Northern Ireland Assembly

Committee for the Economy

OFFICIAL REPORT (Hansard)

Small-Scale Green Energy Bill: Northern Ireland Assembly Research and Information Service

17 November 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Dr Caoimhe Archibald (Chairperson)
Mr Matthew O'Toole (Deputy Chairperson)
Mr Keith Buchanan
Mr Stewart Dickson
Mr Mike Nesbitt
Mr John O'Dowd
Ms Claire Sugden
Mr Peter Weir

Witnesses:

Dr Orla Drummond	Northern Ireland Assembly Research and Information Service
Mr Aidan Stennett	Northern Ireland Assembly Research and Information Service

The Chairperson (Dr Archibald): I welcome Aidan Stennett and Orla Drummond from the Assembly Research and Information Service (RaISe). I will hand over to you to make an opening statement, after which we will open it up to members.

Mr Aidan Stennett (Northern Ireland Assembly Research and Information Service): Thank you, Chair. I hope that you can hear me. I will share my screen, because I have a short presentation.

We are here today to talk to you about the Small-Scale Green Energy Bill; in particular, we would like to talk to you about the context in which the Bill is being introduced; the Bill's substantive provisions as introduced; some wider considerations that the Committee may wish to think about; and the Bill's potential financial implications. I will then pass over to my colleague Orla, who will talk to some of the Bill's potential human rights implications.

I will begin by talking about the context in which the Bill has been introduced. Some of this has already been raised this morning. The previous renewables target has been met. That was to ensure that 40% of electricity consumed was from renewable sources by 2020. The last DFE statistical release suggested that 45·4% of electricity consumed was from renewable generation of all sizes. Northern Ireland is without a government-supported renewable generation scheme. As we have just heard, however, there is the Power NI tariff, and other suppliers are offering export tariffs to microgeneration. As you have been discussing, the energy strategy is due soon. It will set a new target for renewable electricity, which, the consultation has suggested, will be 70% by 2030.

In other jurisdictions, there has been a move towards market-based solutions to support renewable electricity. We have seen the introduction in GB of the smart export guarantee scheme, which stipulates that certain suppliers must provide an export tariff to renewable generators. They are free to set that tariff themselves, based on market conditions; the only stipulation is that the tariff is above £0.00 per kW hour. A similar scheme, known as the clean export premium, is being consulted on in the Republic of Ireland.

There have been a number of reviews of Northern Ireland's energy policy. The most notable, perhaps, is the renewable heat incentive (RHI) inquiry's report. It recommended that novel schemes should be scrutinised thoroughly and that schemes with unpredictable demand should include escape clauses. As the Committee is well aware, energy prices are rising in Northern Ireland and globally. Earlier in this mandate, the Assembly declared a climate emergency.

In that context, what does the Bill seek to do? Amongst other things, the four substantive clauses will place a duty on the Department for the Economy to make regulations that will make provision for a small-scale renewable energy scheme. Certain elements of a future scheme are defined in the Bill, whilst others are to be defined by the Department through secondary legislation, which will be subject to affirmative procedures in the Assembly.

Looking at the elements of the scheme that are defined in the Bill as introduced, we see that the scheme will introduce a minimum price tariff to be paid to microgenerators that export to the grid. Microgeneration will be defined as generation with a net capacity of 50 kW or below, which is in keeping with existing definitions in Northern Ireland and GB.

According to the Bill, a feature of the scheme will be a central target that major electricity providers will be required to source 5% of "their electricity supply" from renewable or microgeneration by 2025. The wording is significant, because it marks something of a departure from previous targets. That makes it difficult to set the baseline. I will come back to that in a moment.

Major electricity providers are, according to the Bill, to be defined by the market share. That is another point that I will come back to, because "market share" is not clearly defined in the Bill.

The Bill sets out the review and revision provisions that are to accompany any future scheme. It also has some suspension and revocation provisions. Significantly, the Assembly's role in scrutinising any suspension or revocation is not guaranteed; that will be decided on by the Department when it introduces secondary legislation.

Going back to the question of the targets in the Bill, as I mentioned, they are to ensure that major electricity suppliers provide 5% of their electricity supply from renewable generation by 2025. The first slight issue with that is that the major electricity suppliers are not yet defined. Again, I will come back to that. The other issue is that there is a move away from previous targets, which were based on electricity consumed, towards electricity supplied by a subset of suppliers. Previous targets looked at how much of the electricity consumed came from renewable generation. We can see that, in the 12-month period from April 2020 to March 2021, about 1·1% of electricity consumed was derived from microgeneration. There is another category here, which is electricity that is generated but not exported, and that is about 0·6%. If you put those together, about 1·7% of electricity consumed was from either microgeneration or non-exporting generation, however it is not clear in the source data exactly how much of the non-export generation is actually microgeneration.

