

 General Information

1. Status of the notification

2. Identification of the aid grantor

Member State concerned:

United Kingdom

Region(s) of the Member State concerned (at NUTS level 2); include information on their regional aid status:

NORTHERN IRELAND

Contact person(s):

Name

Stephen Moore

Address

Department for the Economy, Netherleigh, Massey Avenue, Belfast BT4 2JP

Phone(s)

00442890529415

E-mail(s)

stephen.moore@economy-ni.gov.uk

Please indicate the name, the address (including web address) and the e-mail contact of the granting authority:

Name

Department for the Economy

Address

Netherleigh, Massey Avenue, Belfast BT4 2JP

E-mail

stateaid@economy-ni.gov.uk

Web address

<https://www.economy-ni.gov.uk/>

Contact person at the Permanent Representation:

Name

Irrelevant information redacted by the RHI Inquiry

Phone(s)

Irrelevant information redacted by the RHI Inquiry

E-mail

Irrelevant information redacted by the RHI Inquiry

If you would like a copy of the official correspondence sent by the Commission to the Member State to be forwarded to other national authorities, please indicate here their name, address (including their web address) and e-mail contact:

Name

Address

Web address

E-mail

3. Beneficiaries

3.1. Location of the beneficiary(ies)

in region(s) eligible for assistance under Article 107(3)(c) TFEU (specify at NUTS-level 3 or lower):

Specify region(s):

NORTHERN IRELAND

3.2. If applicable, location of the project(s)

in region(s) eligible for assistance under Article 107(3)(c) TFEU (specify at NUTS-level 3 or lower):

Specify region(s):

NORTHERN IRELAND

3.3. Sector(s) affected by the aid measure (i.e. in which the aid beneficiaries are active):

Open to all sectors

3.4. In the case of an aid scheme, please specify:

3.4.1. Type of beneficiaries:

large enterprises

3.4.2. Estimated number of beneficiaries:

over 1000

3.5. In the case of individual aid, either granted within the scope of a scheme or as ad hoc aid, please specify:

3.5.1. Name of the beneficiary(ies):

3.5.2. Type of beneficiary(ies):

Number of employees:

Annual turnover (full amount in national currency, in the last financial year):

Currency:

Annual balance-sheet total (full amount in national currency, in the last financial year):

Currency:

Existence of linked enterprise or partner enterprises (please attach a declaration according to Article 3(5) of the Commission Recommendation on SMEs(3) attesting to either the autonomous, linked or partner status of the beneficiary undertaking(4)):

3.6. Is the beneficiary(ies) an undertaking in difficulty(5) ?

no

3.7. Outstanding recovery orders

3.7.1. In the case of individual aid:

The authorities of the Member State commit to suspend the award and/or payment of the notified aid if the beneficiary still has at its disposal earlier unlawful aid that was declared incompatible by a Commission Decision (either as individual aid or aid under an aid scheme being declared incompatible), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

yes

Please provide the reference to the national legal basis concerning this point:

The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012

3.7.2. In the case of aid schemes:

The authorities of the Member State commit to suspend the award and/or payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible), until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

yes

Please provide the reference to the national legal basis concerning this point:

The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012

(2) NACE Rev. 2, or subsequent legislation amending or replacing it; NACE is the statistical classification of economic activities in the European Union as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

(3) Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

(4) In the case of partner and linked enterprises, please note that the amounts reported for the aid beneficiary should take into account the number of employees and the financial data of the linked enterprises and/or partner enterprises.

(5) As defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

4. National Legal Basis

4.1. Please provide the national legal basis of the aid measure including the implementing provisions and their respective sources:

Title
Energy Act 2011
Implementing provisions (where applicable):
Energy Act 2011 (Section 113); The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012; The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015; The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016; The Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017
References (where applicable):
http://www.legislation.gov.uk/ukpga/2011/16/section/113/enacted ; http://www.legislation.gov.uk/nisr/2012/396/regulation/36/made ; http://www.legislation.gov.uk/nisr/2015/371/contents/made ; http://www.legislation.gov.uk/nisr/2016/47/contents/made ; http://www.legislation.gov.uk/nisr/2017/32/contents/made

4.2. Please enclose with this notification one of the following:

a copy of the relevant extracts of the final text(s) of the legal basis (together with a web address which provides direct access to it, if available)

4.3. In case of a final text, does the final text contain a stand-still clause whereby the aid granting body can only grant the aid after the Commission has authorised the aid?

