

VERSION 15

Energy

**From:** John Mills**Date:** 12 February 2016

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**To:** 1. Timothy Cairns  
2. Jonathan Bell MLA**INV/118/2016 – MOTION – DRAFT RENEWABLE HEAT INCENTIVE SCHEMES (AMENDMENT) REGULATIONS (NI) 2016**

<b>Issue:</b>	Assembly Debate on the Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016.
<b>Timing:</b>	Debate scheduled for 4.45-5.15pm on Monday 15 February 2015.
<b>Need for referral to the Executive:</b>	Urgent Executive approval obtained on 9 February 2016
<b>Presentational Issues:</b>	High interest from key stakeholders and the media in relation to the proposed closure of the RHI schemes.
<b>Freedom of Information:</b>	Some parts of this submission may be exempt under section 35 of the FOI Act.
<b>Financial Implications:</b>	<b>Escalating pressure on DEL budgets if the scheme is not closed.</b>
<b>Statutory Equality Obligations:</b>	Screened out.
<b>PFG/PSA implications:</b>	NI Renewable Heat Incentive supports the PfG interim target of 4% renewable heat by 2015 and the SEF 10% target by 2020.
<b>Legislation Implications:</b>	The draft Statutory Rule requires the affirmative resolution of the Assembly.
<b>Recommendation:</b>	That you use the attached speaking notes and briefing for the debate ( <b>Annexes A-D</b> ).

## Background

1. The draft Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016 will provide for the closure of the Renewable Heat Incentive Schemes (RHI) as the available budget for new applications has been exhausted. You previously brought RHI cost control through the Assembly on 17 November 2015.

## Assembly Debate

2. You will open the debate and speak for few minutes. Members will then have the opportunity to contribute before you wind up the debate and ask for the Regulations to be approved.
3. The following briefing for the debate is attached for your consideration:

**Annex A:** Draft opening and winding up speeches

**Annex B:** Q&A on the Domestic Renewables Heat Incentive Scheme

**Annex C:** Draft Regulations as laid before the Assembly (attached separately)

**Annex D:** Explanatory Memorandum

4. I, Stuart Wightman and Seamus Hughes will be in attendance at the Assembly on the day. We are also available for pre-brief if required. I would be grateful if your office could arrange the appropriate box passes.

## Coming into operation

5. Subject to the regulations being approved by the Assembly, the scheme amendments will come into operation on 16 February 2016. (Actual closure of the scheme requires a notice to be issued after the Regulations come into effect. You have decided this will be 29 February.)

## Recommendation

6. That you note the attached speaking notes and briefing for the debate (**Annexes A-D**).



**JOHN MILLS**  
**ENERGY DIVISION**  
**Tel: 028 9052 9215**

## Distribution List

cc: Andrew McCormick  
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## **OPENING SPEECH FOR DEBATE ON THE RENEWABLE HEAT INCENTIVE SCHEME (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2016**

- I beg to move.
- [Mr Speaker/Mr Deputy Speaker], this statutory rule is being made under Section 113 of the Energy Act 2011 which prescribes that these Regulations must be laid in draft for approval by affirmative resolution of the Assembly.

### **NEED FOR LEGISLATION**

- I will begin with the technicalities of the legislation.
- These Regulations amend the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 (“the 2012 Regulations”) and the Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014 (“the 2014 Regulations”). The 2012 Regulations established a renewable heat incentive scheme for the non-domestic sector and the 2014 Regulations a renewable heat incentive scheme for the domestic sector.
- The amendments made to the 2012 and 2014 Regulations give the Department power to issue a notice suspending the schemes to new applications. The power arises where it appears to the Department that it does not have, or is not likely to have, sufficient funds available to it for the purpose of meeting the full cost of payments under both schemes.

