

EU Policy Review

Analysis of recent EU legislation and policy for local and regional government

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LEGISLATION

New EU Proposals on Renewable Energy, Energy Efficiency and Energy Performance of Buildings

In November, the European Commission unveiled a package of proposals in the field of energy security and energy efficiency. The proposals are in the context of the EU's commitments and the so-called '20-20-20' goals:

- To have a 20% reduction in greenhouse gas emissions by 2020;
- To have a 20% share of renewables in final energy consumption by 2020; and
- To have a 20% saving in future energy demand by 2020.

New legislation therefore places an increased emphasis on energy efficiency, and thus the Commission is proposing new measures to reinforce the existing EU Directive on the Energy Performance of Buildings (2002/91/EC), which is currently being implemented and which requires certificates of the energy performance of buildings.

The scope of the Directive would be broadened under the new proposal. For example, *all* existing buildings when they undergo a major renovation will be required to meet specified energy efficiency levels (and not just buildings above 1,000m² as is specified in the current Directive). The Commission argues that major renovations represent a unique chance for low-cost energy savings with an attractive payback period. Some of the terms in the Directive are also clarified – for example, a 'major renovation' is defined as where more than 25% of the building undergoes renovation and where the total cost of the work is 25% higher than the actuarial value of the building (excluding the value of the land where the building is situated).

For existing buildings, national governments will have to set minimum energy performance requirements for new or for a major retrofit of building systems, such as for heating systems (boilers, other heat generators), hot water systems, and air conditioning systems.

The new proposal would also introduce a requirement for random sampling checks on the quality of at least 0.5% of all energy performance certificates issued each year, and at least 0.1% of inspection reports issued each year.

If adopted, these proposals will have to be reflected in new Building Regulations issued to local authorities.

National governments will also be required to facilitate the development of increased numbers of low or zero energy and carbon buildings, such as passive houses. The public sector, including local authorities, will be expected to take the lead in investing in such buildings. Therefore, buildings owned by public bodies will have to comply with the provisions of the new Directive by the end of 2010, whereas all other buildings will be required to comply by 2012.

Local authorities across Europe have argued that the Commission should have given them more time to implement the current requirements of the Energy Performance of Buildings Directive before proposing an extension of its scope, given that it will imply significant administrative changes and financial costs.

The Commission also plans to launch a Europe-wide awareness campaign in 2009 called 'Build-Up' to increase awareness amongst the construction industry, public bodies and citizens on the opportunities for savings.

The Commission has also made it clear that it sees local authorities as making a critical contribution in meeting the renewable energy targets. Under a new proposal put forward earlier this year, the EU will commit to a binding overall target of 20% of energy being sourced from renewable energies. The Commission is arguing that local authorities can play a key role in meeting this objective across a number of service areas, such as:

- Introducing and implementing renewable energy friendly policies as part of the development plan process;
- Setting clear and simple licensing and authorisation procedures for companies installing renewable energy plants, or for households who want to install renewables in buildings;
- Making a difference 'in-house' through the local authorities using renewable energy for its own buildings and emphasizing its use as a consideration in the procurement process;
- Informing and raising awareness locally about renewable energy options, costs and possible sources of financing.

Other elements of the package are concerned with addressing Europe's precarious situation with regard to security of energy supplies, with a focus on the completion of the required energy infrastructure, plus building up ample oil stocks and other mechanisms to respond to possible disruption in gas supplies.

The Commission is also working on new proposals setting more stringent energy efficiency standards for different types of product, such as household lamps, street lighting, and office lighting.

For further details on the overall energy efficiency package, please see:

http://ec.europa.eu/energy/strategies/2008/2008_11_ser_2_en.htm

For further details on the Energy Performance of Buildings Directive, see:

<http://www.buildingsplatform.eu/>

New EU Waste Directive Approved

Environment Ministers and MEPs reached agreement in October on the text of the new Waste Framework Directive, which will replace the existing 1975 Waste Framework Directive (75/442/EEC) as the EU's framework legislation for waste management (see also *EU Policy Review* 3/08 (April – May 2008)).

