



STATUTORY INSTRUMENTS.

S.I. No. 76 of 2022



EUROPEAN UNION (RENEWABLE ENERGY) REGULATIONS 2022

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I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Articles 21 and 22 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018¹ and Articles 15 and 16 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019², hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Renewable Energy) Regulations 2022.

Interpretation

2. (1) In these Regulations -

“Act of 1999” means the Electricity Regulation Act 1999 (No. 23 of 1999);

“active customer” means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or, where so provided for in rules made by the Commission in that regard under Regulation 10, within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity;

“aggregation” means a function performed by a natural or legal person who combines multiple customer loads or generated electricity for sale, purchase or auction in any electricity market;

“balance responsible party” has the meaning assigned to it by Article 2 of the Internal Market for Electricity Regulation;

“citizen energy community” means a legal entity that -

¹ O.J. No. L. 328, 21.12.2018, p. 82.

² O.J. No. L. 158, 14.6.2019, p. 125.

- (a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises;
- (b) has for its primary purpose to provide environmental, economic or social community benefits to its members or shareholders or to the local areas where it operates rather than to generate financial profits; and
- (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders;

“Commission” means the Commission for Regulation of Utilities;

“control” means any rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by -

- (a) ownership or the right to use all or part of the assets of an undertaking, or
- (b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking;

“Directive” means Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018¹;

“distribution system operator” means the holder of a licence under section 14(1)(g) of the Act of 1999;

“electricity markets” means markets for electricity, including over-the-counter markets and electricity exchanges, markets for the trading of energy, capacity, balancing and ancillary services in all time-frames, including forward, day-ahead and intraday markets;

“energy from renewable sources” or “renewable energy” means energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogas;

“energy storage” means, in the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reversion of such energy into electrical energy or use as another energy carrier;

“energy storage facility” means, in the electricity system, a facility where energy storage occurs;

“final customer” means a customer who purchases electricity for own use;

“household customer” means a customer who purchases electricity for the customer’s own household consumption, excluding commercial or professional activities;

“Internal Market for Electricity Directive” means Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019²;

“Internal Market for Electricity Regulation” means Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019³ on the internal market for electricity;

“jointly acting renewables self-consumers” means a group of not fewer than 2 jointly acting renewables self-consumers who are located in the same building or multi-apartment block;

“local authority” means a local authority within the meaning of section 2(1) of the Local Government Act 2001 (No. 37 of 2001);

“market participant” means a market participant as defined in Regulation 2(25) of the Internal Market for Electricity Regulation;

“Minister” means the Minister for the Environment, Climate and Communications;

“non-household customer” means a natural or legal person who purchases electricity that is not for own household use, including producers, industrial customers, small and medium-sized enterprises, businesses and wholesale customers;

³ O.J. No. L. 158, 14.6.2019, p. 54-124.

“peer-to-peer trading of renewable energy” means the sale of renewable energy between market participants by means of a contract with pre-determined conditions governing the automated execution and settlement of the transaction directly between participants or indirectly through a certified third party market participant, such as an aggregator. The right to conduct peer-to-peer trading shall be without prejudice to the rights and obligations of the parties involved as final customers, generators, suppliers or aggregators;

“producer” means a natural or legal person who generates electricity;

“renewable energy community” means a legal entity -

- (a) which is based on open and voluntary participation, is autonomous, and is effectively controlled by shareholders or members that are located in the proximity of the renewable energy projects that are owned and developed by that legal entity,
- (b) the shareholders or members of which are natural persons, SMEs or local authorities, and
- (c) the primary purpose of which is to provide environmental, economic or social community benefits for its shareholders or members or for the local areas where it operates, rather than financial profits;

“renewables power purchase agreement” means a contract under which a natural or legal person agrees to purchase renewable electricity directly from an electricity producer;

“renewables self-consumer” means a final customer operating within its premises located within confined boundaries or, where so provided for in rules made by the Commission in that regard under Regulation 10, within other premises, who generates renewable electricity for its own consumption, and may store and sell self-generated renewable electricity, provided that, for non-household renewables self-consumers, those activities do not constitute their primary commercial or professional activity;

“SEAI” means the Sustainable Energy Authority of Ireland;

“small enterprise” means an enterprise which employs fewer than 50 persons and whose annual turnover or annual balance sheet, or both, does not exceed Eur10,000,000;

“SME” means a micro, small or medium-sized enterprise as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC⁴;

“supply” means the sale, including the re-sale, of electricity to customers;

“support scheme” means any instrument, scheme or mechanism established by the Minister that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing, by means of a renewable energy obligation or by other means, the volume of such energy purchased, and includes, but is not limited to, investment aid, tax exemptions or tax reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and sliding or fixed premium payments;

(2) A word or expression that is used in these Regulations and is also used in the Directive or the Internal Market for Electricity Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive or Internal Market for Electricity Directive, as the case may be.