Another way of measuring things is to look at how much of renewable electricity generation is microgeneration. Based on that, in the same period, around 2·5% of all renewable electricity generated was from microgeneration. If we add in that non-export category, it brings us up to 3·8%. The point that I am trying to make with these slides is that the baseline against the target is not clear on the available data, so maybe some work needs to be done on the data that is provided, should the Bill go ahead.

I will now look at the elements of the future scheme that are not defined in the Bill as introduced. The Bill does not set the minimum price tariff. This is left to secondary legislation, and it is likely to be a key element of how attractive or not any future scheme may be. It may also influence micro-generator behaviour. The length of the contracts under the scheme are also to be defined at a later point. To provide some context, the Northern Ireland renewables obligation (NIRO) had a 20-year contract. Similarly, the GB feed-in tariff had a 20-year contract. Its replacement, the smart export guarantee that has been introduced in GB, will allow the supplier to determine the length of the contract.

The Bill does not define at what threshold a supplier becomes a major electricity supplier, nor does it define how market share is to be measured. That latter point has significance as it determines the number of suppliers that will be considered to be major suppliers. I will come back to that in the next slide. It does not include a final list of renewable technologies that should be included in the scheme; rather, it sets out a list that the Department is to consider for inclusion. Amongst that is micro combined heat and power (CHP), and the definitions of micro combined heat and power can include fossil fuels, so micro CHP can be fired by fossil fuels. Therefore, the Committee may wish to consider being more explicit with the language on this clause to include the terminology "renewable" to ensure that only renewable micro CHP is considered. The Bill also gives the Department the power to set different minimum price tariffs for different purposes, but it does not specify what those purposes might be. The Committee may wish to consider taking views on that.

Going back to the issue of market share, I mentioned that the Bill does not set a threshold of market share at which point a supplier will be considered a major supplier, but, as the Bill sponsor noted in his presentation to the Committee, at consultation, the preferred threshold was 5%. Using that as an illustrative level, if we measure market share by the proportion of connections, we can see in this chart that four suppliers hit the 5% threshold. If we measure it by consumption, that rises to five suppliers. You can see that there is considerable movement, particularly from Go Power, which moves from 1% of connections up to 9% of consumption. The Committee may be interested to know that, in the smart export guarantee scheme in GB, there is provision for suppliers that do not meet that scheme's participation criteria to voluntarily participate in the scheme, should they choose to do so.

I will move on to some other considerations. In encouraging microgeneration, the Bill has the potential to further decentralise Northern Ireland's electricity markets and see a move away from large, centralised plants towards a more distributed system. It also has the potential to encourage what are known as "prosumers", which are households, businesses or communities that both produce and consume electricity. That has challenges and benefits. From the consumer's perspective, a major benefit is that they have the opportunity to save on their energy bills. However, as we heard in the previous presentation, there is a challenge in ensuring that all those who wish to can connect to the grid and do so in an affordable way.

There is a potential impact on consumers that depends largely on the level at which any future tariff is set. We know that the costs of the Northern Ireland renewables obligation were passed on to all energy consumers over the total life of the scheme; from 2005, when it was introduced, until 2037, when payments under the scheme will cease. The Northern Ireland Audit Office estimates that the cost will be in the region of £5 billion. That will be covered by consumers across the UK. The Utility Regulator has shown that approximately 6% of the Power NI tariff pays for the cost of the NIRO. If the future scheme follows a similar precedent, there is the potential that further costs will be passed on to consumers. That may have negative implications for those in fuel poverty and those in danger of entering fuel poverty. It may also impact the competitiveness of Northern Ireland's businesses.

The previous witnesses spoke about grid and other costs. The connection costs are difficult to estimate because they will depend largely on the work that is required to connect. However, there are other costs such as the cost of the purchase of equipment, including generation equipment and metering, maintenance costs and, potentially, planning permits that will have to be paid for. There is a potential that those costs could be somewhat substantial, which may limit access to the scheme to those who can afford the initial set-up costs. If the scheme's funding is passed on to all consumers, all consumers could be supporting a smaller subset of consumers with the initial capital outlay.

Another issue is that renewable energy costs have been falling and vary from technology type to technology type. The Committee may wish to consider and take views on that, and particularly on how a scheme could be designed to reflect that.

