



An Bille um Rialáil Tuirbíní Gaoithe, 2016
Wind Turbine Regulation Bill 2016

Mar a tionscnaíodh

As initiated



AN BILLE UM RIALÁIL TUIRBÍNÍ GAOITHE, 2016
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ACTS REFERRED TO

Civil Liability Act 1961 (No. 41)

Environment (Miscellaneous Provisions) Act 2011 (No. 20)

Planning and Development (Strategic Infrastructure) Act 2006 (No. 27)

Planning and Development Act 2000 (No. 30)



AN BILLE UM RIALÁIL TUIRBÍNÍ GAOITHE, 2016
WIND TURBINE REGULATION BILL 2016

Bill

entitled

An Act to regulate wind turbines through providing limits on the exportation of product generated from wind turbines; protecting nearby dwellings from noise and shadow flicker by providing minimum set back distances; allowing access to public consultative processes and related matters. 5

Be it enacted by the Oireachtas as follows:

Interpretation 10

1. In this Act:

“Act of 2000” means the Planning and Development Act 2000;

“Act of 2006” means the Planning and Development (Strategic Infrastructure) Act 2006;

“Act of 2011” means the Environment (Miscellaneous Provisions) Act 2011;

“curtilage” in relation to a dwelling, means an area immediately surrounding or adjacent to the dwelling which is used in conjunction with the dwelling, other than any part of that area that is a public place; 15

“dwelling” includes—

(a) a building or structure (whether temporary or not) which is constructed or adapted for use as a dwelling and is being so used, 20

(b) a vehicle or vessel (whether mobile or not) which is constructed or adapted for use as a dwelling and is being so used,

(c) a part of a dwelling, or

(d) the curtilage of a dwelling;

“excess product” has the meaning given to it under *section 2(2)*; 25

“generated product” means electrical power generated directly from wind turbines;

“host community” means the community within a 3 mile radius from the location of the wind turbine;

“landscape” means the immediate and extended setting upon which the proposed wind turbines are to be placed; 30

“Minister” means the Minister for the Environment, Community and Local Government;

“planning gain” means any aspects of a development proposal required for the development to go ahead (including financial contributions to public services), secured by the local authority to mitigate the impact of the development on the local community;

“public place” means any place to which the public have access whether as of right or by permission and whether subject to or free of charge; 5

“self-sufficient” means where the level of electrical power generated from renewable sources, including from wind turbines on the island of Ireland is deemed to be sufficient to meet electricity demand;

“vista” means the immediate and extended view (or short and long range view) of the site and its general environs; 10

“wind turbine” means a commercial turbine which supplies grid connected electricity generation that is greater than 11kW when connected to the three phase grid of 400V.

Excess product

2. (1) The generated product from wind turbines within the State and as regulated in accordance with this Act, shall not be exported outside the island of Ireland, until such a time as the Minister is satisfied, subject to the conditions outlined in *subsection (2)*, that the generated product is product which may be deemed excess product. 15
- (2) In accordance with *subsection (1)* the Minister shall, in determining whether such product is excess product, have regard to whether the product generated from wind turbines and other forms of renewable resources is of an amount that is greater than the amount of energy needed for the island of Ireland to be deemed self-sufficient in the generation and consumption of electrical power, and consult with the Oireachtas Committee on Communications, Climate Change and Natural Resources and have regard to any other considerations that the Committee sees fit. 20 25
- (3) The Memorandum of Understanding between Ireland and the UK on Cooperation in the Energy Sector shall not take effect until the conditions outlined in *subsection (2)* are outlined.

Location of turbines

3. (1) All locations for proposed wind turbines must be— 30
 - (a) designated in County Development Plans,
 - (b) consistent with the plan, and
 - (c) be designated with the approval of the relevant elected local authority.
- (2) (a) Any decision made in accordance with *subsection (1)* shall not be subject to, or amended by, the Act of 2006. 35
- (b) Any decision made in accordance with *subsection (1)* cannot be deferred to the Strategic Infrastructure Board.