- It is important to highlight that the purpose of these Regulations is to establish the power for the Department to suspend the RHI in the circumstances I've described. They do not, in themselves, close the schemes. Closure requires a notice to be issued suspending the schemes from a particular date.
- I appreciate that the majority of those involved in the schemes will be anxious for clarity on closure. So, to confirm the position, if the Assembly passes this legislation, I will issue a notice closing both schemes to new applications from 29 February.
- The period of time since I announced my intention to close the schemes on 5 February gives those who are in the process of installing renewable heat equipment effectively the month of February to complete installation before the scheme closes.
- This reflects a reasonable balance between the need to manage scheme expenditure and give those people who are in the process of installation time to make decisions on whether to proceed.
- I have listened to the concerns raised about immediate closure of the scheme and that is why, with the agreement of the First and Deputy Minister, I have decided to defer closure for a further two weeks.
- I have no doubt that there are a range of views on closure. At one end of the spectrum there are those who are not convinced that we should be subsidising expensive renewable technologies. On the other hand there are those who believe we should be investing more in the future of renewables.

- So the speed of closure of the RHI can be debated either way. However, to anyone who intends to oppose this legislation I have to sound an important warning. Opposing this legislation means opposing the ability to suspend the scheme at all.
- This means continuing with an open ended commitment to fund renewable heat no matter what the cost. I cannot believe that, given the competing priorities for funding we face, it is tenable that we should give open ended funding commitments.
- I apologise for repeating this point. But I want to make it absolutely clear that anyone who opposes this legislation is voting for an open-ended funding commitment.
- The RHI scheme currently works to require government to fund all properly made applications for renewable heat installations. There is no choice but to make these payments and no way of “turning off”, “slowing down” or “phasing out” payments if we do not pass this legislation.
- We can debate when the scheme should close but, unless we pass this legislation, that debate would be pointless. We would have no choice but to keep making payments regardless of the budgetary position.

## NEED FOR CLOSURE

- I'll now turn to deal with why we need to close the Scheme.
- The Renewable Heat Incentive, (RHI), introduced in November 2012 to the non-domestic sector and in December 2014 to the domestic sector has been taken up very successfully.
- The non-domestic RHI incentivises the uptake of renewable heat technologies such as biomass, heat pumps and solar thermal installations. It provides payments for 20 years based on heat energy generated. The level of tariff is dependent on the size and type of technology and is calculated to cover capital costs, operating costs and non-financial 'hassle' costs over the lifetime of the technology.
- The domestic scheme provides for up front capital grants and seven years support thereafter.
- Overall, with over 3,900 renewable heating installations incentivised to date, uptake has been higher than GB. We've exceeded the Executive's 2015 PfG target of 4% with around 6% of Northern Ireland's heating needs now provided through renewable heating technologies. We're well on the way to attaining the Executive endorsed target of 10% renewable heat set out in the Strategic Energy Framework.
- This will contribute to the UK's target of 15% renewable energy by 2020 as required by the EU Renewables Directive.

- The focus during the initial period of the scheme was on trying to improve the performance of the RHI scheme to achieve the Executive's PfG target and ensure that the renewable heating sector and the wider NI economy benefitted from this investment. To this end advertising campaigns were conducted during 2013/14 and 2014/15 and the domestic scheme introduced at the end of 2014.
- This has resulted in increased scheme uptake particularly over recent months. The total number of renewable heating installations under the Non-domestic scheme increased from just over 250 to over 1800 during the last 14 months. A significant and unexpected surge in applications occurred in the six week run up to scheme changes in November 2015 which were intended to help manage demand. Over 900 applications were received in that short period.
- This, together with reductions in available funding means we now face significant budgetary pressures.

### **How has the RHI been funded to date?**

- Both RHI schemes (non-domestic and domestic) are paid out of Annual Managed Expenditure, (AME) which is in addition to NI block grant funding. Normally it would not have an impact on the NI Departmental Expenditure Limit (DEL) Block funding.
- However, even though total renewable heating capacity through the NI RHI equates to over 6% of total capacity in the GB scheme, the Chancellor's Autumn Statement confirmed that an AME cap for Northern Ireland would be



set at the Barnett share of circa 3%. This means that the Block DEL will have to meet any funding in excess of this.

- Total application numbers for the NI non domestic scheme are now exceeding our highest estimates and this means that the available AME budget for the next 5 years is now already committed to meeting payments for existing RHI installations.
- Therefore in the circumstances I have no choice but to move to close the RHI scheme to minimise further costs and impact on the NI block.