The issue of state aid arose at Second Stage. I am not an expert on state aid but, from reading around it, it is clear that, under the protocol, Northern Ireland is still subject to state aid rules for trade in goods and wholesale electricity. DFE's guidance on state aid rules is that state aid applies to economic entities and, therefore, it is unlikely that the domestic element of a future scheme would fall under state aid rules. There are also de minimis regulations. State aid can reach €200,000 over three consecutive fiscal years to a single entity. For the agriculture sector, that falls to €15,000 over three years to a single entity.

The 2019 EU internal market directive was also raised at Second Stage. Northern Ireland is subject to that on account of the protocol. However, it is limited to:

"the generation, transmission, distribution, and supply of electricity, trading in wholesale electricity or cross-border exchanges in electricity."

It is not subject to the directive with respect to retail markets and consumer protection. Of particular note in the directive is article 5, which states that electricity suppliers:

"shall be free to determine the price at which they supply electricity to customers."

The directive allows some price setting to support vulnerable consumers, but there are no similar clauses on renewable microgeneration or renewables in general. Given that clause and its potential implications for the Bill, the slight ambiguity about the application of the directive to Northern Ireland and the fact that the Bill seems to straddle a number of those areas, including suppliers and consumers, the Committee may wish to seek views and possibly legal advice on the application of the directive in relation to the proposals in the Bill.

Finally, I will look at the potential financial implications of the Bill. The explanatory and financial memorandum estimates the cost of the Bill to be below £1 million per year. Figure 10 in the paper shows the costs incurred by Ofgem as a result of its administration of the Northern Ireland renewables obligation between 2005-06 and 2019-20. You can see that the administration cost did not exceed £1 million in that period. However, it is worth pointing out that it is not a like-for-like comparison. On the one hand, the NIRO was much broader in scope, supporting all generation from micro right up to the very large, whereas the proposed scheme will focus solely on the micro end of the scale. Additionally, the NIRO was administered by Ofgem on behalf of the Utility Regulator, meaning that the Utility Regulator and the Northern Ireland public purse could take advantage of our already existing administration infrastructure. It is not clear that that would be the case for the proposed support scheme. If it is not the case, it is not clear what, if any, costs would be incurred to set up that administration infrastructure.

From 2009, the NIRO operated a buyout, whereby suppliers who could not meet their obligations could buy out that obligation. That money entered into a central pot, known as the buyout fund, which was used to cover the administration costs of the NIRO. That means that its public purse implications were negligible from 2009 onwards. It is not clear whether something similar could be built into the design of any future scheme.

With that, I pass you to Orla, who will talk about some of the potential human rights implications.

Dr Orla Drummond (Northern Ireland Assembly Research and Information Service): Thank you, Aidan. Good morning, everyone. I will cover section 5 of the Bill paper, which includes any human rights and equality considerations. There are two main parts to this: first, environmental protections and, secondly, protection from fuel poverty.

There is an acknowledgement that any move towards renewable and sustainable energy provision is a step towards meeting international human rights obligations to tackle climate change. The United Nations Paris agreement, as you know, is a legal, binding international treaty that came into force on 4 November 2016. It has been ratified and signed by both the UK and ROI Governments. Its goal has been to limit global warming to below 2°C when compared to preindustrial levels. Its ultimate aim is to achieve a climate neutral world by mid-century. The move towards renewable energy technologies, to reduce greenhouse gas emissions, is fundamental to that.

While there is a need to reduce climate change, and that is imperative to ensure citizens' right to a safe and healthy environment, from the human rights perspective, moving to a more sustainable energy economy needs to be done in a way that is fair to everyone. One concern regarding the Bill as introduced is that, as financing microgeneration is commonly done through consumer bills, increasing costs for customers, including those already experiencing fuel poverty, are a possibility. It should be noted that approximately 22% of Northern Ireland households are living in fuel poverty. For many, that means living below the poverty line and experiencing higher bills due to poor levels of energy efficiency. That is often worsened by winter conditions, with thousands of people living in properties that are considered dangerous or unfit for colder seasons.

As noted by the Public Health Agency, the inability to adequately heat a home causes and contributes to worsening health and well-being. Research has documented detrimental impacts on both physical and mental health that are markedly harmful for particular groups. Such research has stated that those most at risk include people with cardiovascular conditions, respiratory conditions, disabilities, chronic health or a terminal condition such as stroke or cancer; young or dependant children; pregnant

women; those on a low income; and older people aged 65-plus. There is also increasing evidence to show that children who live in cold homes are more than twice as likely to suffer from a variety of respiratory problems than those who live in warm homes. Exposure to cold can also increase the level of minor illnesses, such as cold and flu, and aggravate existing conditions, such as arthritis and rheumatism.

