

**From:** [Hughes, Seamus](#)  
**To:** [Nadia Carpenter](#)  
**Cc:** [Wightman, Stuart](#); [Edmund Ward](#); [Moore, Stephen \(DETI\)](#)  
**Subject:** FW: RHI Grants Factsheet  
**Date:** 09 October 2014 12:27:24  
**Attachments:** [NI RHI factsheet on grants, other public support and State aid - ESU comments.DOCX](#)

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Nadia

Our recent discussions around this refer. The factsheet as I understand it was drafted some months ago but never finalised. A further draft with suggested tracked changes is attached for your consideration. The related state aid declaration form which Ofgem has been using is fine although the rouge footnote reference at Q3 should be removed as we discussed. I would be grateful if you could review this revised draft as a matter of urgency. We are keen that we have this agreed and placed on the website ,(along with the state aid declaration form), as additional guidance as soon as possible.

Happy to discuss if you have any issues.

Many thanks

Regards

Seamus

## **Seamus Hughes**

Renewable Heat  
Department of Enterprise, Trade & Investment  
Netherleigh  
Massey Avenue  
Belfast, BT4 2JP  
Tel: 028 9052 9532 (ext: 29532)  
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Web: [www.detini.gov.uk](http://www.detini.gov.uk)

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**From:** Moore, Stephen (DETI)  
**Sent:** 08 October 2014 16:58  
**To:** Hughes, Seamus  
**Cc:** Wightman, Stuart; Pauley, Alberta  
**Subject:** RE: RHI Grants Factsheet

Seamus

Please find attached your original draft with dome tracked changes for consideration.

Happy to discuss.

Stephen

**Stephen Moore**

European Support Unit  
Department of Enterprise, Trade & Investment  
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Visit the website for the European Sustainable Competitiveness Programme for NI -  
[www.eucompni.gov.uk](http://www.eucompni.gov.uk)

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**From:** Hughes, Seamus  
**Sent:** 03 October 2014 11:36  
**To:** Moore, Stephen (DETI)  
**Cc:** Wightman, Stuart  
**Subject:** RHI Grants Factsheet

Stephen

Please attached draft factsheet on grants **(Grants, Other Public Support, and State Aid)** This I understand was drafted around February time but was never finalised. I am now moving to get this agreed between DETI and Ofgem and uploaded along with the other scheme guidance over the next week or so.

I know you were involved when this was first drafted but I would be grateful if you could review again and confirm that you are content from a state aid perspective. The document sets out the current position but will be reviewed again in due course when our proposed legislative changes have been made.

Many thanks

Regards

Seamus

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## Guidance – Factsheet

### Northern Ireland Renewable Heat Incentive – *Grants, Other Public Support, and State Aid*

This factsheet provides supplementary information on the treatment of grants and other public support under the Northern Ireland Renewable Heat Incentive (NI RHI). This factsheet supplements but does not replace the Guidance materials located at:

<http://www.nidirect.gov.uk/index/information-and-services/environment-and-greener-living/energy-wise/energy-saving-grants/renewable-heat-grants/renewable-heat-incentive.htm>

This factsheet was last updated in ~~February~~October 2014, and reflects the administrative approach to some ‘soft’ loans such as those from the Carbon Trust.

#### Overview

1. The Northern Ireland Renewable Heat Incentive (NI RHI) Regulations<sup>1</sup> exclude applicants in possession of certain support from public funds from being accredited onto the scheme.
2. Some applicants may be able to access the RHI by repaying their grant, but only where their installation was completed and first commissioned between 1<sup>st</sup> September 2010 and 1<sup>st</sup> November 2012.
3. Where applicants have received other support which is not classed as a grant according to the Regulations, Ofgem will need to ensure that [the support from the NI RHI scheme is provided in accordance with the requirements of the European Commission’s State aid rules](#). [State Aid exemptions do not apply](#)
4. For further details on the operating procedures we follow in each case – including, for example, for certain recipients of Carbon Trust Zero Interest loans – see the detailed guidance below.

#### Potential Applicants in Receipt of a *Grant* from Public Funds

5. If a ***grant from public funds was paid*** towards any of the costs of the eligible installation and the ***installation was completed and first commissioned after 1<sup>st</sup> November 2012***, you will ***not*** be able to access the scheme. You should not submit an application to the Renewable Heat Incentive, and any applicant in this situation may expect their application to be rejected.
6. If a ***grant from public funds was paid*** towards any of the costs of the eligible installation and the ***installation was completed and first commissioned between 1<sup>st</sup> September 2010 and 1<sup>st</sup> November 2012***, you may elect to ***repay the relevant grant amount*** relating to the costs of the eligible installation in order to access the NI RHI. You should not repay the grant amount until you have submitted an application to the scheme and we have confirmed that all eligibility requirements have been met. In the event of a grant repayment you would need to provide evidence to Ofgem to demonstrate that the relevant grant amount had been repaid. If you wish

<sup>1</sup> <http://www.legislation.gov.uk/nisr/2012/396/contents/made>; Regulation 23 deals with grants and other public support

to receive further guidance on how you might demonstrate this, please contact Ofgem at [RHI.Grants@ofgem.gov.uk](mailto:RHI.Grants@ofgem.gov.uk).