Active Customers

3. (1) Final customers may act as active customers.

(2) Active customers -

- (a) shall not be subject to disproportionate or discriminatory technical requirements, administrative requirements, procedures and charges or to network charges that are not cost-reflective,
- (b) may operate either directly or through aggregation,
- (c) may sell self-generated electricity, including through power purchase agreements,
- (d) may participate in flexibility schemes and energy efficiency schemes,
- (e) may delegate to a third party the management of the installations required for their activities, including installation, operation, data handling and maintenance, without that third party being considered to be an active customer,
- (f) shall be subject to cost-reflective, transparent and non-discriminatory network charges that account separately for the electricity fed into the grid and the electricity consumed from the grid, in accordance with section 35(8) of the Act of 1999 and Article 18 of the Internal Market for Electricity Regulation,

⁴ O.J. No. L.124, 20.5.2003, p. 36.

ensuring that they contribute in an adequate and balanced way to the overall cost sharing of the system, and

- (g) shall be financially responsible for any imbalances they cause in the electricity system; to that extent they shall be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of the Internal Market for Electricity Regulation.

(3) Active customers that own an energy storage facility -

- (a) shall, subject to and in accordance with section 34 of the Act of 1999, be offered connection to the transmission or distribution system within a reasonable time after making an application under and in accordance with that section,
- (b) shall not be subject to any double charges, including network charges, for stored electricity remaining within their premises or when providing flexibility services to system operators,
- (c) shall not be subject to disproportionate licensing requirements or fees, and
- (d) may provide several services simultaneously, if technically feasible.

(4) The Commission shall take all steps necessary to give effect to paragraphs (1) to (3).

Renewables self-consumers

4. (1) Renewables self-consumers, individually or through aggregators -

- (a) may generate renewable energy, including for their own consumption, store and sell their excess production of renewable electricity, including through power purchase agreements, electricity suppliers and peer-to-peer trading arrangements, without being subject -
 - (i) in relation to the electricity they consume from, or feed into, the grid, to discriminatory or disproportionate procedures and charges and to network charges that are not cost-reflective, and
 - (ii) in relation to their self-generated renewable electricity which remains within their premises, to discriminatory or disproportionate procedures and any charges or fees,
- (b) may install and operate electricity storage systems combined with installations generating renewable electricity for self-consumption without liability for any double charge, including grid fees for stored electricity which remains within their premises,

- (c) shall maintain their rights and obligations as final consumers, and
- (d) may receive a remuneration, including where applicable through support schemes pursuant to section 39 of the Act of 1999, for the self-generated renewable electricity they feed into the grid which reflects the market value and may take into account the long-term value of the electricity fed into the grid, the environment and society.

(2) The Commission may apply non-discriminatory and proportionate charges and fees to renewables self-consumers, in relation to their self-generated renewable electricity which remains within their premises -

- (a) if the electricity produced by the renewables self-consumer is effectively supported through support schemes, only to the extent that the economic viability of the renewable energy project installed by the renewable self-consumer and incentive effect of such support are not undermined,
- (b) from 1 December 2026, if the overall share of renewable self-consumption installations exceeds 8% of total installed electricity capacity, the Commission may perform a cost-benefit analysis through an open, transparent and participatory process and if the result of this analysis demonstrates that the provision set out in paragraph (1)(a)(ii) resulted in significant disproportionate burden on the long-term financial sustainability of the electric system or creates an incentive exceeding what it is objectively needed to achieve cost-effective deployment of renewable energy and that such impact could not be minimised by taking other reasonable actions, or
- (c) if the electricity is produced in installations with a total installed electrical capacity of more than 30 kW.

(3) Renewables self-consumers located in the same building, including multi-apartment blocks, may engage jointly in activities set out in paragraph (1) and may arrange sharing of renewable energy that is produced on their site or sites between themselves, without prejudice to grid costs and other relevant charges, levies and taxes that may apply in respect of each renewables self-consumer.

(4) The Commission shall take all steps necessary to give effect to paragraphs (1) to (3).

(5) A renewables self-consumer's installation may be owned by a third party or it may be managed by a third party for installation, operation, including metering, and maintenance, provided that the third party is subject to the renewables self-consumer's instructions. The third party shall not itself be considered a renewables self-consumer.

(6) For the purposes of paragraph (5), "metering" does not include metering by a meter operated by the distribution system operator.

Enabling framework for renewable self-consumers

5. (1) The Commission and the SEAI shall design and establish a framework in accordance with paragraph (2) or (3), as appropriate, and the frameworks so designed and established shall, together, comprise an enabling framework to promote and facilitate the development of renewables self-consumption based on an assessment of the existing unjustified barriers to, and the potential of, renewables self-consumption in energy networks.

