

**From:** [McCoy, Laura](#) on behalf of [Mills, John \(DETI\)](#)  
**To:** [Private Office DETI](#)  
**Cc:** [McCormick, Andrew \(DETI\)](#); [Stewart, Chris \(DETI\)](#); [Rooney, Eugene](#); [Wightman, Stuart](#); [Cooper, Trevor](#); [Vaughan, Helen](#); [Robson, Rod](#); [McCrea, Ian](#); [Kerr, Sean](#); [DG DETI Press Office](#); [DETI Energy Mailbox](#)  
**Subject:** DESK IMMEDIATE - Submission - RHI Closure  
**Date:** 02 February 2016 16:07:13  
**Attachments:** [image001.gif](#)  
[Submission - Closure of RHI - Urgent Procedure.tr5](#)  
[Submission - Closure of RHI - Urgent Procedure - Annex C Consultation Document.tr5](#)  
[Submission - Closure of RHI - Urgent Procedure.DOCX](#)  
[Submission - Closure of RHI - Urgent Procedure - Annex C Consultation Document.DOCX](#)  
**Importance:** High

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Private Office

Please see attached desk immediate submission from John Mills.

Regards,

## Laura McCoy

Personal Secretary  
Department of Enterprise, Trade & Investment  
Netherleigh  
Massey Avenue  
Belfast, BT4 2JP  
Tel: 028 9052 9200 (ext: 29200)  
TextRelay: 18001 028 9052 9200  
Web: [www.detini.gov.uk](http://www.detini.gov.uk)

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[NI Year of Food & Drink 2016](#)

**Please consider the environment - do you really need to print this e-mail?**

**From: John Mills**

**Tel No: 29215**

**Date: 2 February 2016**

**To: 1. Timothy Cairns  
2. Jonathan Bell MLA**

**Copy Distribution List below**

## **CLOSURE OF RHI – URGENT PROCEDURES**

**Issue:** Closure of the Northern Ireland Renewable Heat Incentive schemes (RHI).

**Timing:** **DESK IMMEDIATE:** Clearance immediately to enable letter to OFMDFM to issue today - Tuesday 2 February 2016.

**Executive Committee Referral:** Urgent Procedures are necessary to secure Executive approval before launching public consultation on proposed closure on Tuesday 2 February 2016

**PfG Implications:** The PfG targets for renewable heat are 4% by 2015 and 10% by 2020.

**Presentational Issues:** The closure/suspension of the scheme will be unwelcome for the RHI industry. The expenditure situation will attract criticism.

**FOI Implications:** FOIA exempt under sections 35 (formulation or development of government policy)

**Financial Implications:** Potential impact on DEL of £95m over 5 years.

**Legislation Implications:** Legislative changes to the RHI require draft affirmative resolution Regulations.

**Statutory Equality Obligations:** Screened out.

**Recommendation:** That you issue:

- the attached letter to OFMDFM seeking urgent Executive approval (**Annex A**); and
- subject to OFMDFM approval, the attached letter to the Chair of the ETI Committee (**Annex B**) and Public Consultation document (**Annex C**).

**Background**

1. Further to my submission(s) of 28 January 2016 you have agreed to close the RHI schemes to new applications, subject to public consultation. This submission invites you to approve the immediate steps needed to move towards final decisions on this issue, which requires Executive approval and public consultation.

**Budget Deficit**

2. To meet RHI commitments for existing installations, around £95m of funding will have to be found from DEL for the next 5 years to address the current funding deficit. If both RHI schemes remain open to new applicants, the budget deficit increases to £185m.

**Executive Referral**

3. The closure/suspension and the budget position could be considered “significant or controversial” and cross cutting. Also any action other than closure would create a significant opportunity cost, and even if this was to be absorbed in the DETI/DfE budget areas, it would have consequences which could only be approved at collective Executive level. To meet the current timetable Executive approval must be secured under urgent procedure. A Letter to OFMDFM seeking urgent Executive approval is therefore attached at **Annex A**. This is informed by comments received from the Finance Minister.

**Public Consultation (subject to Executive clearance)**

4. You have agreed to complete a 2 week consultation on the proposed closure of the RHI schemes. Subject to Executive approval, the Chair of the ETI Committee should be informed (**Annex B**) and the Consultation Document published (**Annex C**).

