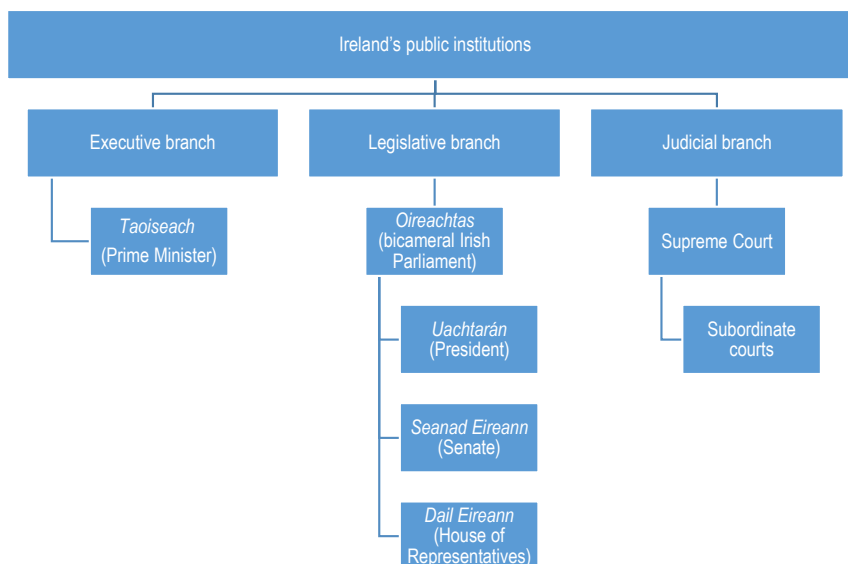


1 Regulatory and sector context

This chapter provides an overview of Ireland's public institutions and describes the main features of the regulatory framework that determines the functions of Ireland's Environmental Protection Agency (EPA).

Ireland is a parliamentary republic with a bicameral parliament, an executive branch headed by a prime minister and a directly elected president (Figure 1.1). Ireland has 31 municipalities, comprising 26 county councils, three city councils, and two city and county councils (OECD, 2016^[1]).

Figure 1.1. Ireland's public institutions



Source: Author's elaboration.

Environmental policy and regulations in Ireland

The majority of environmental policy in Ireland is led primarily by the Department for Communications, Climate Action and Environment, in conjunction with the Department for Housing, Planning and Local Government that has responsibility for water. Ireland's environmental policy is also significantly shaped by its membership of the European Union (Department of Communications, Climate Action and Environment, 2019^[2]). The following section describes the main features of the areas where the EPA has responsibilities for environmental protection.

Integrated pollution and industrial activities licensing

The Environmental Protection Agency Act of 1992 (as amended) governs EPA's licensing activities and creates an obligation to regulate certain activities through an integrated pollution control licence. The EPA licence covers emissions to air, water and land from a facility as well as its environmental management (Environmental Protection Agency, n.d.^[3]). Among other requirements, an applicant must demonstrate and the Agency must be satisfied that the emissions from the activity will not cause significant environmental pollution in order to receive a licence. The activities within the scope of licensing are listed in the First Schedule to the Environmental Protection Agency Act (as amended) and the Third and Fourth Schedules of the Waste Management Act 1996 (as amended) ((n.a.), 1992^[4]; (n.a.), 1996^[5]).

The 2003 Protection of the Environment Act aligned the licensing regimes with the requirements in the EU Directive on Integrated Pollution Prevention and Control (Council Directive 96/61/EC), broadening the range of activities covered under the permitting regime. The 2003 Act strengthened the requirement that activities must meet the standard of the Best Available Technology (BAT) (OECD, 2010^[6]). The Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations of 2013 present additional regulations within the meaning of Part IV of the amended Act of 1992 that established the Integrated Pollution Control licensing regime ((n.a.), 2013^[7]).

The EPA is also the competent authority for regulations under the Industrial Emission Directive 2010/75/EU. The Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations of 2013 impose a licensing requirement and additional rules upon industrial activities (Department of Communications, Climate Action and Environment, n.d.^[8]; (n.a.), 2013^[9]; (n.a.), 1992^[4]).