(2) The framework designed and established by the Commission under paragraph (1) shall -

- (a) address accessibility of renewables self-consumption to all final customers, including those in low-income or vulnerable households,
- (b) address unjustified barriers to the financing of projects in the market and measures to facilitate access to finance,
- (c) address other unjustified regulatory barriers to renewables self-consumption, including for tenants,
- (d) grant renewables self-consumers for self-generated renewable electricity they feed into the grid, non-discriminatory access to -
 - (i) relevant support schemes in place pursuant to section 39 of the Act of 1999, and
 - (ii) all electricity market segments,

and

- (e) ensure that renewables self-consumers contribute in an adequate and balanced way to the overall cost sharing of the system when electricity is injected into the grid.

(3) The framework designed and established by the SEAI under paragraph (1) shall address incentives to building owners to create opportunities for self-consumption, including for tenants.

(4) The SEAI shall assist the Commission in designing and establishing its framework in accordance with paragraph (2) in so far as the matters referred to in subparagraphs (a) and (b) of that paragraph are concerned.

(5) This Regulation shall apply without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union.

Framework relating to remuneration of renewable self-consumers

6. (1) The Commission shall design and establish a framework to give effect to Regulation 4(1)(d).

(2) Under the framework referred to in paragraph (1), the Commission -

- (a) shall establish arrangements for the remuneration of renewables self-consumers in respect of self-generated renewable electricity which is fed into the grid by those renewables self-consumers,

- (b) may publish a minimum export tariff, to be paid to renewables self-consumers, to fairly reflect the market value of the volume of electricity they feed into the grid,
- (c) shall establish eligibility criteria for renewables self-consumers to receive remuneration for electricity that they feed into the grid,
- (d) may determine a methodology to calculate the estimated volumes of renewable electricity to be eligible for remuneration for renewables self-consumers, in the absence of metered export volumes, and
- (e) shall ensure that the arrangements for the remuneration of renewables self-consumers are based on fair and transparent processes.

(3) The Commission shall carry out a review of the framework referred to in paragraph (1) 12 months after the establishment of the framework.

(4) The Commission may, on the conclusion of the review referred to in paragraph (3), amend the framework.

(5) Notwithstanding paragraphs (3) and (4), the Commission may, at any time review and amend the framework referred to in paragraph (1).

Citizen energy communities

7. (1) The Commission shall design and establish an enabling regulatory framework for citizen energy communities which ensures that -

- (a) participation in a citizen energy community is open and voluntary,
- (b) members or shareholders of a citizen energy community are entitled to leave a community, in which case Regulation 13 of the European Union (Internal Market for Electricity) Regulations 2022 (S.I. No. 20 of 2022) applies,
- (c) members or shareholders of a citizen energy community do not lose their rights and obligations as household customers or active customers,
- (d) subject to fair compensation as assessed by the Commission, relevant distribution system operators cooperate with citizen energy communities to facilitate electricity transfers within citizen energy communities,
- (e) citizen energy communities are subject to non-discriminatory, fair, proportionate and transparent procedures and charges, including with respect to registration and licensing, and to transparent, non-discriminatory and cost reflective network charges in accordance with Article 18 of the Internal Market for Electricity Regulation, ensuring that they contribute in an adequate and balanced way to the overall cost sharing of the system.

(2) The enabling regulatory framework referred to in paragraph (1) may provide that citizen energy communities are open to cross-border participation.

(3) Citizen energy communities -

- (a) may access all electricity markets, either directly or through aggregation, in a non-discriminatory manner,
- (b) shall be treated in a non-discriminatory and proportionate manner with regard to their activities, rights and obligations as final customers, producers, suppliers, distribution system operators or market participants engaged in aggregation,
- (c) shall be financially responsible for the imbalances they cause in the electricity system; to that extent they shall be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of the Internal Market for Electricity Regulation,
- (d) with regard to consumption of self-generated electricity, shall be treated like active customers in accordance with Regulation 3(2)(f), and
- (e) may arrange within the citizen energy community the sharing of electricity that is produced by the production units owned by the community, subject to the other requirements of this Regulation and subject to the community members retaining their rights and obligations as final customers.

(4) For the purposes of paragraph (3)(e), where electricity is shared, this shall be without prejudice to applicable network charges, tariffs and levies, in accordance with a transparent cost-benefit analysis of distributed energy resources developed by the Commission.

(5) The Commission shall take all steps necessary to give effect to paragraph (3).

Renewable energy communities

8. (1) Final customers, in particular household customers, may participate in a renewable energy community while maintaining their rights or obligations as final customers, and shall not be subject to unjustified or discriminatory conditions or procedures that would prevent their participation in a renewable energy community, provided that for private undertakings, their participation does not constitute their primary commercial or professional activity.

