

Energy



**From:** Stuart Wightman

**Tel No:** 29425

**Date:** xx November 2015

**To:** 1. Timothy Cairns  
2. Jonathan Bell MLA

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## RENEWABLE HEAT INCENTIVE – FURTHER COST CONTROL LEGISLATION

<b>Issue:</b>	Cost controls for Northern Ireland Renewable Heat Incentive (RHI).
<b>Timing:</b>	Routine.
<b>Executive Committee Referral:</b>	N/A
<b>PFG Implications:</b>	The PSA targets for renewable heat are 4% by 2015 and 10% by 2020.
<b>Presentational Issues:</b>	Interest from key stakeholders and the media. There has been interest from the public in relation to the scheme.
<b>FOI Implications:</b>	Not discloseable on grounds of policy development.
<b>Financial Implications:</b>	Funding for the scheme payments is via Annually Managed Expenditure, (AME).
<b>Legislation Implications:</b>	Renewable Heat Regulations Amendment Regulations will be laid through draft affirmative resolution procedure under the powers conferred by section 113 of the Energy Act 2011.
<b>Statutory Equality Obligations:</b>	Equality screening shows that the proposed Regulations do not have a significant equality impact.
<b>Recommendation:</b>	That you: <ol style="list-style-type: none"> <li>a) Agree to proceed with legislation to provide for the required scheme changes;</li> <li>b) Issue the final policy paper, (<b>Annex A</b>);</li> <li>c) Issue the SL1 to the ETI Committee, (<b>Annex B</b>); and</li> </ol>

- d) Write to the DFP Minister using the draft provided, (**Annex C**).

## **Background**

1. In September 2015, you approved the final policy proposals for changes to the Northern Ireland Non Domestic RHI from 4 November 2015 subject to passage through the Assembly (SUB 1075/2015). The changes to the RHI provides for new Combined Heat and Power, (CHP) tariffs to coincide with changes to the ROC's regime, and also to introduce a tiered tariff cost control measure for small and medium biomass. These changes are being brought forward through amendment legislation currently in process.
2. The original DFP approval for the Non Domestic RHI was to 31 March 2015 after which time further approval should have been sought from DFP. Regrettably due to the focus on bringing in the domestic RHI this was overlooked and the Department has had to seek both retrospective approval from 1 April 2015, and prospective approval going forward.

## **Need for Further Cost Control Measures**

3. While funding for the Non Domestic RHI is provided directly from HMT, the scheme is subject to DFP approval and DETI's own internal governance controls. Prospective approval has now been received from DFP for scheme expenditure from 1 October 2015 through to 31 March 2016, (the retrospective approval from 1 April 2015 to 30 September 2015 is being addressed separately).
4. The DFP approval is to be welcomed. However under the current RHI legislation the Department will continue to be legally obliged to make payments to applicants who meet the scheme criteria after the 31 March 2016 regardless of any approval or otherwise from DFP. The proposed additional cost control measures will provide for temporary suspension/closure of both RHI schemes by notice, (probably 2 months) in the event that further Treasury funding and or DFP approval beyond 31 March 2016 is not secured.
5. The outcome of the spending review, (SR), on 25 November will determine the outcome on future RHI funding. Rumour has been rife that funding is due to be severely cut or even stopped but sources in DECC have indicated that these are merely rumours with no substance in fact. However, even in the event that future funding and approvals are secured the Department still needs the flexibility to react to any similar issues with the scheme in the future.
6. It is possible that the introduction of these additional cost controls could have a negative impact on the RHI by causing uncertainty and possibly deterring prospective applicants from applying. However, in general RHI projects don't have the long lead time such as required under NIRO so the proposed 2 months notice period should negate this issue. Another possibility is that the introduction of this provision could cause a spike in demand similar to what occurred when the earlier cost control changes for biomass were proposed and this situation will need to be carefully managed.