Water

The Water Framework Directive 2000/60/EC defines the overarching arrangements governing water quality in EU Member States, setting the objective of attaining non-deterioration of water status and good status for all EU waters ((n.a.), 2000^[10]). Its daughter directives – the Groundwater Directive (2006/118/EC) and the Environmental Quality Standards Directive (2008/105/EC) – contain measures to limit groundwater pollution and establish standards for certain pollutants in surface water (European Environment Agency, n.d.^[11]). Ireland transposed the Directive within its Water Policy Regulations (S.I. No. 722 of 2003), Surface Waters Regulations (S.I. No. 272 of 2009) and Groundwater Regulations (S.I. No. 9 of 2010).

The European Union (Water Policy) Regulations 2014 marked a reform of water governance in Ireland, shifting the implementation approach for the Water Framework Directive. The 2014 Regulations established a Water Policy Advisory Committee to advise the Minister for the Environment, Community and Local Government on certain aspects of water policy and promote activities to support the implementation of the Water Framework Directive. It transferred certain local authority duties to the EPA and the Minister for the Environment, Community and Local Government (now the Minister for Housing, Planning and Local Government) ((n.a.), 2014^[12]). The National River Basin Management Plan 2018-2021 is based on the integrated catchment management approach and embeds these reforms in the implementation structures and roles (Department of Housing, Planning and Local Government, 2018^[13]).

A suite of European Directives provide the backdrop for regulation of Ireland's water and wastewater sector in tandem with the Water Framework Directive, including the Urban Waste Water Treatment Directive (91/271/EEC) and the Drinking Water Directive (98/83/EC). The Urban Waste Water Treatment Directive defines standards for the collection, treatment and disposal of wastewater and establishes monitoring requirements for discharges from urban areas (European Environment Agency, 2018^[14]). The Drinking Water Directive establishes drinking water quality standards for 48 microbiological, chemical and indicator parameters (European Commission, 2018^[15]). Together, the three directives form the backbone of Europe's water policy.

Recent years have seen significant changes in the structure and legal framework of the Irish water and wastewater sector. The Water Services Act 2013 established a new national water utility, Irish Water, that unified the water and wastewater services of 31 local authorities under one provider (Irish Water, n.d.^[16]). In parallel, the Commission for Regulation of Utilities (then the Commission for Energy Regulation) became the economic regulator of the public water and wastewater sector (OECD, 2018^[17]). The Drinking Water Regulations (S.I. No. 122 of 2014) as amended give EPA supervisory powers over public water supplies (Environmental Protection Agency, n.d.^[18]). EPA provides authorisation for wastewater discharges from Water Services Authorities, satisfying provisions in a number of EU Directives on discharge of hazardous substances and wastewater pollution reduction (Environmental Protection Agency, n.d.^[19]).

In 2018, the Irish Government released a water services policy statement expressing expectations for the delivery and development of water and wastewater services through 2025. This plan, which fulfils a statutory obligation under the Water Services Act 2017 (amending the Water Services Acts 2007, 2013 and 2014), serves as the scaffolding within which Irish Water's funding and investment plans will be developed and informs the regulation of the company. In addition, it guides the development of rural water services alongside a review of these services that started in April 2018 (Department of Housing, Planning and Local Government, 2018^[13]).

Waste

The Waste Framework Directive (Directive 2008/98/EC) sets the overarching framework for European waste policy. The Waste Framework Directive establishes rules for waste management in EU Member States based on the principles of waste hierarchy, polluter pays and extended producer responsibility (European Commission, 2016^[20]). The Irish Waste Management Act 1996 and the European Communities (Waste Directive) Regulations 2011 implement the provisions of the Directive on a national level (Department of the Environment, Community and Local Government, 2012^[21]). Several additional EU Directives influence Ireland's waste policy, including the Packaging Directive (94/62/EC); Waste Electrical and Electronic Equipment (WEEE) Directive (2002/96/EC); Restriction of Hazardous Substances in WEEE Directive (2002/95/EC); End of Life Vehicles (ELV) Directive (2000/53/EC); Batteries Directive (2006/66/EC); and Landfill Directive (1999/31/EC) (Department of the Environment, Community and Local Government, 2012^[21]).