Poverty and, in this case, fuel poverty can affect the enjoyment of several human rights protections, including the rights to life, freedom from inhuman and degrading treatment, adequate housing, food and health. Those protections are found in international, regional and domestic legal instruments, such as the European Convention on Human Rights. The right to an adequate standard of living is a human right guaranteed by article 11 of the International Covenant on Economic, Social and Cultural Rights. It includes the right to adequate housing. In order for that right to be fulfilled, housing must protect inhabitants from rain, damp and cold.

As noted in the preamble of the Paris agreement:

> *"Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations".*

While it is essential to reduce greenhouse gas emissions through environmental initiatives, consideration should be given to not burdening low-income families with the cost of financing developments. From a human rights perspective, the cost of climate change initiatives should not exacerbate poverty levels for the most vulnerable in our society. Therefore, in the context of the Bill as introduced, the cost of such an initiative should be considered when balancing human rights obligations.

Thank you. I hand you back to Aidan.

Mr Stennett: Thanks, Orla. That is it from us. We are happy to open it up to questions.

The Chairperson (Dr Archibald): Great. Thanks for the research paper, which has really useful scrutiny points. John has some homework to do in responding to some of those, and the Department will have to respond to some of them as well.

I have a couple questions. On your point about how to define market share and connections versus consumption, are there any examples? You referred to one of the British schemes in your remarks, Aidan. Is there any best practice elsewhere that we can draw on when looking at that point?

Mr Stennett: I believe that the GB scheme — the smart export guarantee — is based on customer numbers. I have not looked at other schemes to establish whether there is best practice, but the Committee may wish to tease that out with other witnesses. I can look into those schemes, if the Committee would like me to do that.

The Chairperson (Dr Archibald): OK. We can explore that, as you suggest, with the other people who will be giving evidence. It might be useful in informing the discussion if you look at it for us as well.

Mr Stennett: No problem.

The Chairperson (Dr Archibald): That is helpful.

On Orla's point about the interaction with various human rights obligations, the Bill would sit alongside many other measures. In advance of your joining us this morning, we had some discussion with Power NI about the expected energy strategy. Energy efficiency is a particular area that will need attention to tackle fuel poverty. We see the Bill sitting alongside a lot of that work. It will be for us to consider and get some views on those points as well. Is there anything that you want to add to that, Orla?

Dr Drummond: No, that is fine; thank you.

The Chairperson (Dr Archibald): I have written words down here, but I cannot remember what they refer to. *[Laughter.]* Does anyone have any further questions? John, do you want to come in?

Mr O'Dowd: Thank you, Aidan and Orla, for a very comprehensive document and a very good analysis of it in your presentation.

One comment that I will make is that the research flows between the Bill and what might be in a scheme. The Committee's purpose today and in scrutinising the Bill is to scrutinise the Bill. Apart from a number of stipulations on what should be in the scheme, the Bill is framework legislation that instructs the Department to bring forward a scheme. That scheme would have to be scrutinised and decided on by a future Committee and Assembly.

Of course, it is worthwhile for the Committee and other legislators to look at what might be in a future scheme; that is fair enough. However, beyond what is in the Bill, I have not stipulated what should be in a scheme or even, indeed, whether there should be a financial incentive, which would possibly place a further burden on consumers. A significant piece of work needs to be done on how such schemes are supported in future. We are dealing with private companies that are in a very lucrative market. The question of whether they should receive such substantial public funding to bring forward green energy needs very close scrutiny. The automatic assumption — I am not directing this at you — that the consumer is burdened with that cost does not rest easy with me. I am fully cognisant of the points that Orla made on human rights and equality obligations. Given the entire debate about climate change and a just transition, the burden should not fall on those who can least afford it.

Aidan, you mentioned schemes in Britain, and, without putting words in your mouth, the market sets the pricing. What is different there from what is happening here? We have just heard from Power NI that, through the Utility Regulator, it sets a price for microgenerated electricity. The Power NI representatives told us that there is "active competition" between Power NI and the other providers. What is the difference?

Mr Stennett: On the face of it, there does not seem to be that much difference in terms of outcomes, except for the fact that there are certain rules that stipulate that, if you meet certain conditions, you have to participate in the scheme; you have to offer a tariff, which the supplier can decide on but cannot be zero. Beyond the suppliers being obliged to participate if they reach a certain level of customer numbers, the ultimate outcome is similar.

Mr O'Dowd: I know that you are quoting the policy, but I do not think that anybody will sell their electricity for zero. It is strange terminology in the policy.

"Active competition" here, in the absence of this legislation, means that Power NI has 1% of its electricity provided by green microgenerators. Has the policy in Britain meant an active increase in that?