### **The positive role of the Renewable Heat Incentive Scheme**

- In bringing this course of action to the Assembly I want to be clear how reluctant I am to close a scheme which brings such benefits in terms of jobs, investment, environmental protection and meeting our renewable targets.
- Ensuring a more competitive and diverse heating market in Northern Ireland is therefore a key priority for me. We need to reduce our current reliance on fossil fuels. Heat from indigenous and renewable sources must therefore be promoted.
- However, despite my support for RHI and however beneficial the scheme, I have to acknowledge that we can't manage an Executive budget on the basis of individual schemes taking off or incurring costs formerly funded from the UK without agreement . The Executive has many other priorities demanding

funding and if we don't move to close the RHI, these will be put at increasing risk.

- I do want to make the point, however, that some of the reaction to the closure of the RHI implies that money has been squandered or investment lost.
- This is not the case. The RHI has seen over £50 million brought in to NI over the last four years. This has gone to help support some of our most important local industries, to bolster the rural economy and provide much needed jobs. Existing scheme participants will continue to receive support for twenty years.
- Those who hoped to avail of the scheme will, naturally, be disappointed but let's not forget what benefits the scheme has brought.
- There have been allegations that there has been abuse of the scheme in some cases. I take these allegations very seriously even if the evidence is not clear at the moment. I have asked officials to work with OFGEM, which administers the non-domestic scheme across the UK, to undertake extra checks and look at existing processes to make sure the scheme is operating in compliance with the legislation.
- An audit of internal procedures is also underway to assess management of the scheme and how it was set up to see where things could have been improved.
- However, I think we need to be careful when talking about abuse on how the scheme is operating . There will be many hard working and committed

households and businesses who have properly complied with the scheme and it would be quite wrong to suggest that abuse is common without any evidence to back this up.

### **Looking to the Future**

- To conclude by looking to the future, I believe that the renewable sector can play a part in helping to reduce our CO2 emissions and bring investment to our economy.
- I am open to suggestions on how we might engage with developers and installers and others to see where we might go in the future on renewable heat. This might involve consulting on the long term position, looking at developments in other jurisdictions or considering options.

### **CONCLUSION**

- However, any debate on the future must take place in an environment where costs are controlled.
- The only way to ensure that is to support, however reluctantly, the suspension of the scheme at this time.
- I ask members to support the Regulations.

**WINDING UP SPEECH FOR DEBATE ON RENEWABLE HEAT INCENTIVE SCHEMES (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2015**

- I would like to thank those who have contributed to today's debate. Energy matters are a major issue for this Assembly and for local households and businesses.
- In answer to some of the issues raised today, I want to say....

**BRIEFING TO BE PROVIDED BY OFFICIALS AS REQUIRED**

- I commend the motion to the House.

## ANNEX B

**RENEWABLE HEAT INCENTIVE - Q&A****Why is the RHI closing?**

- The Renewable Heat Incentive, (RHI), introduced in November 2012 to the non-domestic sector and in December 2014 to the domestic sector has been taken up very successfully.
- With over 3,500 renewable heating installations incentivised to date, uptake has been higher than GB. We have exceeded the Executive's 2015 target of 4% with around 6% of Northern Ireland's heating needs now provided through renewable heating technologies.
- Over the last 18 months the number of non-domestic RHI applications has grown from around 200 to over 1,800. Over 900 of these applications were received in the run up to the scheme changes of 18 November 2015. However, this, together with reductions in available funding means we now face significant budgetary pressures.
- In the circumstances I have no choice but to propose closure of the scheme to prevent further overspend. The urgent need to manage the financial risk means that legislation must be brought forward at the earliest possible juncture.

**Why not just close the Scheme?**

- The scheme is set out in legislation and can only be changed through legislation.

**Not consulting on the decision?**

- With the RHI budget exhausted, closure of both RHI schemes is the only viable option. Given the urgency of the situation both RHI schemes must close, subject to Assembly approval of the legislation.

**Not seeking ETI Committee approval?**

- Given the urgency of the situation I am seeking this Assembly's approval of the necessary legislation to close both RHI schemes.
- Regrettably, the situation did not allow time to follow the established convention of seeking the ETI Committee's approval of the policy and draft legislation.
- I recognise the importance of the Committee's role but I must take the course of action which addresses the risk to the public finances and seek to progress the necessary legislation before you today.