The government has presented its waste management policy in a set of four policy documents produced since 1998, with the current policy “*A Resource Opportunity*” launched in 2012. The policy outlines measures to further progress towards becoming a “recycling society”, focusing on resource efficiency and reduction of landfill disposal of municipal waste (Department of the Environment, Community and Local Government, 2012^[21]). In 2016, responsibility for waste management policy shifted to the Department of Communications, Climate Action and Environment (Citizens Information, 2016^[22]). Ireland's National Waste Prevention Programme, delivered by the EPA and overseen by the National Waste Prevention Committee, provides guidance and support for businesses, households and the public sector to become more resource efficient (Department of Communications, Climate Action and Environment, n.d.^[23]). Policies and programmes on the national level guide the waste management actions of local and regional bodies.

The responsibility for waste management planning falls to local authorities under Part II of the Waste Management Act, 1996. A regional waste management plan is produced for three regions – Connacht-Ulster, Southern and Eastern-Midlands (Environmental Protection Agency, n.d.^[24]). The creation of three Waste Enforcement Regional Lead Authorities (WERLAs) in 2015 marked another significant step towards the regionalisation of Ireland's approach to waste enforcement. Cork County Council, Dublin City Council and the combined Leitrim and Donegal Council Councils serve as the three WERLAs, one for each of the regions covered under the regional waste management plans. WERLAs co-ordinate enforcement and establish common objectives and priorities, while local authorities maintain a “first responder” role for waste violations (Department of Communications, Climate Action and Environment, n.d.^[25]).

Dumping at sea is regulated under a separate regime. The Dumping at Sea Acts 1996 to 2012 execute requirements on ocean dumping in the London Convention 1972 and the OSPAR Convention 1992 (Environmental Protection Agency, 2012^[26]). Amendments in 2010 to the Dumping at Sea Act 1996 gave EPA the function of issuing Dumping at Sea Permits (Environmental Protection Agency, n.d.^[27]). Sea disposal of dredged material and inert material of natural origin requires a permit (Environmental Protection Agency, 2012^[26]).

Air

Ireland is currently developing its first National Clean Air Strategy, which will create a framework to facilitate cross-government policies for clean air (Department of Communications, Climate Action and Environment, 2017^[28]). The strategy is a response to several recent developments, including revised World Health Organization estimates of public health risks from air pollution and EU Clean Air Package legislation finalised in recent years. The strategy will be developed against an evolving background of EU and national legislation.

A range of EU Directives aim to reduce emissions and improve ambient air quality, driven by the Clean Air Policy Package and its objectives within the Clean Air for Europe (CAFE) Programme (European Commission, 2019^[29]). The Ambient Air Quality Directive, its daughter directives and the National Emission Ceilings Directives provide the framework for EU air policy (European Commission, 2019^[29]). The Ambient Air Quality Directive (2008/50/EC) replaced the Air Quality Framework Directive and three of its daughter directives. The fourth daughter directive to the Ambient Air Quality Directive remains in force. Together, these directives set legally-binding limits for concentrations of priority pollutants in the ambient air (Department of Communications, Climate Action and Environment, 2017^[28]). The National Emissions Ceiling Directive (Directive 2016/2284/EU) commits member nations to reductions of five pollutants by 2030: sulphur dioxide, nitrogen oxides, volatile organic compounds, ammonia and fine particulate matter. Alongside these directives, EU product standards and sector-specific pollution control measures have also played a role in emissions reduction.