Mr Stennett: It is relatively new; I believe that it was introduced this year. It supports small-scale renewable electricity generation, so it includes microgeneration and slightly larger generation. I guess that it is too early to tell what impact it has had, but, if the Committee wishes, I will explore that in more detail.

Mr O'Dowd: Finally, I note your comments about the Bill's prescription of the Utility Regulator, which, as sponsor of the Bill, I will have to change. There are many elements of your paper that I will have to study in great detail, and, no doubt, the Committee will do the same. It is a very comprehensive and very useful document, so thank you very much.

The Chairperson (Dr Archibald): Thanks for that. The points that I had noted down relate to the length of contracts. You give a couple of examples in the paper; they are 20 years or until 2037. When you were putting the paper together, did you look at any examples of schemes that have shorter time frames?

Mr Stennett: I did not go into that in any depth, Chair. The scheme that previously existed here, the NIRO, was for 20 years. The GB's previous scheme, the feed-in tariff, was for 20 years. Its replacement — the smart export guarantee that we have been talking about — allows the supplier to determine the length of contract, so I guess that that could be shorter or longer. I have already said that I will look at how market share is measured elsewhere. I could also look in more depth at the length of contracts in other schemes.

The Chairperson (Dr Archibald): It would be helpful if you could do that to give us information on whether a further definition is needed in the Bill. That might be for a later date when the schemes that

will come afterwards are being developed. I know that John has included in the Bill an escape clause; I do not know if that is the right terminology, John. There may be scope in the Bill to also include a time frame for how long it might last.

The points on state aid are useful to us, because that was raised as a concern. The thresholds are quite high, but I assume that you would look at aid in its collective sense to a particular entity, so there could be some interaction with other state support. Is that correct? The Clerk is nodding at me.

The Committee Clerk: Yes. We have talked about cooperatives and the social economy getting together: that would also come into play. New issues would be brought in by that.

The Chairperson (Dr Archibald): We will look at that in a wee bit more detail.

On the European internal electricity market, the Utility Regulator has also made the point to us on a few occasions about prices being largely driven by the market and that we are one of the few places where prices are regulated anyway. It is useful to have that information.

Mr K Buchanan: I have one question that could turn into two. Aidan, your little graph gives a figure of 3·8%. You explained that to a degree. Am I reading it right that 2·5% is exported, but, theoretically, 1·3% is used on the premises and that is what gives you the 3·8%?

Mr Stennett: That is correct. It is important to point out that that is 3·8% of the renewable energy that we generate rather than 3·8% of the electricity that we consume. Microgeneration and the other category is 1·7% of the electricity that we consume. It is really just a matter of how we choose to measure it as a proportion of the bigger pot.

Mr K Buchanan: The sponsor's Bill has a 5% target. If you look at that graph, you would assume that we are sitting at 2·5%. Am I reading that right?

Mr Stennett: No, I would look at the previous graph where it is 1·1%. The 2·5% is 2·5% of our renewable electricity generation. The 1·1% is 1·1% of the electricity that we consume, which is closer to the electricity supplied by major electricity providers. That is the target in the Bill.

Mr K Buchanan: OK. Thanks. I just had one question, and it turned into one.

Mr Nesbitt: My question is on that theme. It is maybe more for you, John. Your Bill sets:

> *"targets for major ... providers to have a specified percentage of their electricity supply sourced from micro".*

Does that include what is used domestically? You generate: some of it goes into the grid, but some of it never makes it to the grid. Do you add the two lumps together?

Mr O'Dowd: Mike, I was working on the basis that 3·8% was exported, but, in light of the information that we are getting now, that is clearly not the case. Looking at it today, I think that the 5% target looks ambitious. As I said earlier, as the sponsor of the Bill, I will have to look at that target to see not only what is achievable but what meets the Bill's principle of increasing green microgeneration of electricity and exporting it to the grid. However, the 5% target looks unachievable in the time frame that has been set.

Mr Nesbitt: Yes. If it is generated domestically and used domestically, would that be part of the target?

Mr O'Dowd: Yes.

Mr Nesbitt: That is what I was seeking clarification on. Thank you.

Mr O'Dowd: It is electricity that is being used that is generated from green sources, whether it is the producers using it or it is sent to the grid.

Mr Nesbitt: OK. So, it does not have to go to the grid.

Mr O'Dowd: Yes.

The Chairperson (Dr Archibald): OK. No other member wants to ask a question. Thanks, Aidan and Orla. Sorry for giving you more work. *[Laughter.]*

Mr Stennett: No problem, Chair. Thank you.

The Chairperson (Dr Archibald): Thank you.

Mr O'Dowd: Thank you.