this country and could, in effect, actually take consumer choice away where they are essentially locked into one system of supply. Cost benefit issues are of particular concern here and any national heating and cooling plans should be subject to *cost benefit analysis*.
- Specifically the part on **Spatial Planning** needs to be examined in greater detail and the Department of Communications, Energy and Natural Resources need to work closely together in this regard. Ireland historically has a strong rural base and dispersed housing is a feature of that legacy. While dispersed or 'one off housing'
- is often viewed negatively, it also represents a huge opportunity to reduce greenhouse gas emissions by optimally utilising Ireland's forests, pastures and large open swathes of grasslands.
- This point follows on. While not unique to this proposal, there is a need for the EU Commission to engage in '**joined up**' thinking in a far greater way. This Directive needs to support and complement existing Directives in the area.
- In tandem with this, Irish Government Departments also need to adopt a 'joined up' approach where the policies are looked in an integrated way rather than strictly in the context of the functions of individual Departments. Regarding this Directive, it is fundamentally important that the lead Departments liaise closely with each other but also engage with other Departments such as the Department of Jobs, Enterprise and Innovation and the National Consumer Agency (NCA) who operate under its aegis. This Department should have real and meaningful input into a Directive that has the potential to create employment, affect large industries and the way they do business and impacts on the energy services provided to consumers.

- The Irish public sector is committed to striving to become the **model of best practice** in attaining high levels of efficient energy performance. Collecting accurate statistical data is an important task in this regard and will be the precursor to ultimately setting ambitious energy saving targets for the public sector. Engaging in *Energy audits* that adopt *international standards* are seen as a better way of enhancing energy management in this country rather than European standards.
- While the overall global targets can be accepted, Member States should be allowed achieve these targets based on the **optimal mix of targets, schemes and programmes for a particular country**. 'Micromanagement' at EU level could result in unintended consequences and a 'one size fits all' approach will not deliver the optimum results.

## 5. KEY RECOMMENDATIONS

The Joint Committee made the following key recommendations as detailed below.

- The Directive should **only** impose **global energy efficiency targets on a non binding basis** (20% nationally and 33% in the private sector are acceptable to Ireland). The means by how these targets are achieved should be at the discretion of the Member States. Member States should be responsible for deciding on the optimal mix of targets, schemes and programmes. This should be Ireland's clear position in negotiations.
- The EU Commission should undertake **a review of the existing Directives and Programmes** that impact on this Directive supports and complement existing Directives in the area. Ireland should insist on an undertaking to conduct this Review before it agrees to continue with negotiations on this Directive.
- Any proposals regarding **National Heating and Cooling Plans** should be subject to a rigorous **cost benefit analysis** to be conducted by the EU commission.
- An **Inter-Departmental and Agency Working Group on Energy Efficiency** should be established with a clear and focused remit, to examine this Directive. It's fundamental objective should be to ensure there is a joined up approach to energy efficiency that transcends individual Departments functions. The Working Group should also examine how new technologies can be used to optimal effect with specific regard to developing a *European Super Grid* and increasing the use of *electric cars*. The Group should be chaired by the Department of Communications, Energy and Natural Resources with representation from the Departments of Environment, Community and Natural Government; Finance; Jobs, Enterprise and Innovation and the National Consumer Agency (NCA); Social Protection; the Office of Public Works (OPW); the Sustainable Energy Authority of Ireland (SEAI); the Commission for Energy Regulation (CER) and other agencies the respective Departments may wish to have represented on the Group.

## 6. DECISION OF THE JOINT COMMITTEE

It was agreed that –

- the report of the Joint Committee will be laid before both Houses of the Oireachtas, published and put on the Oireachtas website;
- a copy will be forwarded to the Minister for Communications, Energy and Natural Resources to be taken into account as part of Ireland's negotiating position on the proposal; and
- a copy will be sent to Mr. Gunther Oettinger, the European Commissioner for Energy, as a considered response by the Irish Parliament to the proposed reform and seek the Commissioner's views on the concerns raised.



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Andrew Doyle T.D.  
Chairman  
21 March 2012

## Appendix 1

### Membership of the Joint Committee on Communications, Natural Resources and Agriculture

#### **Deputies:**

Tom Barry (FG)  
Michael Colreavy (SF)  
Pat Deering (FG)  
Andrew Doyle (FG) [Chairman]  
Martin Ferris (SF)  
Noel Harrington (FG)  
Martin Heydon (FG)  
Colm Keaveney (LAB)  
Mattie McGrath (IND)  
Michael McNamara (LAB)  
Michael Moynihan (FF)  
Eamon Ó Cuív (FF)  
John O'Mahony (FG) [Vice-Chairman]  
Ann Phelan (LAB)  
Thomas Pringle (IND)

#### **Senators:**

Michael Comiskey (FG)  
Paschal Mooney (FF)  
Mary Ann O'Brien (IND)  
Brian Ó Domhnaill (FF)  
Pat O'Neill (FG)  
John Whelan (LAB)