8. A copy of the final policy for the proposed change is attached at **Annex A** as is a copy of the SL1 for issue to the ETI Committee at **Annex B**. Given the uncertainty of future RHI funding it is recommended that you write to the Minister of Finance and Personnel asking her to engage with Treasury to seek clarity around the funding issue going forward. A draft letter is attached at **Annex C**.

**Recommendation**

- 10 That you:
  - a) Agree to proceed with legislation to provide for the required scheme changes;
  - b) Issue the final policy paper, (**Annex A**);
  - c) Issue the attached SL1 to the ETI Committee, (**Annex B**);
  - d) Write to the DFP Minister using the draft provided,(**Annex C**)

**Stuart Wightman**  
**Energy Division**  
**Ext. 29425**

cc: Andrew McCormick  
Chris Stewart  
John Mills  
Trevor Cooper  
Rob Robson  
Ian McCrea MLA APS  
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Department of Enterprise,  
Trade and Investment

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# **The Northern Ireland Renewable Heat Incentive**

**Final policy proposal on Cost Control**

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# Contents

Background

Final policy on Cost Control for the  
domestic and non-domestic RHI  
schemes

## Background

On 22 July 2013, DETI launched a public consultation on Phase 2 of the Northern Ireland Renewable Heat Incentive (RHI). These proposals included the following main elements:

- The introduction of the domestic RHI
- Cost control measures to manage future RHI expenditure
- Biomass sustainability and Emission control requirements
- Expansion of the non domestic RHI to include new tariffs and technologies

The consultation ran for 12 weeks and as part of the process, DETI held stakeholder events in Armagh, Belfast and Coleraine. These were attended by nearly 100 people and were useful in gauging opinions regarding the draft proposals. The consultation closed on 14 October 2013 and 50 responses were received, two of which offered no comment. All responses received are available on the DETI website.

The domestic scheme was introduced on 9 December 2014. DETI has also introduced some of the proposals set out in the consultation in relation to Combined Heat and Power, and to Cost Control measures relating specifically to non-domestic biomass installations.

This paper sets out a measure in relation to cost control which will enable the Department to suspend the operation of the RHI schemes in the event of a lack of funding. It also sets out the next steps in terms of implementation.

The remainder of the proposals consulted on are under consideration. Some of these proposals, including the introduction of support for new technologies, may be taken forward at a later date.

# 1. COST CONTROL

## ISSUE: COSTS CONTROL

### *Original Proposal*

- 1.1 The original DETI proposal was to introduce a number of annual trigger points that would provide forewarning to potential applicants that committed RHI expenditure was approaching the set budget limit. Depending on the level of in-year expenditure /application numbers, DETI would implement administrative measures to manage demand / applications numbers including ultimately closing both schemes to new applications until the following year.

### *Stakeholder Response*

- 1.2 Several responses were received on this issue. There was a concern expressed that a trigger method of budget management could be viewed as a disincentive and cause further uncertainty in the market. Comment was also made that confirmation was required that any suspension of the scheme would only apply to new applications and not existing accreditations. The need for good clear advance warning with guidance and parameters for any cost control measures was also emphasised.

### *Final Policy Proposal*

- 1.3 The Department has already taken forward a cost control measure aimed at mitigating the risk of breaching budgetary levels by introducing tiered tariffs and a cap on non-domestic biomass installations.
- 1.4 The Department now intends to make regulations which will introduce a further measure in relation to cost control. This measure will enable the Department to suspend the operation of either the non-domestic or domestic RHI scheme, or both, in the event of insufficient funding being made available to finance new applications to the scheme.
- 1.5 If this situation were to arise, the Department would publish a notice suspending the operation of the scheme(s) in relation to any

installation not accredited before a certain date. This date would be set out in the notice.

- 1.6 It should be noted that, in the event of a suspension notice being issued by the Department, applications that were already accredited before the date specified in the notice will not be affected by the notice.
- 1.7 The regulations will also enable the Department to revoke any suspension notice and resume operation of the scheme.