The Directive outlines the by now familiar waste hierarchy, which should define national and local approaches to waste management. This provides for the following 5 measures in order of priority:

- Waste prevention as the preferred solution;
- Re-use;
- Recycling;
- Waste recovery, including energy recovery from incinerators;

- Waste disposal, as a last resort.

One of the more contentious aspects of the Directive was that it clearly defines energy-efficient waste incineration as a recovery operation, which can allow for the efficient use of resources and a reduction in the consumption of fossil fuels for energy. Specific standards that incinerators must meet to qualify as 'waste recovery' operations are detailed in an Annex to the Directive. Local authority groups have argued that this is necessary to provide certainty for local authorities in making investment decisions on incineration methods.

The Directive also clarifies the definition of a number of other terms, such as elimination, by-products, and the concept of 'end-of-waste' products.

The Directive establishes new overall waste management targets. These would require:

- The re-use and recycling of household and similar waste to be increased to a minimum of 50% by weight by 2020;
- The re-use and recycling of construction and demolition waste, manufacturing waste, and industrial waste to be increased to a minimum of 70% by weight by 2020.

The Directive requires national governments to develop waste prevention programmes by 2014 that take account of national, regional and local conditions. This can be expected to pose major challenges for Ireland, given that although recycling rates have improved dramatically, the volume of waste produced per person in Ireland is one of the highest in the EU.

The Commission has argued that prevention activities can only be effective if they impact on decisions at various stages of the life cycle – for example how a product is designed, processed, refined or manufactured, transported, made available to consumers, used, and treated at the end of its useful life. Most waste prevention measures require action at national, regional and local level. While the Directive does not establish EU-wide waste prevention targets, such targets should be set as part of national waste prevention programmes. Public bodies should also be encouraged to use environmental and waste prevention criteria in calls for tender and contracts.

The national waste prevention programmes may also include the promotion of research and development into cleaner products and technologies, eco-design, awareness campaigns, voluntary agreements with industry, or taxes designed to provide an incentive for cleaner purchasing.

The Directive also clarifies the issues that need to be addressed in regional / local waste management plans. As well as an analysis of the waste management situation in the region and the measures to promote the prevention, re-use, recycling, recovery and safe disposal of waste, the plans must also contain:

- The type, quantity and source of waste generated;
- Existing collection schemes and major disposal and recovery facilities in the area;
- An assessment of the need for new collection schemes, closure of existing facilities, and the

need for additional waste management infrastructure;

- Information on the location criteria for site identification, and on the capacity of future disposal and recovery facilities;
- General waste management policies, including planned waste management technologies and policies for waste posing specific management problems.

Waste management plans may also contain:

- Institutional arrangements including the responsibilities of public and private actors in relation to waste management;
- An assessment of the usefulness of economic instruments in tackling waste problems;
- Proposed use of information and awareness campaigns on waste management targeted at the public in general or at specific groups;
- Legacy contaminated waste disposal sites and measures for their rehabilitation.

The Directives also allows for the setting of minimum technical standards for different types of waste management operations. Other provisions are included, for example on the proximity principle, waste permits and licensing, and on hazardous waste.

National governments must bring new laws into effect to comply with the new Directive within 2 years.

The text of the new Directive can be viewed at:

<http://register.consilium.europa.eu/pdf/en/08/st03/st03646.en08.pdf>

Ministers Agree on new Surface Water Quality Standards

At the same meeting in October, Environment Ministers also adopted a new Directive setting out the detailed environmental quality standards for surface waters (see *EU Policy Review 4/07* (June – July 2007) for details on the background to the original proposal).

The new Directive establishes limit values for over 30 pollutants, including pesticides, heavy metals, and biocidal products. The limits establish pollution peaks as well as annual average values.

Under the Directive, national governments will have to monitor water pollution, analyse the origin of pollution emissions, and draw up an inventory.

