

From: [McCormick, Andrew \(DFE\)](#)
To: [Coyne, Terence](#); [Willis, Adele](#)
Cc: [McMurray, Stephen](#); [McCann, Brendan](#); [Cousins, Heather](#); [Marten, Lucy](#)
Subject: RE: GSE - VALIDATION SUCCESS: SI Validation for
TheRenewableHeatIncentiveSchemeAmendmentRegulationsNorthernIreland2017.doc
Date: 12 January 2017 15:47:51
Attachments: [image001.png](#)

Is there a reason not to introduce 31 March 2018 as the sunset date?

From: Coyne, Terence
Sent: 12 January 2017 15:47
To: Willis, Adele
Cc: McMurray, Stephen; McCormick, Andrew (DFE); McCann, Brendan; Cousins, Heather; Marten, Lucy
Subject: FW: GSE - VALIDATION SUCCESS: SI Validation for
TheRenewableHeatIncentiveSchemeAmendmentRegulationsNorthernIreland2017.doc

Adele

I suggest amending “payment” to “payments” at Regulation 3 (1) and “Regulation” to “Regulations” in the first sentence of paragraph 1 of the Explanatory Note. Otherwise, the Regulations appear to effect the intended policy. Presumably the date the sunset clause comes into effect has been left blank until known.

Regards

Terry

From: Willis, Adele
Sent: 12 January 2017 15:17
To: McMurray, Stephen; McCormick, Andrew (DFE); McCann, Brendan; Cousins, Heather; Marten, Lucy; Coyne, Terence
Cc: Adair, Joanne
Subject: GSE - VALIDATION SUCCESS: SI Validation for
TheRenewableHeatIncentiveSchemeAmendmentRegulationsNorthernIreland2017.doc

Folks,

See attached validated draft RHI Regulations.

Please check that the intended policy has been fully reflected in these Regulations. Grateful if you could provide any comments as soon as possible as I intend forwarding the draft Regs to DSO **before 5.00pm today.**

Happy to discuss.

Regards

Adele Willis

Energy Efficiency
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From: [McCormick, Andrew \(DFE\)](#)
To: [Moore, Stephen \(DFE\)](#)
Cc: [Coyne, Terence](#); [McGinn, Paul](#); [McMurray, Stephen](#); [Marten, Lucy](#); [Cousins, Heather](#); [McCann, Brendan](#); [Willis, Adele](#)
Subject: FW: RHI - Regulations - DSO draft and advice from UKRep
Date: 12 January 2017 15:53:06

Would it help if the clause said that the regulations would come into effect on either 1 April 2017 or the day after State Aid approval, whichever is the later? Just against the low risk that the Commission could move faster than we expect

Many thanks.

From: [McCormick, Andrew \(DFE\)](#)
To: [Moore, Stephen \(DfE\)](#)
Cc: [Coyne, Terence](#); [McMurray, Stephen](#); [Marten, Lucy](#); [Cousins, Heather](#); [McCann, Brendan](#); [Willis, Adele](#); [McGinn, Paul](#)
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep
Date: 12 January 2017 16:17:38
Attachments: [image001.png](#)

Yes, please do, many thanks.

From: Moore, Stephen (DfE)
Sent: 12 January 2017 16:17
To: McCormick, Andrew (DFE)
Cc: Coyne, Terence; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele; McGinn, Paul
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep

Andrew

Agreed and understood. If OK, I will communicate this to Steven verbally.

Stephen

Stephen Moore

State Aid Unit
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NEW - 'State aid: A Beginner's Guide for Public Bodies in Northern Ireland' can now be accessed through the DFE Internet site: <https://www.economy-ni.gov.uk/publications/state-aid-beginners-guide-public-bodies-northern-ireland>

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From: McCormick, Andrew (DFE)
Sent: 12 January 2017 16:12
To: Moore, Stephen (DfE); McGinn, Paul
Cc: Coyne, Terence; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep

I agree with your conclusion – there is no way round this if the Commission won't approve. But I do think that is low risk.

Many thanks.

From: Moore, Stephen (DfE)
Sent: 12 January 2017 16:10

To: McCormick, Andrew (DFE); McGinn, Paul
Cc: Coyne, Terence; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep

Andrew / Paul

I think what Stephen is worried about is the Commission not being happy with the changes we are proposing and possibly putting us in a position of having to revise the revised regulations.

In the worst case scenario, this may mean it would not adopt a no objection decision, meaning we would be unable to implement the changes.

What he was asking is can we include anything the revised regulations that means we don't then have to lay further revised regulations in the Assembly.

I am not sure there is an easy answer to this and it may simply be that we need to convince the Commission that it has to accept what we are proposing and that this would put the Commission in difficult position.

We would also say that we will be undertaking a full review of the RHI scheme and will address the Commission's requests in a further notification.

Does this make sense?

Stephen

Stephen Moore

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From: McCormick, Andrew (DFE)
Sent: 12 January 2017 15:56
To: McGinn, Paul; Moore, Stephen (DfE)
Cc: Coyne, Terence; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep

Many thanks.

From: McGinn, Paul
Sent: 12 January 2017 15:56
To: McCormick, Andrew (DFE); Moore, Stephen (DfE)
Cc: Coyne, Terence; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele
Subject: RE: RHI - Regulations - DSO draft and advice from UKRep

Andrew yes I have no problem with that. In fact it might help. There is some risk that it could be argued that simply referring to the state aid approval would constitute unauthorised sub delegation. That risk remains but is lessened if we have a specific commencement date which is subject to Commission approval given that it would be unlawful to proceed without it.