Yes

4.4. Where the text of the legal basis contains a stand-still clause, please indicate whether the date of granting of the aid will be:

the date of the commitment of the national authorities to grant the aid, subject to the approval of the Commission

5. Identification of the Aid, Objective and Duration

5.1. Title of the aid measure (or name of the beneficiary of the individual aid)

Northern Ireland Renewable Heat Incentive Scheme 2017-18

5.2. Brief description of the objective of the aid

Aid to incentivise undertakings to switch their heating systems from conventional fossil fuels to renewable energy sources.

5.3. Does the measure concern the national co-financing of an European Fund for Strategic investment (EFSI)(6) project?

No

5.4. Type of aid

5.4.1. Does the notification relate to an aid scheme?

Yes: Does the scheme amend an existing aid scheme?

Yes: Are the conditions laid down for the simplified notification procedure pursuant to Article 4(2) of Regulation (EC) No 794/2004 fulfilled?

No: Continue with this form, and specify whether the original scheme which is being amended was notified to the Commission?

Yes: please specify:

Aid number(7):

SA.34140

Date of Commission approval (reference of the letter of the Commission) if relevant or exemption number:

12/6/2012

Duration of the original scheme:

The RHI scheme will be open to new installations until 2020 and payments will be made quarterly for the lifetime of each technology, which is 20 years. Therefore, the final payment under the scheme will be in 2040.

Please specify which conditions are being amended in relation to the original scheme and why:

The tariff rates and budget are being amended and a new feature, a 400,000 kWh heat cap is being introduced.

5.4.2. Does the notification relate to individual aid (8)?

No

5.4.3. Does the system of financing form an integral part of the aid measure (for example, by applying parafiscal levies in order to raise the necessary funds to allow for the aid to be granted)?

No

5.5. Duration

Scheme

Indicate the planned last date until which individual aid may be granted under the scheme. If the duration exceeds 6 years please demonstrate that a longer period is indispensable to achieve the objectives of the scheme.

31/3/2040

(6)Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

(7)Commission's registration number of the authorised or block-exempted scheme.

(8)According to Article 1(e) of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9), individual aid means aid that is not awarded on the basis of an aid scheme and notifiable award of aid on the basis of a scheme.

(9)Commission's registration number of the authorised or block-exempted scheme.

(10)The date of the legally binding commitment to award the aid.

6. Compatibility of the aid

Common assessment principles

(Sub-sections 6.2 to 6.7 do not apply to aid to the agriculture, fishery and aquaculture sectors(11))

6.1. Please indicate the primary objective and, where applicable, the secondary objective(s), of common interest to which the aid contributes:

Primary objective

Rescuing undertakings in difficulty

Secondary objective(12)

Environmental protection

6.2. Please explain the need for State intervention. Please note that the aid must be targeted towards a situation where it can bring about a material improvement which cannot be delivered by the market itself, by remedying a well-defined market failure.

As detailed in the notification paper, without the operating aid provided through the NI RHI scheme, the undertakings would not invest in renewable heating systems.

6.3. Please indicate why the aid is an appropriate instrument to address the objective of common interest as defined in point 6.1. Please note that the aid will not be considered compatible if less distortive measures make it possible to achieve the same positive contribution.

As detailed in the notification paper, other policy measures would not have the same effect.

6.4. Please indicate whether the aid has an incentive effect (that is, when the aid changes the behaviour of an undertaking leading it to engage in additional activity which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner).

yes

Please indicate whether activities which started before the submission of an application for aid are eligible.

no

If they are eligible, please explain how the incentive effect requirement is complied with.