## DETI Mismanagement of the Scheme?

- Low levels of uptake initially, created a £15m under-spend in the first 3 years. Uptake improved in 2015 following promotional campaigns and the introduction of the Domestic scheme in December 2014.
- A sustained increase in applications in the Spring was the catalyst for the demand control measures brought forward for the Non Domestic scheme in November 2015.
- However, in the run up to these changes, there was an unprecedented surge in applications with over 900 applications received in 6 weeks. This doubled the number of installations on the non-domestic scheme.
- The increased costs associated with this surge in applications together with budget reductions arising from the November Spending Review means the available budget for new applications has been exceeded.
- Meeting existing RHI commitments, let alone any new ones, will have a very significant impact on the NI Executive's budget, so both schemes must close.

### **Managing Fraud Risk?**

- The unprecedented increase in demand requires special scrutiny. My Department has initiated procurement of additional auditing and checks to supplement the programme of audits already completed by Ofgem – who administer the non domestic scheme.
- Measures will be taken to ensure that the operation of the schemes is in compliance with the scheme requirements and the underpinning legislation.

### **Allegations of Fraud?**

- There has been anonymous correspondence, alleging abuse of the non domestic scheme. I can confirm this has been brought to the attention of the scheme administrator - Ofgem.

### **Independent Investigation?**

- Measures will be taken to ensure that the operation of the schemes is in compliance with the scheme requirements and the underpinning legislation.



## Success of both Schemes

- The RHI provides homes, businesses, hotels, leisure centres, churches and schools with the opportunity to receive ongoing financial assistance to cover the costs incurred when switching to renewable heating.
- The RHI has been very successful supporting over 3,500 renewable heating installations.
- The RHI is an innovative scheme that is designed to support the achievement of 10% renewable heat by 2020. This is a challenging target considering a baseline position of 1.7%.
- The PfG interim target of 4% renewable heat by 2015 has been met and exceeded. The current estimate suggests 6% has been achieved.
- By securing increased levels of renewable heating, Northern Ireland becomes more self-sufficient, more energy secure and reduces our carbon footprint.
- The RHI is a positive news story for the Northern Ireland energy market as consumers embrace new technologies, reduce their carbon emissions and help support the development of this new sector.

**How has the RHI been funded to date?**

- Both RHI schemes (non-domestic and domestic) are paid out of Annual Managed Expenditure, (AME) which normally would not have an impact on the NI Departmental Expenditure Limit (DEL) Block funding.
- Even though total renewable heating capacity through the NI RHI equates to around 6% of total capacity in the GB scheme, the Chancellor's Autumn Statement confirmed that the AME cap for Northern Ireland would be set at the Barnett share of circa 3%.
- This means that the Block DEL will have to meet any funding in excess of this.
- Total heating capacity of the NI RHI currently equates to around 7% of total capacity of the GB scheme.
- This means a significant shortfall in funding which has to be met from NI DEL.

**How will installations already accredited under the RHI be impacted?**

- Any renewable heating systems installed, commissioned and applied for before the closure date will be eligible for RHI payments.
- When the RHI close to new applications?

**What has the uptake been on the RHI to date?**

- Over 3,500 installations have been supported under the RHI schemes providing financial incentives for up to 20 years.

## What is the Northern Ireland Renewable Heat Incentive?

- The Northern Ireland Renewable Heat Incentive (RHI) is a DETI scheme that provides financial support to domestic and non domestic renewable heat generators.
- This is the primary means by which NI contributes to the UK renewable heat targets set under the Renewable Energy Directive. The target for the Northern Ireland RHI is to increase the uptake of renewable heat to 4% by 2015 and 10% by 2020 (baseline position of 1.7% in 2010).
- The 10% target equates to an additional 1600 Giga Watt Hours of renewable heat per year by 2020. To provide some sort of perspective on this. In the domestic sector, 1600 Giga Watt Hours is roughly equivalent to 40,000 domestic boilers (running 3 hrs / day) – quite a challenge!
- The interim target of 4% renewable heat by 2015 has been included in the Programme for Government. Current estimates suggest we have already exceeded this target with as much as 6% of our heat demands coming from renewable.
- In addition to achieving reducing CO2 emissions, the RHI has had wider benefits in terms of fuel security, lower emissions and ‘green jobs’.