## SUMMARY OF KEY POINTS

- Provision will be made in the scheme legislation to enable DETI to suspend (and restart) the domestic and non-domestic RHI schemes in the event of inadequate budget being available to fund new accreditations.

Annex B



Mr Jim McManus  
ETI Committee Clerk  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
BELFAST  
BT4 3SW

XX November 2015

Dear Jim,

## **SL1 - THE RENEWABLE HEAT INCENTIVE SCHEMES (AMENDMENT NO. 2) REGULATIONS (NORTHERN IRELAND) 2015**

- 1.1 The Department of Enterprise, Trade and Investment (**the Department**) proposes to make a Statutory Rule under powers conferred by section 113 of the Energy Act 2011.
- 1.2 The Statutory Rule will be subject to affirmative resolution in the Assembly.

### **Purpose of the Statutory Rule**

- 2.1 The Northern Ireland Renewable Heat Incentive (RHI) was introduced on 1 November 2012, following the passage of the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012. This scheme provides long term incentive payments for new generators of eligible renewable heating in the non domestic sector.
- 2.2 The RHI scheme was extended to the domestic sector in December 2014 following passage of the Domestic Renewable Heat Incentive Scheme (Northern Ireland) 2014. This replaced the Renewable Heat Premium Payment Scheme which was introduced in May 2012 to provide interim financial support to domestic renewable heat customers.
- 2.3 The proposed Statutory Rule will enable DETI to suspend (and restart) the domestic and non-domestic RHI schemes in the event of inadequate budget being provided to fund new accreditations.

### **Consultation**

- 3.1 The Department consulted on Phase 2 proposals for the RHI from 22 July 2013 to 14 October 2013. Consultation seminars were held in Armagh,

Belfast and Coleraine. A total of 50 responses were received and the vast majority of respondents were supportive of the Phase 2 proposals which included:

- Introducing a Domestic RHI Scheme in place of the interim RHPP scheme;
- Introducing cost control measures to manage RHI expenditure and ensure future scheme affordability and value for money;
- Introducing biomass sustainability and emissions requirements; and
- Expanding the non-domestic scheme to include a number of new tariffs and technologies (including CHP).

3.2 The Domestic RHI scheme was introduced in December 2014. We have taken account of the consultation feedback and prepared a final policy paper on cost control measures for the RHI schemes. The remainder of the proposals consulted on are still under consideration. Some of these proposals, including the introduction of support for new technologies, may be taken forward separately at a later date. The attached final paper (**Annex A**) will be published on the DETI website.

### **Position in Great Britain (if appropriate)**

4.1 DECC legislated for an incentive scheme in the Energy Act 2008 and laid the Renewable Heat Incentive Scheme Regulations 2011 before Parliament in November 2011. Again in April 2014 following Parliamentary agreement, the scheme was extended to the domestic sector through the Domestic Renewable Heat Incentive Scheme 2014. DECC have already introduced a system of tariff digression for both GB RHI schemes.

### **Equality Impact**

5.1 In accordance with the requirements of Section 75 of the Northern Ireland Act 1998, a screening exercise has established that the proposed Regulations do not have any implications for equality of opportunity, and are instead engineered to promote equality of opportunity.

### **Regulatory Impact**

6.1 The Regulatory Impact Assessment, (RIA), completed and signed off for the Renewable Heat Incentive in April 2012 covers this phase 2 extension of new technologies and tariffs. The Regulations will support the implementation of the Renewable Energy Directive 2009/28/EC (RED) which requires the UK to ensure that 15% of its energy consumption comes from renewable sources including electricity, heating and cooling and transport.

6.2 The Department's preferred and previously agreed option is a specifically tailored NI RHI scheme. This has been determined as the most appropriate method of providing long term support to the local industry, with tariffs developed specifically for the Northern Ireland heat market which will utilise

available funding most efficiently. The Department also anticipates that there will be secondary benefits to the development of the renewable heat market other than increased renewable uptake. These associated benefits include a reduction in CO<sup>2</sup> emissions as fossil fuels are displaced, an increase in fuel security as Northern Ireland's dependence on imported fuel reduces and growth for "green jobs" as companies benefit from the opportunities presented by renewable heat.