N/A

6.5. Please indicate why the aid granted is proportionate insofar as it amounts to the minimum needed to induce investment or activity.

As detailed in the notification paper, the scheme was originally approved by the Commission in June 2012 and, at that stage the Commission was content that the aid amount was proportionate and the minimum needed to incentivise undertakings to install renewable heating systems. However it is now clear that some of the tariff rates were set too high and these are being revised downwards to ensure the aid is the minimum necessary.

6.6. Please indicate the possible negative effects of the aid on competition and trade and specify the extent to which they are outweighed by the positive effects.

The primary negative effect of the scheme is that it impacts negatively on the sales revenues of fossil fuel companies. However, this is outweighed by the environmental benefits that accrue from the reduction in carbon emissions.

6.7. In accordance with the Transparency Communication(13), please indicate whether the following information will be published on a single national or regional website: the full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority/(ies); the identity of the individual beneficiary(ies), the aid instrument(14) and amount of aid granted to each beneficiary(ies); the objective of the aid, the date of granting, the type of undertaking (for example SME, large company); the Commission's aid measure reference number; the region where the beneficiary is located (at NUTS level 2) and the principal economic sector of the beneficiary(ies) (at NACE group level)(15).

yes

6.7.1. Please provide the address(es) of the website on which the information will be made available:

<https://www.economy-ni.gov.uk/articles/list-ni-state-aid-decisions>

<https://www.nidirect.gov.uk/articles/renewable-heat-incentive-non-domestic-customers>

<https://www.economy-ni.gov.uk/articles/renewable-heat-incentive-rhi>

6.7.2. If applicable, please provide the address(es) of the central website retrieving information from the regional website(s):

6.7.3. If the address(es) of the website referred to in point 6.7.2 are not known at the time of the submission of the notification, the Member State must undertake to inform the Commission once those websites are created and the addresses are known.

(11) In the case of aid to the agriculture sector or fishery and aquaculture sector information on compliance with the common assessment principles is requested in Parts III.12 (Supplementary information sheet for aid to the agriculture and forestry sectors and in rural areas sector) and III.14 (Supplementary information sheet for aid to the fishery and aquaculture sector).

(12) A secondary objective is one for which, in addition to the primary objective, the aid will be exclusively earmarked. For example, a scheme for which the primary objective is research and development may have as a secondary objective small and medium-sized enterprises (SMEs) if the aid is earmarked exclusively for SMEs. The secondary objective may also be sectorial, in the case for example of a research and development scheme in the steel sector.

(13) Communication from the Commission, amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audio-visual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (OJ C 198, 27.6.2014, p. 30).

(14) Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Risk finance, Other (please specify). If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

(15) Such a requirement can be waived with respect to individual aid awards below EUR 500 000. For schemes in the form of tax advantage, the information on individual aid can be provided in the following ranges (in EUR million): [0.5-1]; [1-2];[2-5]; [5-10]; [10-30]; [30 and more].

7. Aid instrument, Aid amount, Aid intensity and Means of funding

7.1. Aid instrument and aid amount

Specify the form of the aid and the aid amount(16) made available to the beneficiary(ies) (where appropriate, for each measure):

Aid instrument	Aid amount or budget allocation(17)		Currency:
	Overall	Annual	
			Currency:
			Currency:
			Currency:
			Currency:
			Currency:
			Currency:
			Currency:

Where appropriate, provide a reference to the Commission decision approving the methodology to calculate the gross grant equivalent and information on the loan or other financial transaction covered by the guarantee, the security required and the premium to be paid, the duration, etc

Currency:
 Currency:
 Currency:
 Currency:
 Currency:
 Currency:

Other (please specify)	0	25,300,000	GBP
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operating aid in the form of a tariff
 Please indicate the instruments to which it would broadly match as regards its effect
 grant

For guarantees, please indicate the maximum amount of loans guaranteed:

For loans, please indicate the maximum (nominal) amount of the loan granted:

7.2. Description of the aid instrument

For each aid instrument chosen from the list in point 7.1, please describe the conditions of application of the aid (such as the tax treatment, whether the aid is awarded automatically based on certain objective criteria or whether there is an element of discretion by the awarding authorities):

As detailed in the scheme regulations, the scheme beneficiaries receive payments at prescribed tariffs for the heat used for eligible purposes. The amount of the payments being based on metered heat output.