**ANNEX C**

Draft Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016

**(Separate attachment)**

**EXPLANATORY MEMORANDUM TO**  
**THE RENEWABLE HEAT INCENTIVE SCHEMES (AMENDMENT) REGULATIONS**  
**(NORTHERN IRELAND) 2016**

**SR 2016 NO.**

## **1 INTRODUCTION**

- 1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“the Department”) to accompany the above Statutory Rule which has been laid before the Northern Ireland Assembly. The Explanatory Memorandum is designed to assist the reader in understanding the Statutory Rule. It does not form part of the Statutory Rule.
- 1.2 The Statutory Rule is made under Section 113 of the Energy Act 2011 and is subject to the draft affirmative resolution procedure.

## **2 PURPOSE**

- 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. The RHI was extended to the domestic sector through the Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014 on 9 December 2014. Changes to the Non Domestic scheme were introduced on 18 November 2015 which provided for new tariffs for combined heat and power (CHP); cost control measures for small and medium biomass; a change in biomass banding; and an annual cap on payments.
- 2.2 The Minister indicated to the Assembly in November 2015 that further cost control measures might have to be introduced. Over the past 18 months the non domestic scheme in particular has seen significant uptake with applications rising from some 200 to over 1800 and this, together with a reduction in available funding, means that the

budget for new applications has been exhausted. In these exceptional circumstances the Minister had to take immediate steps to prevent further overspend.

- 2.3 The Statutory Rule establishes a mechanism for the Department to suspend, by notice, both RHI schemes.

### **3 BACKGROUND AND POLICY OBJECTIVES**

- 3.1 Heating accounts for around half of total energy consumption within Northern Ireland with over 95% of our heating fuels coming from imported fossil fuels. Increasing the level of renewable heat to 10% by 2020 is a Programme for Government (PfG) target and is in line with Northern Ireland's expected contribution to the United Kingdom's obligations under the EU Renewable Energy Directive<sup>1</sup>. It also supports the Minister's wider energy policy goals of increased diversity of energy supply, reduced emissions and potential for 'green jobs' and skills. The interim PfG target of 4% by the end of 2015 has been met and exceeded. The current assessment is that around 6% of heat is provided through renewable heating technologies.

### **4. CONSULTATION**

- 4.1 The Minister, with the support of the Executive, decided not to carry out a formal consultation on the legislative proposals. The available budget has been exhausted and the decision has been taken to close the RHI to new applications at the earliest opportunity to minimise further overspend. The Finance Minister has been consulted on the proposed legislation and decision to close and he concurs with the concerns and desire to minimise the exposure of the NI Block DEL.

### **5 EQUALITY IMPACT**

- 5.1 In accordance with the requirements of Section 75 of the Northern Ireland Act 1998, an equality screening exercise has established that the proposed Regulations do not have any significant equality impact.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:EN:PDF>

## **6 REGULATORY IMPACT**

6.1 The proposal to establish a mechanism to suspend the RHI and to effect such suspension immediately has been the subject of a Regulatory Impact Assessment.

## **7 FINANCIAL IMPLICATIONS**

7.1 Funding for scheme payments is via Annually Managed Expenditure (AME) allocated on the circa 3% Barnett principle with costs above that to be met from the NI block grant. Administration costs are met by DETI. Since the available budget has been exhausted, the schemes must be closed to new applications. Around £95m of funding will have to be found from the NI block grant over the next 5 years to meet existing RHI commitments.

## **8 SECTION 24 OF THE NORTHERN IRELAND ACT 1998**

8.1 This Statutory Rule does not contravene Section 24 of the Northern Ireland Act 1998.

## **9 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>. 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, it is required to make a proportionate contribution to the overall UK target.

9.2 The Statutory Rule establishes a mechanism to suspend the RHI when funding is not available. However the Department acknowledges that the suspension of the scheme may impact on the level at which Northern Ireland contributes to the wider Member State level.



**10 PARITY OR REPLICATORY MEASURE**

10.1 There are separate but similar domestic and non domestic RHI schemes in GB and both the GB and the NI RHI schemes are underpinned by the Energy Act 2011.

**11 ADDITIONAL INFORMATION****Commencement**

11.1 The Statutory Rule comes into operation on the day after it is made.