Paul

From: McCormick, Andrew (DFE)
Sent: 12 January 2017 15:53
To: Moore, Stephen (DfE)
Cc: Coyne, Terence; McGinn, Paul; McMurray, Stephen; Marten, Lucy; Cousins, Heather; McCann, Brendan; Willis, Adele
Subject: FW: RHI - Regulations - DSO draft and advice from UKRep

Would it help if the clause said that the regulations would come into effect on either 1 April 2017 or the day after State Aid approval, whichever is the later? Just against the low risk that the Commission could move faster than we expect

Many thanks.

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From: [Marten, Lucy](#)
To: [Edmund Ward](#); [Teri Clifton](#); [Jane Pierce](#)
Cc: [McMurray, Stephen](#); [McCann, Brendan](#); [Willis, Adele](#); [Adair, Joanne](#)
Subject: The Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017
Date: 12 January 2017 17:34:47
Attachments: [image001.png](#)
[The Renewable Heat Incentive Scheme \(Amendment\) Regulations \(Northern Ireland\) 2017.doc](#)

All

Please see attached the draft amendment regulations. Grateful if you could consider these **urgently** and let us know tomorrow morning if there are any amendments you consider necessary.

Kind regards

Lucy

Lucy Marten

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DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2017 No. 000

ENERGY

**The Renewable Heat Incentive Scheme (Amendment)
Regulations (Northern Ireland) 2017**

Laid before the Assembly in draft

Made - - - - 2017

Coming into operation in accordance with regulation 1

The Department for the Economy makes the following Regulations in exercise of the powers conferred on it by section 113 of the Energy Act 2011(a).

Citation and commencement

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 and shall come into operation in accordance with Paragraph (2).

(2) These Regulations shall come into operation on whichever is the later date either the 1st April 2017 or the day after the European Commission gives approval that the provision made by the Regulations, to the extent that it constitutes the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies, is, or would be, compatible with the internal market, within the meaning of Article 107 of that Treaty.

(3) These Regulations shall cease to have effect on 31st March 2018.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(b) shall apply to these Regulations as it applies to an Act of the Assembly.

Application

3.—(1) These Regulations shall have effect in relation to periodic payments calculated and paid after these Regulations come into operation.

(2) In paragraph (1) “periodic payments” have the same meaning as in the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012(c).

- (a) 2011 c.16
(b) 1954 c.33 (N.I.)
(c) SR.2012 No.396

Amendment of Principal Regulations

4. The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 are amended in accordance with Regulations 5 and 6.

5.—(1) In Regulation 36(3) for “paragraph (7)” substitute “paragraphs (7) and (7B)”.

(2) For Regulation 36(5) substitute:—

“(5) Subject to paragraphs (6), (7), (7A) and (7B), the tariff for an accredited RHI installation is the tariff set out in Schedule 3, 3A or 4 as the case may be in relation to its source of energy or technology and installation capacity.”

(3) In Regulation 36(6) for “paragraph (5)” substitute “paragraphs (5), (7A) and (7B)”.

(4) Regulation 36(7) shall cease to have effect in relation to installations falling within the small or medium biomass tariffs set out in Schedule 3A and accordingly, in Schedule 3, the references to such installations shall cease to have effect.

(5) After Regulation 36(7A) insert:—

“(7B) The tariffs for installations accredited before 18th November 2015 and falling within the small or medium biomass tariffs set out in Schedule 3A are the tariffs set out in the Schedule adjusted by the percentage increase or decrease in the retail prices index for the calendar year 2016 (the resulting figure being rounded to the nearest tenth of a penny, with any twentieth of a penny being rounded upwards).”

(6) After Regulation 36(9) insert:—

“(9A) Where an accredited RHI installation falls within the small or medium biomass tariffs set out in Schedule 3A:—

- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with or with the anniversary of the date of accreditation (regardless of whether that date falls before or after the coming into operation of the Renewables Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017) is the relevant Tier 1 tariff specified in Schedule 3A;
- (b) the tariff for further heat generated in that same 12 month period up to a maximum of 400,000kWhth is the relevant Tier 2 tariff specified in Schedule 3A; and
- (c) any further heat generated over 400,000kWhth in the same 12 month period shall not be eligible for periodic payments.”

(7) In Regulation 36(10) for “paragraph (9)” substitute “paragraphs (9) and (9A).

6. After Schedule 3 there shall be inserted the Schedule set out in the Schedule to these Regulations.

Sealed with the Official Seal of the Department of the Economy on 000.



Andrew McCormick
A senior officer of the
Department for the Economy

SCHEDULE

Regulation 6

“SCHEDULE 3A

Regulation 36

Table 1**Tariffs for Small Biomass and Medium Biomass Installations**

<i>Tariff name</i>	<i>Sources of energy or Technology</i>	<i>Installation capacity</i>	<i>Tariff Pence/kWh</i>
Small Biomass	Solid biomass including solid biomass contained in municipal solid waste	Less than 20kWth	Tier 1:6.8 Tier 2:1.5
Medium Biomass	Solid biomass including solid biomass contained in municipal solid waste	20kWth and above up to but not including 200kWth	Tier 1:6.5 Tier 2:1.5”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Northern Ireland, amend the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 (the “Principal Regulations”). The Principal Regulations established a renewable heat incentive scheme for non-domestic, under which owners of plants which generate heat from specified renewable sources and meet specified criteria may receive payments at prescribed tariffs for the heat used for eligible purposes. The Principal Regulations confer functions on the Department in connection with matters relating to the general administration of the schemes.

Regulations 5 and 6 amend Regulation 36 in the principal Regulations to introduce a tiered tariff and an annual cap of 400,000kWh for eligible heat payments for installations accredited before 18th November 2015 falling within the small or medium commercial biomass installations in Schedule 3A.