In Ireland, the Air Pollution Act 1987 serves as a foundation for later national legislation on air pollution. As amended, the Act assigns authorities the responsibility to regulate emissions of pollutants from certain sources – local authorities regulate small sources while the EPA regulates larger sources. Subsequent regulations have served to transpose requirements from EU directives into national law. Ireland transposed the CAFE directive in their Air Quality Standards Regulations 2011 (S.I. No. 180 of 2011). Ireland transposed the fourth daughter directive in the Arsenic, Cadmium, Mercury, Nickel and Polycyclic Aromatic Hydrocarbons in Ambient Air Regulations 2009 (S.I. No. 58 of 2009) (Environmental Protection Agency, n.d.^[30]). Ireland’s European Union (National Emission Ceilings) Regulations 2018 (S.I. No. 232 of 2018) transpose the requirements under the National Emissions Ceiling Directive. Under these regulations, EPA must prepare an annual inventory and projections of emissions of the five pollutants. EPA issues VOC permits under Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from the storage of petrol and its distribution) Regulations, 1997 (S.I. No. 374 of 1997) (Environmental Protection Agency, n.d.^[31]).

European and national legislation provide a framework for the monitoring and control of ozone-depleting substances for Ireland, a party to the Montreal Protocol since 1988 ((n.a.), 2019^[32]). Following the European Regulation on Substances that Deplete the Ozone Layer (Regulation (EC) No. 2037/2000), Ireland’s Control of Substances that Deplete the Ozone Layer Regulations 2006 (S.I. No. 281 of 2006) introduced regulations to control ozone-depleting substances. The EPA is the competent authority under this regulation, and it has responsibilities that include receiving licenses, export authorisations, and reports as well as conducting investigations and random checks on imports of controlled substances ((n.a.), 2006^[33]). The EU Ozone Regulation (Regulation (EC) No 1005/2009) increases ambition by, for example, prohibiting the use of certain substances (European Commission, n.d.^[34]). This regulation was followed in Ireland by the Control of Substances that Deplete the Ozone Layer Regulations 2011 (S.I. No. 465 of 2011) (Environmental Protection Agency, 2011^[35]).

With the global phase-out of ozone-depleting substances catalysed by the Montreal Protocol, the use of fluorinated gases as replacements has increased. While not ozone-depleting substances, these gases have a significant global warming potential. The European Regulation on fluorinated greenhouse gases (Regulation (EU) No. 517/2014) imposed new measures to reduce fluorinated gases by phasing-down allowed sales of HFCs in the EU market and banning fluorinated gases with high global warming potential ((n.a.), 2014^[36]). Ireland’s own European Union (Fluorinated Greenhouse Gas) Regulations 2016 (S.I. No. 658 of 2016) designate the EPA as the competent authority ((n.a.), 2016^[37]).

Climate change and emissions trading

In 2016, Ireland convened a Citizens’ Assembly, a randomly-selected but representative group of citizens, to deliberate on a range of issues including climate change. One of the questions considered by the assembly was “how can the state make Ireland a leader in tackling climate change?” (The Citizens’

Assembly, 2017^[38]). The assembly resulted in a final report and a series of recommendations, providing a strong foundation for the government's Climate Action Plan, released in June 2019 (Government of Ireland, 2019^[39]). The Climate Action Plan charts a course towards decarbonisation through measures such as instituting carbon-proofing policies, establishing carbon budgets, strengthening the Climate Change Advisory Council and increasing accountability to the Oireachtas (Department of Communications, Climate Action and Environment, 2019^[2]).

The Climate Action Plan includes Ireland's target to achieve net-zero emissions by 2050 (Government of Ireland, 2019^[39]). This goal builds upon the statutory basis provided in the Climate Action and Low Carbon Development Act 2015 (Department of Communications, Climate Action and Environment, n.d.^[40]). Intermediate targets support this longer-term goal. The EU's nationally determined contribution (NDC) under the Paris Agreement is to reduce greenhouse gas emissions by at least 40% by 2030 compared to 1990. The target will be delivered collectively by the EU with reductions in the Emissions Trading Scheme (ETS) and non-ETS sectors amounting to 43% and 30% by 2030 compared to 2005 respectively.

In relation to the ETS, established in Directive 2003/87/EC and amendments, it is the cornerstone of the EU's approach to tackling climate change. It covers emissions from electricity generation and large industry. EPA is the competent authority for the implementation of the EU ETS in Ireland. One-hundred and one stationary installations are engaged in activities listed in Annex 1 of Directive 2003/87 and amendments in Ireland, and are regulated by Greenhouse Gas Emission Permits. In addition, fourteen aviation operators are also included in the ETS (Environmental Protection Agency, 2019^[41]).