**Recommendation**

5. That you issue:
  - (a) the attached letter to OFMDFM seeking urgent Executive approval (**Annex A**); and
  - (b) subject to Executive approval, the attached letter to the Chair of the ETI Committee (**Annex B**) and Public Consultation (**Annex C**).



**JOHN MILLS**  
Energy Division  
Ext. 29215

cc: Andrew McCormick  
Chris Stewart  
Eugene Rooney  
Stuart Wightman  
Trevor Cooper  
Helen Vaughan  
Rob Robson (DALO)  
Ian McCrea MLA APS  
Sean Kerr  
Press Office

**ANNEX A**

**FROM: JONATHAN BELL MLA  
MINISTER OF ENTERPRISE, TRADE AND INVESTMENT**

**DATE: FEBRUARY 2016**

**TO: FIRST MINISTER AND DEPUTY FIRST MINISTER**

**REQUEST FOR A DECISION BY URGENT PROCEDURE – CLOSURE OF THE  
RENEWABLE HEAT INCENTIVE SCHEME (RHI)**

**Introduction**

1. In accordance with paragraph 2.14 of the Ministerial Code I am seeking agreement to take an urgent decision on the closure of the Northern Ireland Renewable Heat Incentive Scheme (RHI). The urgent decision is required to minimise significant DEL overspending on the scheme.

**Background**

2. The Non Domestic RHI scheme was introduced in November 2012 and the Domestic RHI scheme in December 2014. Both schemes provide payments for people to move from conventional heating (mainly oil) to sustainable heating such as wood pellets (biomass). In light of unprecedented numbers of applications for the Non Domestic Scheme and the outcome of the Government's Spending Review, an urgent decision is now needed on the future of the NI RHI schemes.
3. Successful Domestic RHI applicants receive an upfront payment of up to £3,500 (depending on the technology) along with 7 annual tariff payments based on the heat requirements of the property. Annual payments are typically around £1,200 but are capped at a maximum of £2,500. Uptake of the Domestic RHI scheme has increased steadily (c.700 applications since the scheme was introduced).
4. The Non Domestic RHI scheme on the other hand involves 20 years of annual tariff payments based on the metered heat usage of the business. Tariffs are dependent on the type and size of technology. To date, average annual payments have been around £24,000. The Non Domestic scheme therefore involves much larger and longer financial commitments than the domestic scheme.

5. After a slow start during the first two years, non domestic scheme uptake increased steadily during 2015. During the Autumn of 2015 there was an unprecedented surge in applications. This increase relates to one particular technology – biomass.
6. A sustained increase in applications during March and April 2015 was the catalyst for the legislative changes I brought through the Assembly in November to, inter-alia, introduce a tiered tariff (reducing after 1,314 hours) and an annual cap (at 400,000 KWh) on RHI payments for biomass. However, in the run up to these legislative changes, the number of installations on the scheme doubled with over 900 applications received in 6 weeks. An increase in applications had been forecast as businesses tried to beat the deadline for tariff changes, but not at the unprecedented numbers received.
7. The increase in applications means that over 6% of NI's total heating needs are estimated to be provided through renewable technologies. The PfG target of 4% renewable heat by 2015 has been exceeded and we would be well on track to reach the 10% target set for 2020. However, this success comes at a price. Total expenditure for both RHI schemes in 2015/16 is now forecast to exceed £30m. Even if no new applications are received in 2016/17 (i.e. both schemes are closed by 31/3/16), forecast RHI expenditure in 2016/17 is expected to be around £45m.

### **Scheme Approvals**

8. When the business case for the non-domestic scheme was approved by DFP in 2012, one of the conditions was for re-approval in March 2015. Unfortunately the need for this approval was overlooked by DETI. DETI had no choice but to keep making the payments because the RHI scheme is set out in statutory Regulations and there are no grounds for DETI to cease making payments to properly made applications. Prospective approval has now been received from DFP for non domestic scheme expenditure from 29 October 2015 through to 31 March 2016. Retrospective approval from 1 April 2015 to 30 September 2015 has however been declined and the NI Audit Office accordingly notified. Approval for the Domestic RHI Scheme is in place up to 31 March 2020.