**Potential Applicants in Receipt of Other Public Support (such as some Carbon Trust 'soft' Loans)**

7. You will be asked to declare your source of funding during the application process at application question HJ305. You should mention the full name of all sources of [public](#) funding which were used to purchase and install the eligible installation. ~~If you know your undertaking is in receipt of any State Aid (essentially public support), please declare this at question HJ305 in the application.~~
8. When assessing eligibility for the scheme, we are only concerned with 'other [public](#) support' provided by a [UK](#) public authority. Therefore if you have funded your installation through private funds or working capital, we are unlikely to require further evidence to support this requirement for RHI accreditation.
9. If however you have received other [public](#) support which ~~may be public support~~, such as a soft loan, we would require further evidence. If you are able to ~~investigate~~ [provide information on](#) the source of the 'other support' funding prior to your application being reviewed this would be beneficial as it would reduce the likely time required as part of the application review process, and reduce the need for us to request further evidence from you. ~~For example You would be able to contact the 'other support' provider you should be able to tell us whether the 'other public support' you have received is 'de minimis' aid or is notified State aid. This should be clear in the documentation you have received from the body that provided you with the public support in this regard.~~
- ~~10. If the 'other public support' you have received is de minimis aid or another type of State aid, we will may~~ request you to complete a State Aid declaration form<sup>2</sup>. We will then need to ~~confirm assess the your total amount of level of~~ support ~~you would receive, when aid from the RHI scheme is added to the other de minimis aid or State aid you are receiving, does not result in you exceeding the maximum the State aid rules say you can receive, against State Aid requirements.~~
- ~~11. In assessing your eligibility, please also~~ note that ~~the State aid maximums support levels may be limited, and might~~ vary according to the sector in which your organisation is active. ~~For example, for most de minimis aid the 3 year maximum is €200,000, but, if your organisation is involved in 'the primary production of agricultural products', the 3 year maximum for your primary agriculture activities is €15,000. Similarly, the 3 year maximum for fisheries and aquaculture is €30,000.~~
- ~~10.~~

***For information – an indication of possible State Aid limits:***

- ~~11.12.~~ **Note:** ~~Unfortunately, we~~ cannot provide advice on ~~whether the other public support you have received is State aid or advise how you should complete the State Aid declaration requirements.~~ If you are in any doubt, you should take independent advice prior to providing any declarations to Ofgem regarding your Renewable Heat Incentive application.
- ~~12. In considering the state aid limits, payments anticipated under the Renewable Heat Incentive during the 3 financial year rolling period would need to be considered. In general, undertakings should not receive 'de minimis' aid (which would include the value of the other public support paid towards the installation) exceeding EUR 200,000 in any 3 financial year rolling period. Please~~

<sup>2</sup> [Insert hyperlink to form on website]

**Comment [SM1]:** As discussed, the OFGEM State aid declaration form is fine, but it does need to be accessible via the link at the bottom of this page.

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*note that certain sectors do not fall under the EUR 200,000 limit. Our current understanding of some relevant 'de minimis' aid limits over any 3 financial year rolling period are listed below:*

<b>Sector</b>	<b>De minimis limits</b>
Road transport	€ 100,000
Agriculture (including: crop growing; animal husbandry)	€ 157,0500
Fisheries or Aquaculture products	€ 30,000
Other sectors	€ 200,000

#### **Further Information/Enquiries**

For further information on the approach to grants from public funds and other public support, potential applicants are advised to take expert advice prior to applying for the RHI. While DETI or Ofgem will not be in a position to provide advice on specific cases outside of a formal application, any enquiries on this topic should be directed to the Ofgem enquiry service on **0845 200 2122** or via email to [rhi.enquiry@ofgem.gov.uk](mailto:rhi.enquiry@ofgem.gov.uk), clearly indicating that the enquiry relates to the Northern Ireland scheme.

**From:** [Nadia Carpenter](#)  
**To:** [Hughes, Seamus](#)  
**Cc:** [Wightman, Stuart](#); [Edmund Ward](#); [Moore, Stephen \(DETI\)](#)  
**Subject:** RE: RHI Grants Factsheet  
**Date:** 16 October 2014 16:14:32  
**Attachments:** [NI RHI factsheet on grants other public support and State aid - ESU comments\\_EW comments \(2\)NC.docx](#)

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Hi Seamus,

Apologies for the delay in reviewing this. Comments from Edmund and myself are attached.

A main point for me is should we say that applications in receipt of a grant outside of the repayment window should expect to be rejected? It seems the approach now in practice is to offer to complete eligibility checks and put these on hold pending the change to the legislation. Also, have you considered mentioning the change to the legislation in this document?