Public consultation

4. (1) Every person applying for permission under the Act of 2000 to construct a wind turbine or wind farm shall be obliged to place a notice in a local and national newspaper, and in a prominent place on the proposed site that is accessible to the public view, outlining the following information: 5
- (a) a description of any changes to the proposed site, outlining the physical and technical characteristics of the proposed wind turbine development;
 - (b) a formal assessment in writing and a non-technical outline of the effects of the proposed development on the local environment must be lodged with the local council and public library for public consultation outlining at a minimum the following information— 10
 - (i) an ordnance survey map showing the location of each turbine relating to all planning applications for that area held by the planning authority,
 - (ii) the potential impacts of the proposed construction on the physical and mental health of the host community, 15
 - (iii) the physical effects on the natural environment, the vista and landscape, the cultural heritage, and
 - (iv) the measures proposed to prevent or reduce such effects;
 - (c) the envisaged length of the construction works; and
 - (d) the planning gain of the proposal. 20
- (2) Every person applying for permission under the Act of 2000 to construct a wind turbine generator shall place an advertisement in a newspaper circulating in the area of the proposed development with an ordnance survey map marked with the exact location of each proposed wind turbine; and on a local radio station broadcasting in the area of the proposed development to the effect that it is arranging a public meeting to be held at a named convenient time and in a named convenient location near to the proposed development, at which persons occupying dwellings within the minimum distances specified in *section 6* and other members of the public may submit, in writing or verbally any comments, information, analyses or opinions that they consider to be relevant to the proposed development. 25 30
- (3) Every person applying for permission under the Act of 2000 to construct a wind turbine generator shall submit to the planning authority and An Bord Pleanála, a report of the meeting held in accordance with *subsection (2)* which shall be available to the public upon request.
- (4) Section 8 of the Act of 2011 shall apply to this section, and a word or expression used in this section has the same meaning as in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998. 35

Noise and shadow flickers

5. Every person applying for permission under the Act of 2000 to construct a wind turbine, and every operator of a wind turbine shall ensure the following— 40

- (a) that the noise from the wind turbine does not exceed the noise limits specified in the World Health Organisation Guidelines for Community Noise (1999), or any preceding or replacement guidelines, and
- (b) that the distance of the wind turbine is such that any shadow flicker from the turbine does not pass over the dwelling.

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Set back distances

6. (1) Subject to the duties in *section 4*, the minimum distance between a wind turbine and a dwelling shall be as set out in *subsection (3)*.
- (2) If a number of wind turbines are proposed as part of the same development, then the minimum distance requirements in *subsection (3)* apply to each individual wind turbine. 10
- (3) Wind turbines that are of a height which is greater than 25 metres shall be located not less than a distance of ten times the height of the turbine away from any dwelling.
- (4) The height of a wind turbine is measured from the ground to the end of the blade tip at its highest point. 15
- (5) The distance from a dwelling is measured from the base of the wind turbine to the point of the dwelling nearest the base of the wind turbine.

Transitional provisions and duties of planning authorities

7. (1) The operator of a wind turbine shall be responsible for ensuring that the provisions in *section 6* come into operation no later than one year after the enactment of this Act. 20
- (2) The operator of a wind turbine to which *subsection (1)* applies shall, no later than six months after the enactment of this Act, prepare a plan that contains the specific preparatory measures required to comply with *subsection (1)* and shall then communicate that plan without delay to—
- (a) persons occupying dwellings within the minimum distances specified in *section 6*, and 25
 - (b) the planning authority or, as the case may be, An Bord Pleanála.
- (3) Every relevant authority shall, in carrying out their duties and functions, ensure that every person applying for permission under the Act of 2000 to construct a wind turbine generator, and every operator of a wind turbine generator, complies with the duties in this Act. 30
- (4) In this section, “relevant authority” means—
- (a) a planning authority within the meaning of the Act of 2000,
 - (b) An Bord Pleanála,
 - (c) the Minister for the Environment, Community and Local Government, and 35
 - (d) any other Minister exercising functions in connection with any grant aid or financial assistance related to a wind turbine, including a connection with a Renewable Energy Feed-in-Tariff Scheme (REFIT).