The Directive repeals a number of earlier water quality directives, and complements the EU's Water Framework Directive (2000/60/EC), and national governments will have to ensure that they are in compliance with the new limits by 2015, the general deadline for implementation of the Water Framework Directive.

The text of the new Directive is available at:

<http://register.consilium.europa.eu/pdf/en/08/st03/st03644.en08.pdf>

Ministers give Green Light to Road Infrastructure Safety Directive

EU Ministers have given the go ahead to a new Directive on road infrastructure safety management (see *EU Policy Review 6/06* (October – November 2006) for the background to the original proposal). The new Directive applies specifically to the trans-European transport network (the so-called TEN-T), which in Ireland covers the M1 (Dublin-Belfast) and M8/N8 (Dublin-Cork).

The Directive contains a number of provisions including a requirement that safety be integrated into all phases of planning, design, operation and use of TEN-T road infrastructure. Road infrastructure managers must be given guidance, training and information to guarantee safety on the road network.

Minimum requirements are established in the new Directive for:

- Road safety impact assessments at the planning stage of the construction or modification of the road network, and the different elements that should form part of the assessment process;
- Road safety audits at design stage, and the different criteria that should be considered at different intervals, including at draft design stage, at detailed design stage, in advance of road opening, and during early operation;
- Ranking of high accident concentrations on different sections of the road network to identify priority list for improvement works and potential remedial works;
- Periodic road safety inspections and surveys of the possible impact of roadworks on the safety of traffic flow;
- The minimum amount of information that must be included in accident reports in cases of a fatality.

The Directive also provides that the European Commission will establish a system to exchange best practice in road infrastructure safety management and in road safety technology.

The provisions of the Directive must be implemented within 2 years. For a copy of the text of the new Directive, click on the link below:

<http://register.consilium.europa.eu/pdf/en/08/st03/st03652.en08.pdf>

New Proposal to Increase Targets and Enforcement of WEEE Directive

New proposals have been published which would lead to the amendment of the WEEE Directive on the collection and recycling of electrical and electronic waste (2002/96/EC). This follows a consultation process undertaken earlier this year (see *EU Policy Review 3/08* (April – May 2008)).

Under the proposed changes, new and more ambitious targets would be set for the collection and recycling of WEEE. The Commission argues that the collection

target in the existing Directive of 4kg per inhabitant per year does not provide a significant enough 'stretch' in EU countries with high consumption rates of electrical and electronic waste. Recent figures show that Ireland has already met double its target by collecting 8.7 kg of household WEEE per inhabitant in 2007.

Instead the new amendments would set collection targets for each EU state equal to 65% of the average weight of electrical and electronic equipment placed on the market of that state over the 2 previous years, meaning more ambitious targets for countries such as Ireland.

Under the proposal, this 65% target would become mandatory by 2016, and would apply to both household and non-household WEEE. During 2012, consideration will also be given to possibly setting separate collection targets for waste cooling and freezing equipment.

The proposal would also involve increasing the targets for recovery and recycling of WEEE by 5% across various categories of electrical and electronic waste.

The proposals are also designed to simplify the Directive in a number of ways. For example, the scope of and definitions within the Directive are clarified. Under the changes, national registers would also be made interoperable so that registration and reporting requirements would be streamlined for producers. This would mean that rather than having to register in each EU country they sell in as at present, producers would only have to register and report in one EU country for all their activities across the EU.

The Commission is also proposing that minimum inspection requirements be established to strengthen the enforcement of the Directive, including minimum monitoring requirements for the detection of illegal shipping of WEEE.

The proposals must now be considered by Environment Ministers and MEPs before being approved. For a copy of the proposed changes to the Directive, see:

http://ec.europa.eu/environment/waste/weee/index_en.htm

POLICY INITIATIVES AND ANNOUNCEMENTS

Commission launches consultation on Biodegradable Waste

The European Commission has published a Green Paper seeking the views of a range of stakeholders on possible new EU legislation on the management of biowaste (including garden and park waste, and kitchen and food waste). The Green Paper presents and assesses the environmental, economic, and health impacts of different options for the management of biodegradable waste used in different EU states (from composting, anaerobic digestion, and mechanical-biological treatment, to incineration, to landfill).

