

From: Stewart, Chris (DFE)
To: [McCormick, Andrew \(DFE\)](#)
Cc: [Wightman, Stuart](#); [Marten, Lucy](#); [McCann, Brendan](#); [McMurray, Stephen](#); [McCoy, Laura](#); [Coyne, Terence](#); [McFarlane, Iain](#); [McIlwrath, Linda](#)
Subject: RE: RHI
Date: 12 December 2016 21:06:00
Attachments: [Email from Stuart to John Mills with revised Time-line - Non doemstic RHI changes. 24 August 2015.tr5](#)
[Email from Stuart to John Mills with revised Time-line - Non doemstic RHI changes. 24 August 2015.EML](#)

Andrew

This reply reflects an examination of the record only – I have not yet had an opportunity to speak to colleagues in the Division.

In essence, the root cause of the delay dates from much earlier than November. Whilst 4 November was the target date (as advised to the Committee in September), it appears that the time required to draft and clear the regulations made this impossible. I do not understand the reference to ‘financial clearance’.

By way of background, in addition to the tariff changes, the draft regulations address Phase 2 of the Non-domestic RHI, adding to their complexity. The first draft of the Regulations was sent to DSO on 22 July 2015 (i.e. even before Ministerial agreement to the policy of introducing cost controls was achieved - proposed in a submission of 8 July, agreed in September). You will see from the email of 24 August from Stuart Wightman to John Mills (attached) that the timescale already appeared very challenging by that point.

It took 5 iterations before DSO clearance of the draft regulations was obtained on 28 October. Strenuous efforts were made to expedite approval by the Examiner of Statutory rules (who helpfully gave prior informal consideration) – this required some further changes, with DSO approval of the final draft on 3 November.

Ministerial approval for the draft regulations was sought in a submission of 6 November and obtained on 10 November. **That is, Minister Bell was never in a position to approve the draft regulations in time for debate on 4 November.**

This timescale meant that the earliest date for Committee consideration was 17 November. The motion in the Assembly was the same day.

In summary, it appears to me that the primary cause of delay was the time taken to draft and clear the regulations. With hindsight, we ought to have de-coupled the tariff changes and pursued them separately, in order to minimise the risk of such delay. The need to do so may not have been as clearly understood in July as it was later. Nevertheless, this was a missed opportunity.

Chris

From: McCormick, Andrew (DFE)
Sent: 12 December 2016 17:59
To: Stewart, Chris (DFE)
Cc: Wightman, Stuart; Marten, Lucy; McCann, Brendan; McMurray, Stephen; McCoy, Laura; Coyne, Terence; McFarlane, Iain
Subject: RHI

On 17 November 2015 in the debate, Patsy McGlone said:

“Officials informed the Committee that the Department originally aimed for the legislation to come into effect on 4 November. However, they said that there was a delay in securing the financial and legal approvals. The Department was concerned to avoid a hiatus in the industry and, therefore, wanted to bring forward the legislation as quickly as possible.”

Can you please check the factual detail as to the delay from 4-17 November.

Many thanks.