#### **Notes:**

1. Deputies appointed to the Committee by Order of the Dáil on 9 June 2011
2. Senators appointed to the Committee by Order of the Seanad on 16 June 2011
3. Deputy Andrew Doyle elected as Chairman on 22 June 2011
4. Deputy John O'Mahony elected as Vice Chairperson on 22 June 2011
5. Deputy Robert Dowds was discharged from the Committee and Deputy Patrick Nulty was appointed to the Committee in substitution for him by order of the Dáil on 23 November 2011
6. Deputy Patrick Nulty was discharged from the Committee and Deputy Ann Phelan was appointed to the Committee in substitution for him by order of the Dáil on 8 December 2011

## **Appendix 2**

### **Orders of Reference of the Joint Committee**

Functions of the Committee – derived from Standing Orders (SO)  
[Dáil SO 82A; Seanad SO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
  - (a) such aspects of the expenditure, administration and policy of the relevant Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann to form a Joint Committee for the purposes of the functions set out below, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
  - (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 164,
  - (c) Estimates for Public Services, and
  - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
  - (e) Annual Output Statements, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies, and report thereon to both Houses of the Oireachtas:
  - (a) matters of policy for which the Minister is officially responsible,
  - (b) public affairs administered by the Department,
  - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
  - (d) Government policy in respect of bodies under the aegis of the Department,
  - (e) policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,



- (f) the general scheme or draft heads of any Bill published by the Minister,
  - (g) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
  - (h) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (i) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in paragraph (4)(d) and (e) and the overall operational results, statements of strategy and corporate plans of such bodies, and
  - (j) such other matters as may be referred to it by the Dáil and/or Seanad from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 105, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
  - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
  - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) A sub-Committee stands established in respect of each Department within the remit of the Select Committee to consider the matters outlined in paragraph (3), and the following arrangements apply to such sub-Committees:
- (a) the matters outlined in paragraph (3) which require referral to the Select Committee by the Dáil may be referred directly to such sub-Committees, and
  - (b) each such sub-Committee has the powers defined in Standing Order 83(1) and (2) and may report directly to the Dáil, including by way of Message under Standing Order 87.
- (7) The Chairman of the Joint Committee, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee and of any sub-Committee or Committees standing established in respect of the Select Committee.
- (8) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees as derived from Standing Orders [DSO 82; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 26. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.
- (4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

## Appendix 3

### Information Note

- 1. Proposal:** Directive on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EEC
- 2. Title:** Energy Efficiency
- 3. Date of Council document:** 23 June 2011
- 4. Number of Council document:** 12046/11 – ENER 256
- 5. Number of Commission document:** COM (2011) 370 final
- 6. Dealt with in Brussels by:** Michael Goodwin, Energy Attaché, Permanent Representation of Ireland to EU (Tel. 00 32 2 282 32 31)
- 7. Department with Primary responsibilities:** Communications, Energy & Natural Resources
- 8. Other Departments involved:** N/A
- 9. Short summary and aim of the proposal:** This legislative proposal transforms certain aspects of the Energy Efficiency Plan (EEP) into binding measures. The main purpose is to make a significant contribution to meeting the EU's 2020 energy efficiency target.
- 10. Legal Basis of the Proposal:** Article 194 of the Treaty on the Functioning of the European Union
- 11. Voting Method:** QMV
- 12. Role of the EP:** This is a co-decision directive, so the EP's role is the same as that of the Council – an agreed text must be reached before the proposal can put on the EU statute books and published in the Official Journal.
- 13. Category of proposal:** Co-decision Directive – No.2011/0172
- 14. Implications for Ireland:** The directive will have major implications for Ireland in meeting its energy efficiency targets over and above already challenging domestic targets (20% national and 33% public sector). It will potentially introduce challenging targets and measures for the energy sector as a whole and the generation/ distribution/ transmission stakeholders in particular.
- 15. Anticipated negotiated period:** 12 – 18 Months
- 16. Proposed implementation date:** 1 year after entry into force i.e. 2014
- 17. Consequences for national legislation:** Revocation of current Statutory Instruments which transpose Directive 2004/8/EC and 2006/32/EC on combined heat and power (CHP) and on energy services (ESD).

**18. Method of Transposition into Irish law: Secondary legislation**

**19. Anticipated Transposition date:** Late 2013 / early 2014

**20. Consequences for the EU budget in euros annually:** Will use the existing budget and will not impact on the multi-annual financial framework.

## [Appendix 4](#)

LINK TO THE TRANSCRIPT ON THE OIREACTAS WEBSITE OF THE MEETING WITH THE OFFICIALS FROM THE DEPARTMENT OF COMMUNICATIONS, ENERGY AND NATURAL RESOURCES AND THE SUSTAINABLE ENERGY AUTHORITY OF IRELAND (SEAI) HELD ON THE 7<sup>TH</sup> OF DECEMBER 2011.

<http://debates.oireachtas.ie/AGJ/2011/12/07/00004.asp>