The Green Paper considers whether there is a need for new EU legislation in this area, and invites views from relevant stakeholders on a number of questions, including:

- What specific actions could be taken at EU level to prevent bio-waste volumes?
- Are there benefits or disadvantages for further restricting the volume of biodegradable waste that is allowed into landfills beyond the targets set in the Landfill Directive (99/31/EC) (see also article below)?
- Which options for the treatment of bio-waste diverted from landfills should be strengthened and what are their benefits?
- Can energy recovery from bio-waste make a valuable contribution?
- Is there a need to promote bio-waste recycling?
- Should quality standards and rules for the use of compost be established?

Views on the Green Paper must be sent to the Commission by 15 March 2009. For further details, see:

<http://ec.europa.eu/environment/waste/compost/index.htm>

Challenges for Ireland in Meeting EU Targets on Waste, Water and Climate Change

The EPA's recent 'State of the Environment' report gives a good overview of progress made but also shortfalls in Ireland's efforts to meet various EU targets in areas such as waste management, water quality and climate change.

The overall conclusion of the EPA is that while the quality of Ireland's environment is high, there are major environmental pressures and challenges that require a change of gear in how we deal with environmental protection. The report presents a series of projections in terms of future environmental pressures, such as waste generation, water pollution and greenhouse gas emissions. These highlight that Ireland is likely to miss a number of key targets set out through various EU Directives on the environment, risking considerable cost to the taxpayer and possible future EU fines.

On waste management, the EPA report predicts that the 2016 target of limiting the landfilling of biodegradable municipal waste to 451,000 tonnes under the Landfill Directive (99/31/EC) will be exceeded by 800,000 tonnes. The report does however acknowledge good progress in meeting recycling targets, and the vast improvement in the standard of landfill facilities in recent years.

Remediation of old sites and other contaminated land is also expected to become a higher priority in the coming years. The report also notes the absence of a national inventory of contaminated sites in Ireland or an overall policy or legislative framework for the management and remediation of contaminated land, and the EPA suggest that Ireland needs to learn from the experience and approach adopted by other European countries in this respect.

In terms of water quality, the EPA conclude that the majority of water bodies are in a satisfactory condition, but predicts difficulties in meeting the targets set by the Water Framework Directive (2000/60/EC), which establishes a series of environmental and chemical standards for surface water and ground water bodies by 2015. The EPA reports that while 71% of river channels are satisfactory, 18% are slightly polluted, 10% moderately polluted, and 0.5% seriously polluted, with the main cause of problems being sewage discharges and agricultural pollution. Some 85% of lakes are of satisfactory standard. Ensuring that drinking water meets EU standards is also expected to be an ongoing challenge. New wastewater treatment infrastructure is having an effect, but full implementation of the river basin district management plans and nitrate actions plans will be needed.

On climate change, Ireland has one of the highest levels of per capita greenhouse gas emissions in the EU. The EPA predicts that greenhouse emissions will exceed the 38 million tonne target for 2020 by 7 million tonnes, even if additional measures above and beyond those in the current National Climate Change Strategy are implemented. The likely response is going to be some combination of further measures such as reducing dependency on fossil fuels, increasing use of alternative energy sources, increased energy efficiency, and the expensive option of purchasing of carbon credits.

However, the EPA was in a position to report successes in a number of areas, such as meeting air quality standards, improved environmental infrastructure, and the early implementation of the WEEE Directive (2002/96/EC) on electrical and electronic waste. Enforcement has also improved, though the EPA argue that there is a continuing need to invest in this field and to develop a strong culture of compliance with environmental legislation.

For further details on *Ireland's Environment 2008*, see:

<http://www.epa.ie/downloads/pubs/other/indicators/irlenv/#d.en.25214>

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