Compliance and penalties

8. (1) Where a person or company responsible for the construction or operation of a wind turbine fails to comply with the provisions of this Act, then the person or company shall be liable for a penalty to be determined by the Minister upon the enactment of this Act. 5
- (2) No contract or agreement, which is contrary to the provisions contained within this Act, shall be made by a person or company applying for permission to construct a wind turbine under the Act of 2000, or by any person or company constructing or operating a wind turbine, or any other person acting on their behalf, with any private member or members of the host community, community group, business, residents association, local co-operative, representative person or body or any other person or group of persons that form part of the host community. 10

Financial evidence

9. Any person or company applying for permission to construct a wind turbine in accordance with the Act of 2000 shall enter a legally binding bond with the Local Authority which shall provide financial recompense on the part of the person or company to pay for the repair of any damage caused to or facilitate maintenance of local public infrastructure including, but not limited to, damage and/or maintenance to roads, water services, bridges, buildings or any other public infrastructure the Local Authority deem appropriate for the purposes of this section. 15 20

Responsibility upon decommissioning

10. (1) The person or company responsible for the operation of the wind turbine is solely responsible for the proper recycling of the turbine upon its decommissioning.
- (2) Failure to comply with *subsection (1)* will result in the person or company being liable for a penalty to be specified by the Minister upon the enactment of this Act. 25

Co-ownership for Local Communities

11. (1) Wind turbine developers shall provide an opportunity to local residents to purchase up to a 20 per cent stake in a wind turbine development as part of a community co-ownership model of wind turbine development.
- (2) An initial investment opportunity shall be offered to residents who live up to 4 kilometres from the wind turbine development for a period of 12 months. 30
- (3) If the 20 per cent stake is not fully subscribed through the process outlined in *subsection (2)* then the investment opportunity should be offered to residents who reside within 10 kilometres of the wind turbine development for a period of 6 months.
- (4) Those who invest in the wind turbine development shall be entitled to the payment of a dividend during the lifetime of the wind turbine development. 35

Civil liabilities

12. (1) Nothing in this Act shall alter or affect any civil liability that may exist upon the enactment of this Act concerning the use or operation of a wind turbine of any

manufacturer, supplier, applicant for planning permission, operator, employer, or of any person having an interest in land on which such a wind turbine is situated.

(2) In this section “civil liability” has the same meaning as in the Civil Liability Act 1961.

Short title

13. This Act may be cited as the Wind Turbine Regulation Act 2016.

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BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do rialáil tuirbíní gaoithe trí theorainneacha le honnmhairiú táirge arna ghiniúint ó thuirbíní gaoithe a sholáthar; do chosaint teaghaisí in aice láimhe ar thorann agus ar chaochail scáileanna trí shlánachair íosta a sholáthar; chun rochtain ar phróisis chomhchomhairleacha phoiblí a cheadú agus i dtaobh nithe gaolmhara.

An Teachta Brian Stanley a thug isteach,

20 Iúil, 2016

BILL

(as initiated)

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An Act to regulate wind turbines through providing limits on the exportation of product generated from wind turbines; protecting nearby dwellings from noise and shadow flicker by providing minimum set back distances; allowing access to public consultative processes and related matters.

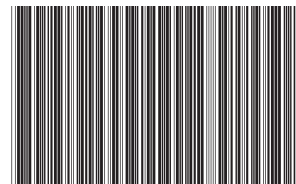
Introduced by Deputy Brian Stanley,

20th July, 2016

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