(2) Renewable energy communities may -

- (a) produce, consume, store and sell renewable energy, including through renewables power purchase agreements,
- (b) share, within the renewable energy community, renewable energy that is produced by the production units owned by that renewable energy community, subject to the other requirements of this Regulation and to maintaining the rights and obligations of the renewable energy community members as customers, and

- (c) access all suitable energy markets both directly or through aggregation in a non-discriminatory manner.

(3) The Minister shall carry out an assessment of the existing barriers and potential of development of renewable energy communities.

(4) The Commission shall take all steps necessary to give effect to paragraph (2).

(5) Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, the Minister shall take into account specificities of renewable energy communities when designing support schemes in order to allow them to compete for support on an equal footing with other market participants.

Enabling framework for renewable energy communities

9. (1) The Commission and the SEAI shall design and establish a framework in accordance with paragraph (2) or (3), as appropriate, and the frameworks so designed and established shall, together, comprise an enabling framework to promote and facilitate the development of renewable energy communities.

(2) The framework designed and established by the Commission under paragraph (1) shall ensure that -

- (a) unjustified regulatory and administrative barriers to renewable energy communities are removed,
- (b) renewable energy communities that supply energy or provide aggregation or other commercial energy services are subject to the provisions relevant for such activities,
- (c) the relevant distribution system operator cooperates with renewable energy communities to facilitate energy transfers within renewable energy communities,
- (d) renewable energy communities are subject to fair, proportionate and transparent procedures, including registration and licensing procedures, and cost-reflective network charges, as well as relevant charges, levies and taxes, ensuring that they contribute, in an adequate, fair and balanced way, to the overall cost sharing of the system in line with a transparent cost-benefit analysis of distributed energy sources developed by the Commission,
- (e) renewable energy communities are not subject to discriminatory treatment with regard to their activities, rights and obligations as final customers, producers, suppliers, distribution system operators, or as other market participants,
- (f) regulatory support is provided to public authorities in enabling and setting up renewable energy communities, and in helping authorities to participate directly,

- (g) rules to secure the equal and non-discriminatory treatment of consumers that participate in the renewable energy community are in place, and
 - (h) participation in the renewable energy communities is accessible to all consumers, including those in low-income or vulnerable households.
- (3) The framework designed and established by the SEAI under paragraph (1) shall ensure that -
- (a) tools to facilitate access to finance and information by renewable energy communities are available, and
 - (b) capacity-building support is provided to public authorities in enabling and setting up renewable energy communities, and in helping authorities to participate directly.

Determining proximity and confined boundaries

10. (1) The Commission may make rules in relation to the determination of confined boundaries in respect of renewable self-consumers and active consumers.

(2) In making the rules referred to in paragraph (1), the Commission may also specify other premises outside the confined boundaries where renewable self-consumers and active consumers may consume, store, or sell self-generated electricity or participate in flexibility or energy efficiency schemes.

(3) The Commission may make rules on the determination of confined boundaries in respect of jointly acting renewables self-consumers, including for multi-apartment blocks.

(4) The Commission may make rules on the determination of proximity in respect of renewable energy communities.

(5) In making rules under this Regulation, the Commission shall ensure that to the extent to which there is a difference in the treatment of jointly-acting active customers and active customers who are not jointly-acting, that difference is proportionate and justified.

(6) The Commission shall publish the rules referred to in paragraphs (1) to (4) in such a manner and form as it considers appropriate.

Amendments to Act of 1999

11. Section 9(1) of the Act of 1999 is amended -

- (a) in paragraph (u), by the substitution of “network” for “network, and”,
- (b) in paragraph (v), by the substitution of “licensing,” for “licensing, and”,
- (c) in paragraph (w), by the substitution of “policy, and” for “policy”, and

- (d) by the insertion of the following paragraph after paragraph (w):
- “(x) to perform its functions under the European Union (Renewable Energy) Regulations 2022 (S.I. No. 76 of 2022).”.

Amendments to Sustainable Energy Act 2002

12. Section 6(1) of the Sustainable Energy Act 2002 (No. 2 of 2002) is amended –

- (a) in paragraph (f), by the substitution of “subsection,” for “subsection.”, and
- (b) by the insertion of the following paragraph after paragraph (f):
- “(g) to design and establish frameworks under and in accordance with Regulations 5 and 9 of the European Union (Renewable Energy) Regulations 2022 (S.I. No. 76 of 2022) and to provide assistance to the Commission for Regulation of Utilities in accordance with Regulation 5(4) of those Regulations.”.



GIVEN under my Official Seal,
15 February 2022.

EAMON RYAN
Minister for the Environment, Climate and
Communications.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
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