7.3. Source of funding

7.3.1. Specify the financing of the aid:

General budget of the State/region/local

7.3.2. Is the budget adopted annually?

Yes

7.3.3. If the notification concerns changes to an existing scheme, please indicate the budgetary effects for each of the aid instruments of the notified changes to the scheme on the:

Overall budget

0

Currency:

Annual budget(18)

0

Currency:

7.4. Cumulation

Can the aid be cumulated with aid or de minimis aid(19) received from other local, regional or national aid(20) to cover the same eligible costs?

Yes. If available, please provide the name, purpose and objective of the aid

Various. See attached document, Northern Ireland Renewable Heat Incentive – Grants from public funds and other Public Support (State Aid).

Please explain the mechanisms put in place in order to insure that the cumulation rules are respected:

The Northern Ireland Renewable Heat Incentive (NI RHI) Regulations exclude applicants in possession of certain support from public funds from being accredited onto the scheme. However, such applicants may be able to access the RHI by first repaying their grant to the person or authority who made it, provided their installation was completed and first commissioned after 1st September 2010. Where applicants have received other public support which is not classed as a grant from public funds according to the Regulations, State aid cover is provided for the operating aid from the RHI scheme by the de minimis regulation.

(16)Overall amount of aid planned, expressed in full national currency amounts. For tax measures, estimated overall revenue loss due to tax concessions. If the average annual State aid budget of the scheme exceeds EUR 150 million, please fill in the section on evaluation.

(17)For information on aid amounts or budget at any chapter of this form and supplementary forms, give the full amount in national currency.

(18)In case of an average annual State aid budget of the scheme above EUR 150 million, please fill in the section on Evaluation of this notification form. The Evaluation requirement does not apply to aid schemes covered by the Supplementary information sheet on Agriculture aid.

(19)Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

(20)Union funding centrally managed by the Commission that is not directly or indirectly under the control of the Member State does not constitute State aid. Where such Union funding is combined with other public funding, only the latter will be considered for determining whether notification thresholds and maximum aid intensities are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rates laid down in the applicable Union legislation.

8. Evaluation

8.1. Is the scheme considered for evaluation(21) ?

No

If the scheme is not considered for evaluation, please explain why you consider the criteria for evaluation not to be fulfilled.

The scheme is not a large aid scheme, as defined by the Commission, nor is it a novel scheme. However, as also detailed in the notification paper, the scheme will be subject to a review and a public consultation exercise in 2017 and a further notification will be submitted to the Commission for approval.

If any of the criteria referred to in this point are fulfilled, please indicate the period of evaluation and complete the supplementary information sheet for the notification of an evaluation plan in Annex 1, Part III.8(22).

8.2. Please indicate whether any ex-post evaluation has already been carried out for a similar scheme (where relevant, with a reference and a link to any relevant websites)

No

(21)The Evaluation requirement does not apply to aid schemes covered by the Supplementary information sheet on Agriculture aid.

(22)For guidance, see the Commission Staff Working Document "Common methodology for State aid evaluation", SWD(2014)179 final of 28.5.2014 under http://ec.europa.eu/competition/state_aid/modernisation/state_aid_evaluation_methodology_en.pdf.

9. Reporting and Monitoring

In order to enable the Commission to monitor the aid scheme and individual aid, the notifying Member State undertakes to:

Annually submit to the Commission the reports provided for by Article 26 of Council Regulation (EU) 2015/1589(23). - Maintain for at least 10 years from the date of award of the aid (individual aid and aid granted under the scheme) detailed records containing the information and supporting documentation necessary to establish that all compatibility conditions are met, and provide them, on a written request, to the Commission within a period of 20 working days or such longer period as may be fixed in the request.

