Press release

Government approves publication of legislation to address windfalls in the energy sector

From Department of the Environment, Climate and Communications (/en/organisation/department-of-the-environment-climate-and-communications/)
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The Minister for the Environment, Climate and Communications, Eamon Ryan, today announced the publication of the Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Bill 2023. (https://www.oireachtas.ie/en/bills/bill/2023/51/)

This Bill provides for a temporary solidarity contribution on windfall gains made in 2022 and 2023 by the fossil fuel production and refining sector as a result of the war in Ukraine.

The estimated proceeds from the temporary solidarity contribution are in the range €200 million to €450 million. These proceeds can be used towards financial supports to households and businesses affected by high energy prices and may also be used to support investment in areas such as renewable energy. Government will determine how best to distribute these proceeds later this year as part of the Budgetary process.

Minister Ryan stated:

> "This Bill is welcomed as it will collect significant proceeds that can be used to ease the impact of high energy prices on vulnerable energy consumers."

The Minister has also announced his intention to bring the Energy (Windfall Gains in the Energy Sector) (Cap on Market Revenues) Bill 2023 to Government in July 2023. This Bill will pass through the Houses of the Oireachtas when the Dáil resumes after the summer recess.

The Energy (Windfall Gains in the Energy Sector) (Cap on Market Revenues) Bill 2023 will introduce a cap on market revenues of specific technologies in the electricity sector. The proceeds from the cap on market revenues will be retained and used in the electricity sector to lower prices for consumers.

The timelines for companies required to make formal declarations and payments to the Commission for Regulation of Utilities (CRU) will be adjusted in accordance with the enactment of this Bill later this year. Adjusted provisional dates are:

- 30 November 2023 deadline for submission of formal declaration
- 31 December 2023 deadline for payment

The temporary solidarity contribution is calculated on a portion of a company's taxable profits which are more than 20% higher than a baseline and is applied at a rate of 75%.

This will lead to an effective rate of 0% for windfall gains of up to 20%, an effective rate of 50% for windfall gains of 60%* and an effective rate of 60% for windfall gains of 100% (that is, where profits have doubled). The baseline will be the average taxable profits for the company for the period 2018 to 2021.

*(60% minus 20% baseline = 40% eligible for contribution at rate of 75%; that is, 30%).

Notes

The war in Ukraine has led to significant increases in wholesale natural gas prices. As a result, consumers are paying higher prices for gas and electricity. High wholesale gas prices have also led to windfall gains for some entities in the fossil fuel production and refining sectors, and in the electricity sector.

Council Regulation (EU) 2022/1854 (https://eur-lex.europa.eu/eli/reg/2022/1854) on an emergency intervention to address high energy prices, which came into force in October 2022, seeks to address the issue of windfall gains by collecting and redistributing proceeds from these gains:

- a temporary solidarity contribution based on taxable profits for fossil fuel companies
- a cap on market revenues of specific technologies in the electricity sector

The level of proceeds to be raised by the temporary solidarity contribution and the cap on market revenues is currently estimated to range from circa €280 million to circa €600 million; circa €200 million to circa €450 million from the temporary solidarity contribution and circa €80 million to circa €150 million from the market cap. These figures are lower than estimates in 2022 due to the significant reduction in futures prices. Revised estimates continue to remain highly sensitive to wholesale gas prices which can be driven by weather, gas storage levels, developments of the war in Ukraine, and so on.

A General Scheme - Energy (Windfall Gains in the Energy Sector) Bill 2023 (/en/publication/c923c-draft-general-scheme-energy-windfall-gains-in-the-energy-sector-bill-2023/) was developed by the Department of the Environment, Climate and Communications following consultation with relevant departments, agencies and stakeholders. It seeks to ensure collection of windfall gains while minimising the impact on energy markets, security of energy supply and future investments.

The General Scheme underwent Pre-legislative Scrutiny in April and May 2023. On 18 May 2023 the Joint Committee on Environment and Climate Action published a Report on the Pre-Legislative Scrutiny of the General Scheme of the Bill. (https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_environment_and_climate_action/reports/2023/2023-05-18_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-energy-windfall-gains-in-the-energy-sector-bill-2023_en.pdf)

On 22 November 2022, the government announced measures to address windfall gains in the energy sector through the implementation of Council Regulation (EU) 2022/1854. (/en/press-release/74f14-minister-ryan-announces-measures-to-address-windfall-gains-in-the-energy-sector/) The measures were temporary solidarity contribution on fossil fuel production and refining and cap on market revenues on certain electricity generators.

The temporary solidarity contribution will:

- apply to fossil fuel production and refining
- apply for 2022 and 2023
- be based on 75% of taxable profits which are more that 20% above the baseline of taxable profits for the period 2018-2021
- not include losses from previous years when being calculated
- be administered by the Revenue Commissioners

The effective rates of the temporary solidarity contribution based on the share of additional profits will be as follows:

- if profits increased by 20%, 0% would be collected and so the effective rate would be 0%
- if profits increased by 40%, 15% would be collected and so the effective rate would be 37.5%
- if profits increased by 60%, 30% would be collected and so the effective rate would be 50%
- if profits increased by 80%, 45% would be collected and so the effective rate would be 56.3%
- if profits increased by 100%, 60% would be collected and so the effective rate would be 60%

The cap on market revenues will:

- be introduced for non-gas generators in the wholesale electricity market
- apply to all market revenues of relevant generators
- apply only to facilities with a capacity of 1MW or more
- include a cap of €120 per MWh for wind and solar

- not apply to wind or solar energy projects which make difference payments to the Public Service Obligation for surplus revenues above the relevant auction strike price under the Renewable Electricity Support Scheme as these revenues are already capped
- include a cap of at least €180 per MWh for oil-fired and coal-fired generation that is high enough to the collect windfall gains while ensuring this generation continues to operate and provide security of supply
- include a cap of €180 per MWh for all other technologies
- be administered by the Commission for Regulation of Utilities

Electricity Demand Consumption

Council Regulation (EU) 2022/1854 also sets out two obligations on Member States to achieve reductions in electricity demand consumption.

The two obligations are as follows:

1. To endeavour to reduce overall electricity consumption in the period November 2022 to March 2023 by 10% (compared to the average of the previous five years over the same period); and

2. To reduce peak electricity consumption in the period December 2022 to March 2023 by 5% (compared to projected consumption)

A report on Electricity Demand Reduction (/en/publication/99ea7-electricity-demand-reduction-measures/) required has been published by this department.

Decision to split the bill

The decision was taken to divide the proposed Windfall Gains Bill into two separate Bills to ensure that the collection of the Temporary Solidarity Contribution (TSC) from the fossil fuel production and refining sector could proceed faster, before the summer recess.

The division means that Energy (Windfall Gains in the Energy Sector) Bill 2023 is split into two separate Bills:

- Temporary Solidarity Contribution
- Cap on Market Revenues

This is a complex Bill, and the division is largely a technical issue only. The decision to split the Bill into two parts will not affect the revenue due to the exchequer.

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