There is a single, EU-wide cap on emissions under the EU ETS and an agreed limit to reduce greenhouse gas emissions by 21% compared with 2005. Under Phase IV, which will run from 2021-2030, the sectors covered by EU ETS must reduce their emissions by 43% by 2030 compared to 2005 levels. In relation to those sectors that fall outside the EU ETS - non-ETS sector emissions – Ireland has a binding target of 20% reduction for non-ETS sector emissions by 2020 established in the EU Effort Sharing Decision (compared to a 2005 baseline). The Effort Sharing Regulation translates the commitments made as part of the Paris Agreement into binding annual greenhouse gas emission targets for each Member State for the period 2021-2030. Under the Effort Sharing Regulations, Ireland has a greenhouse-gas reduction target of 30% emissions reduction between 2021 and 2030 (compared to a 2005 baseline) (Department of Communications, Climate Action and Environment, n.d.^[42]).

Radiation

The EU has established binding requirements for the use of ionising radiation in Member States in the Basic Safety Standards Directive. This Directive has been implemented in Ireland through the Ionising Radiation Regulations (S.I. No. 30 of 2019) which relate to workers and members of the public and the Medical Exposure Regulations (S.I. No. 256 of 2018) which cover patient protections.

EPA is the responsible authority for regulations to protect against occupational and public exposures while the Health Information and Quality Authority administer regulation relating to patient exposures. The EPA monitors radiation levels and assesses public exposure, helps create radiological emergency plans, follows international developments related to radiological and nuclear safety, and managing certain radiation protection services (Environmental Protection Agency, 2015^[43]).

New regulations on non-ionising radiation (NIR) were published in May 2019, giving additional functions to the EPA. Under the Radiological Protection Act 1991 (Non-Ionising Radiation) Order 2019 (S.I. No. 190 of 2019), the EPA has responsibility to provide advice to the Minister for Communications, Climate Action and Environment on public exposure to NIR fields, including advice on relevant standards; to provide general information to other Ministers of Government, local authorities and members of the public on public exposure to NIR; to monitor scientific, technological and other developments on matters pertaining to public exposure to NIR; and to monitor the public exposure to NIR to support the EPA advisory role.

Genetically modified organisms

The European Union's legal framework for GMOs introduces a safety assessment before GMOs can be placed on the market, harmonises procedures for risk assessment and authorisation, requires labelling of GMOs on the market, and imposes requirements to ensure the traceability of GMOs on the market (European Commission, n.d.^[44]). It is built upon the building blocks of (1) Directive 2001/18/EC on the deliberate release of GMOs into the environment, (2) Regulation (EC) 1829/2003 on genetically modified food and feed, (3) Regulation (EC) No. 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC, (4) Directive (EU) 2015/412 amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory, (5) Regulation (EC) 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms, (6) Directive (EU) 2018/350 amending Directive 2001/18/EC as regards the environmental risk assessment of genetically modified organisms (7) Directive 2009/41/EC on contained use of genetically modified micro-organisms and (8) Regulation (EC) 1946/2003 on transboundary movements of GMOs (European Commission, n.d.^[44]).

The requirements of these directives are reflected in Irish national legislation. The national legal framework for GMOs is based on the Genetically Modified Organisms (Deliberate Release) Regulations 2003 (S.I. No. 500 of 2003), the Genetically Modified (Contained Use) Regulations 2001-2010, and the Genetically Modified Organisms (Transboundary Movement) Regulations 2004 (S.I. No. 54 of 2004). EPA serves as the competent authority for the relevant Directives and national GMO regulations (Department of Communications, Climate Action and Environment, n.d.^[45]).

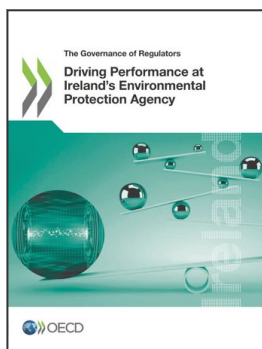
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