For fiscal aid schemes:

(23)Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

10. Confidentiality

Does the notification contain confidential information(24) which should not be disclosed to third parties?

Yes. Please indicate which of the form are confidential and provide reasons for confidentiality.

Whilst there is no commercially confidential information contained within the notification papers, as the failings on the NI RHI scheme are to be investigated through a judge led Public Inquiry, no information on this scheme should be released publicly without the prior agreement of the United Kingdom.

(24)For guidance see Article 339 TFEU that refers to "information about undertakings, their business relations or their cost components". The Union courts have generally defined "business secrets" as information "of which not only disclosure to the public but also mere transmission to a person other than the one that provided the information may seriously harm the latter's interest" in Case T-353/94 Postbank v Commission ECLI:EU:T:1996:119, paragraph 87'.

11. Other Information

Where applicable, please indicate any other information relevant for the assessment of the aid.

This notification essentially covers a one year period (to 31 March 2018) during which DfE will undertake a detailed and extensive review of the scheme and will undertake a consultation exercise to determine how the scheme will operate going forward and the tariff rates that will provide the beneficiaries with a reasonable return but which is also the minimum necessary.

12. Attachments

Please list all documents which are attached to the notification and provide paper copies or internet addresses which allow access to the documents concerned.

Attachment:	Comment on the attachment:
Business Case - Action on RHI.PDF	RHI Business case
NI RHI - notification document revising original RHI decision SA. 34140.DOCX	NI RHI - notification document
Part III.6 - supplementary information sheet for the NI RHI revision in 2017.DOCX	Part III.6 - supplementary information sheet
RHI Regulations (Northern Ireland) 2015.pdf	2015 RHI Regulations
RHI Regulations (Northern Ireland) 2017.pdf	2017 RHI Regulations

RHI Factsheet - grants and other public funding.pdf	Northern Ireland Renewable Heat Incentive – Grants from public funds and other Public Support (State)
SA 47501 - NI RHI scheme - DfE responses to DG Comp questions arising from 8 Feb Teleconference.pdf	DfE responses to DG Comp questions arising from 8 Feb Teleconference
SA 47501 - NI RHI scheme - DfE responses to DG Comp questions arising from 15 Feb Teleconference.pdf	DfE responses to DG Comp questions arising from 15 Feb Teleconference
SA 47501 - NI RHI scheme - DfE responses to DG Comp questions arising from 28 Feb Teleconference.pdf	DfE responses to DG Comp questions arising from 28 Feb Teleconference
SA 47501 - NI RHI scheme - DfE responses to DG Comp request for information on the 2015 biomass tiering decision and DfE position on CHP.pdf	DfE responses to DG Comp request for information on the 2015 biomass tiering decision and DfE position on CHP
RHI Regulations (Northern Ireland) 2012.pdf	2012 RHI Regulations

13. Declaration

I certify that to the best of my knowledge the information provided on this form, annexes and attachments is accurate and complete.

Place:

Netherleigh, Massey Avenue, Belfast, Northern Ireland

Date:

16/3/2017

Name and position of signing person:

Stephen Moore
State aid unit
Department for the Economy Northern Ireland

14. Supplementary Information Sheet

14.1. Based on the information submitted in the general information form, please select the applicable supplementary information sheet to be completed:

Supplementary information sheet on environment and energy aid

14.2. For aid which is not covered by any supplementary information sheet, please select the relevant provision of the TFEU, guideline or another text applicable to State aid:

Please provide a justification for the compatibility of the aid falling in the categories selected in this point:

For practical reasons, it is recommended to number the documents provided as annexes and to refer to those document numbers in the relevant sections of the supplementary information sheets.

(25)Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (OJ C 392, 19.12.2012, p. 1).

(26)Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post 2012 (OJ C 158, 5.6.2012, p. 4).

(27)Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (OJ C 216, 30.7.2013, p. 1).

(28)Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (OJ C 188, 20.6.2014, p. 4).

(29)Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).