

## Ghana's Renewable Energy Sector: The New Local Content and Local Participation Law

### INTRODUCTION

The Republic of Ghana is endowed with a variety of natural resources including renewable energy resources. According to the Energy Ministry of Ghana, these renewable energy resources are however yet to be fully harnessed. What this implies is that, there are a myriad of business opportunities in Ghana's nascent renewable energy sector.

In 2011, the Renewable Energy Act, 2011 (Act 832) (REA) was enacted. The REA provides that a person cannot engage in a commercial activity in the renewable energy sector without a licence granted under the REA. The REA provides that such a licence may only be granted to:

- i. a citizen of Ghana
- ii. a body corporate registered under the Companies Act, 1963 (Act 179) or under any other law of Ghana or
- iii. a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152).

In order to minimise the common phenomenon associated with the discovery and exploitation of natural resources (the resource curse), Ghana has recently introduced the "Energy Commission "Local Content and Local Participation" (Electricity Supply Industry) Regulations, 2017 (L.I. 2354).

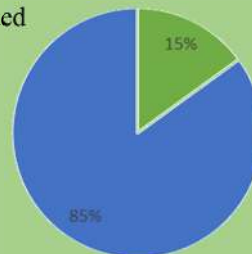
L.I. 2354 applies to all persons who engage in activities in the electricity supply industry in Ghana. Electricity supply includes electricity generated from renewable energy resources.

With respect to the renewable energy sector, L.I. 2354 broadly requires persons who engage in activities involving the supply of electricity from renewable energy resources to maximise the use of financial capital, expertise, goods and services sourced locally in Ghana.

### WHAT YOU NEED TO KNOW

In the author's view, the provisions of the REA imply that foreign companies seeking to do business in the renewable energy sector in Ghana, can only do so through a company incorporated in Ghana under the Companies Act. This is because a company incorporated in Ghana is not a Ghanaian citizen and companies cannot be registered under the Incorporated Private Partnership Act. Also, an individual who is a foreigner may however partner a Ghanaian citizen and register under the Incorporated Private Partnership Act to conduct business.

The initial minimum level of local participation required is 15% ownership which is expected to be increased to 51% in 10 years.



Persons engaged in commercial activity in the renewable energy sector are required to satisfy the minimum local content levels stated in L.I. 2354 including those in the table below. Depending on the nature of goods and services being provided, the minimum values in the table below must be undertaken by Ghanaians or indigenous Ghanaian Companies.

	Initial Level	Target Level
Engineering & Procurement	70%	100% in 10yrs
Construction Works & Installations	60%	80% in 3yrs and 90% in 6yrs
Post Construction Works Supplies	70%	100% in 10yrs
Services: catering, janitorial services & vehicle maintenance	100%	100% in 10yrs
Management	60%	90% in 5yrs
Operations and Maintenance Staff	70%	80% in 5yrs
All Other Staff	100%	
Operation and Maintenance Contract	50%	80% in 5yrs

Besides, persons engaged in commercial activity in the renewable energy sector are required to contract legal, financial, insurance, technical consultancy and ancillary services from indigenous Ghanaian Companies. An

Indigenous Ghanaian Company has been defined as a state-owned company or a company incorporated under the Companies Act that has at least 51% of its equity owned by a citizen of Ghana and has Ghanaian citizens holding at least 80% of executive and senior management positions.

L.I. 2354 also applies to all persons engaged in the supply of electricity from renewable energy resources prior to the coming into force of L.I. 2354. Such persons are required to register with the 'Electricity Supply Local Content and Local Participation Committee' within three months of the effective date of L.I. 2354 and satisfy the minimum local content and participation requirements within five years. Failure to comply with the requirements set out in L.I. 2354 constitute an offence and could result in a summary conviction to a fine, a term of imprisonment or both.

### CONCLUSION

Just like the upstream oil and gas sector in Ghana, the local content and local participation requirements in the renewable energy sector are here to stay. The challenges posed by L.I. 2354 are yet to be seen and experienced in the renewable energy sector. However, it would be worth mentioning that L.I. 2354 is an improvement of L.I. 2204 which applies to the upstream oil and gas industry. L.I. 2354 appears to navigate clear of some of the practical problems posed by the L.I.2204.

*The author's earlier article on local content in the upstream oil and gas industry can be found at:*

<https://ntrakwahandco.com/local-content-in-the-upstream-petroleum-industry-in-ghana/>



Author: Nana Yaw Ntrakwah  
Partner, Ntrakwah & Co.  
Litigation & Energy  
[www.ntrakwahandco.com](http://www.ntrakwahandco.com)