- 6.3 As the funding for the RHI scheme will come from direct Government expenditure there will be no impact on Northern Ireland consumers' energy bills.

### **Scheme Performance**

- 7.1 Both RHI schemes are demand led and difficult to predict future uptake / spend. Up until late last year, uptake of the RHPP and RHI schemes had been low and the AME allocations were not spent. The Department's focus over the past 12-18 months has therefore been on improving the performance of the RHI to achieve our PfG target and address these under spends. This included introducing the Domestic RHI Scheme in December 2014 and completing an extensive advertising campaign to promote both schemes.
- 7.2 Despite the drop in oil prices (making the RHI tariffs less attractive), uptake of the non domestic scheme has increased significantly over the last 12-18 months with total non-domestic applications increasing from 200 to 1600 during this period. The Department now expects to exceed the PfG 2015 target of achieving 4% renewable heat.

### **Financial Implications**

- 8.1 This recent success however has put pressure on the NI RHI budget and we now need to implement cost control measures to manage future RHI expenditure. The proposed Statutory Rule will enable DETI to suspend (and restart) the domestic and non-domestic RHI schemes in the event of inadequate budget being provided to fund new accreditations.

### **EU Implications**

- 9.1 The Renewable Energy Directive requires the UK to ensure that 15% of its energy consumption comes from renewable sources. The requirement extends beyond electricity to heating and cooling and transport. Almost half of the final energy consumed in the UK is in the form of heat, producing around half of the UK's CO<sub>2</sub>.
- 9.2 The requirement to meet the very challenging 15% renewable energy target falls at Member State level, not at Devolved Administration level. However, while energy is a devolved matter for Northern Ireland, each devolved administration is expected to contribute as much as possible to the overall UK target.

**Section 24 of the Northern Ireland Act 1998**

10.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the proposed Rule does not contravene the Act.

**Section 75 of the Northern Ireland Act 1998**

11.1 The Department had considered section 75 of the Northern Ireland Act 1998 and is satisfied that the proposed Regulations will have no negative implications or possible infractions under Section 75.

**Operational Date**

12.1 It is proposed that the rule will come into operation on [DATE].

12.2 I would be grateful if you would bring this matter to the attention of the Enterprise, Trade and Investment Departmental Committee.

Yours sincerely

**STUART WIGHTMAN**  
Head of Energy Efficiency Branch  
Energy Division

cc Human Rights Commission  
Legislative Programme Secretariat

## Annex C

Arlene Foster, MLA  
Minister for Finance and Personnel

Xx November 2015

Dear

### **BUDGET ALLOCATION - NORTHERN IRELAND RENEWABLE HEAT INCENTIVE (RHI)**

I am writing firstly to offer my thanks to your officials who have been able to turnaround approval for the Non Domestic RHI business case addendum within a very short time frame and have confirmed approval for new applications through to 31 March 2016.

This approval is clearly welcomed. However under the current RHI legislation, my Department is legally obliged to continue and make payments to applicants who meet the scheme criteria regardless of any approval or otherwise from your Department. This effectively means I need to start planning now for scheme suspension or indeed closure on 31 March 2016 to avoid irregular spending on new RHI commitments beyond this date. I have therefore instructed my officials to progress the legislative changes needed to facilitate scheme suspension / closure.

I am unclear as to whether or not Treasury is planning to cut RHI funding beyond March 2016 as part of the spending review (SR). My officials have been made aware of rumour to that effect but contacts in DECC have indicated that those are rumours and not with any substance. Any clarity that you could provide around Treasury intentions going forward would be most helpful to enable me to take appropriate action.

**Jonathan Bell, MLA**  
**Minister for Enterprise, Trade and Investment**