Regards,

Nadia

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**From:** Hughes, Seamus [mailto:Seamus.Hughes@detini.gov.uk]  
**Sent:** 09 October 2014 12:27  
**To:** Nadia Carpenter  
**Cc:** Wightman, Stuart; Edmund Ward; Moore, Stephen (DETI)  
**Subject:** FW: RHI Grants Factsheet

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Happy to discuss if you have any issues.

Many thanks

Regards

Seamus

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**Cc:** Wightman, Stuart  
**Subject:** RHI Grants Factsheet

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again and confirm that you are content from a state aid perspective. The document sets out the current position but will be reviewed again in due course when our proposed legislative changes have been made.

Many thanks

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Seamus

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## Guidance – Factsheet

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3. Where applicants have received other public support which is not classed as a grant from public funds according to the Regulations, Ofgem they will need to ensure that the support from the NI RHI scheme is provided in accordance with the requirements of the European Commission’s State aid rules. State Aid exemptions do not apply.
4. For further details on the operating procedures we follow in each case – including, for example, for certain recipients of Carbon Trust Zero Interest loans – see the detailed guidance below.

**Comment [EW1]:** Better if it is clear this is ultimately an applicant’s responsibility

#### Potential Applicants in Receipt of a Grant from Public Funds

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**Comment [NC2]:** Should we leave this in? We have recently let one applicant place 6 applications with grants from public funds on hold pending the change to the Regulations. Would you like to mention the upcoming change to the Regulations in this document?

<sup>1</sup> <http://www.legislation.gov.uk/nisr/2012/396/contents/made>; Regulation 23 deals with grants and other public support

to receive further guidance on how you might demonstrate this, please contact Ofgem at [RHI.Grants@ofgem.gov.uk](mailto:RHI.Grants@ofgem.gov.uk).

#### Potential Applicants in Receipt of Other Public Support (such as some Carbon Trust 'soft' Loans)

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8. When assessing eligibility for the scheme, we are only concerned with 'other public support' provided by a UK public authority. Therefore if you have funded your installation through private funds or working capital, we are unlikely to require further evidence to support this requirement for RHI accreditation.
9. If however you have received other public support ~~which may be public support~~, such as a soft loan, we would require further evidence. If you are able to ~~investigate~~ provide information on the source of the 'other support' funding prior to your application being reviewed this would be beneficial as it would reduce the likely time required as part of the application review process, and reduce the need for us to request further evidence from you. ~~For example You would be able to contact the 'other support' provider you should be able to tell us whether the 'other public support' you have received is 'de minimis' aid or is notified State aid. This should be clear in the documentation you have received from the body that provided you with the public support in this regard. You can enter this information in your answer to question HJ305 which asks about the source of your installation's funding.~~
10. If the 'other public support' you have received is de minimis aid or another type of State aid, ~~we will may~~ request you to complete a State Aid declaration form<sup>2</sup>. We will then need to ~~confirm assess the your total amount of level of support you would receive, when aid from the RHI scheme is added to the other de minimis aid or State aid you are receiving, does not result in you exceeding the maximum the State aid rules say you can receive. against State Aid This function will be conducted by DETI, according to the application of Commission Regulation (EC) No 1998/2006 requirements.~~
11. ~~In assessing your eligibility, please also note that the State aid maximums support levels may be limited, and might vary according to the sector in which your organisation is active. For example, for most de minimis aid the 3 year maximum is €200,000, but, if your organisation is involved in 'the primary production of agricultural products', the 3 year maximum for your primary agriculture activities is €15,000. Similarly, the 3 year maximum for fisheries and aquaculture is €30,000.~~
10. ~~For information — an indication of possible State Aid limits;~~
- 11-12. ~~Note: Unfortunately, we cannot provide advice on whether the other public support you have received is State aid or advise how you should complete the State Aid declaration requirements.~~ If you are in any doubt, you should take independent advice prior to providing any declarations to Ofgem regarding your Renewable Heat Incentive application.
12. ~~In considering the state aid limits, payments anticipated under the Renewable Heat Incentive during the 3 financial year rolling period would need to be considered. In general, undertakings~~

**Comment [NC3]:** I think we should ask the applicant to declare all sources of funding- they may not recognise every instance where state aid is received. Question HJ305 asks how the installation was funded; the wording is not limited to public funding.

**Comment [SM4]:** As discussed, the OFGEM State aid declaration form is fine, but it does need to be accessible via the link at the bottom of this page.

**Comment [EW5]:** For clarity, and to reflect amended arrangements.

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*should not receive 'de minimis' aid (which would include the value of the other public support paid towards the installation) exceeding EUR 200,000 in any 3 financial year rolling period. Please note that certain sectors do not fall under the EUR 200,000 limit. Our current understanding of some relevant 'de minimis' aid limits over any 3 financial year rolling period are listed below:*

<b>Sector</b>	<b>De minimis limits</b>
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Agriculture [including: crop growing; animal husbandry]	€ 157,0500
Fisheries or Aquaculture products	€ 30,000
Other sectors	€ 200,000

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Field Code Changed