## Affordability

9. The affordability of the NI RHI schemes going forward obviously depends on the budget available. The RHI schemes (non-domestic and domestic) are paid out of Annual Managed Expenditure, (AME) which normally would not have an impact on the NI DEL Block funding. However, when the scheme was first introduced in 2012, HMT confirmed that RHI spending would not be treated as conventional AME, where the Exchequer takes on all risks. Instead, a risk-sharing arrangement was introduced whereby, should RHI spending in one year exceed the allocated budget, NI would need to repay this in future years. However, it was DETI's understanding that the rules provided that only a very small proportion of any required future savings (likely to be of the order of 5%) would have to be funded directed by NI through DEL.
10. Also unlike conventional AME, the initial 4 year (2011/12-2014/15) NI allocation of £25m was based on a Barnett formula of circa 3% of the DECC budget (£838m). HMT confirmed that any 20 year commitments entered into during this period would be honored. This arrangement was rolled forward in 2015/6 though the AME 2015/16 budget has since been raised to £30m in light of increased demand.

## Implications of Chancellor's Autumn Statement

11. If RHI funding was conventional AME there would be no impact on NI DEL. However, the Chancellor's Autumn Statement confirmed that the AME cap for Northern Ireland would be set at the Barnett share of circa 3%. DFP officials, after significant engagement with HMT officials in late November / early December in preparation for the finalisation of the Chief Secretary's Settlement Letter, have also advised that HMT's position will be that NI will have to cover the full costs of any overspends. This means that the Block DEL will be penalised for any excess spend for a period of at least the next five years and possibly up to 20 years ahead, depending on the approach taken to RHI in future in GB. The Chief Secretary's wording is set out below:

## Renewable Heat Incentive (RHI)

13. As in the previous Spending Review period, AME cover based on a population-proportionate share of the budget which has been set for the Renewable Heat Incentive in Great Britain will continue to be made available to the Northern Ireland Executive. The level of cover available is therefore £18.3, £22.3, £25.7 and £28.9 million from 2016-17 to 2019-20. Any spending on RHI above this level will need to be funded from the Executive's DEL budgets or other sources of income.

12. This creates significant budgetary pressures over and above the available AME budget cover for at least the next 5 years and, given the nature of the existing 20 year contracts, could extend far beyond the next budget period even if there are no new applications after the end of this financial year. Forecast costs in 2016/17 would be higher but would diminish over time i.e. if the scheme is closed to new applications the forecast costs would remain static but the HMT budget would rise therefore reducing the scheme overspend from around £27m in 2016/17 (latest estimate) to around £11m by 2020/21 (though if there are more applications than currently projected the additional costs could be around £33m in 2016/17). This, of course, all assumes that there are no further application spikes in anticipation of scheme closure.
13. In light of the HMT Settlement Letter I must therefore proceed on the basis that the major overspend that has now arisen will now impact upon the NI Block. DETI does not have the funding to meet this overspend. In the circumstances I have no choice but to propose immediate closure of the scheme to prevent the overspend from increasing further.
14. DFP and DETI have initiated an investigation into the effectiveness of the control and regulation of the Initiative in light of the significant increase in take-up of the scheme.”

### **Consultation**

15. I have consulted the Finance Minister on these issues and he concurs with my concerns and desire to minimise the exposure of the NI Block DEL.
16. plan to launch a short public consultation on the decision to close both schemes and will update you on the outcome of this.

### **Timing**

17. Given the urgency of the situation I propose to close both the RHI schemes as soon as possible, subject to public consultation and Assembly approval of the legislation.



**Recommendation**

18. I therefore request your immediate agreement, in accordance with paragraph 2.14 of the Ministerial Code, to take an urgent decision to agree to the closure of the Northern Ireland Renewable Heat Incentive Scheme (RHI), subject to the outcome of the public consultation and Assembly approval.

19. This letter is copied to all Executive Ministers, the Attorney General, the Departmental Solicitor, Office of Legislative Counsel and Executive Secretariat.

**JONATHAN BELL MLA**  
Minister of Enterprise, Trade and Investment

**ANNEX B**

Mr Patsy McGlone MLA  
Chair of ETI Committee  
Room 375  
Northern Ireland Assembly  
Parliament Buildings  
Stormont  
BELFAST  
BT4 3XX

February 2016

Dear Patsy

**PUBLIC CONSULTATION ON CLOSURE OF THE RENEWABLE HEAT INCENTIVE SCHEME (RHI)**

I am writing to inform the Committee that today I will be launching a public consultation on closure of the RHI schemes.

You will recall that I brought cost control measures for the Non Domestic scheme forward in November 2013. At that time I said that further measures might be necessary. A sustained increase in applications during March/April 2015 was the catalyst for these changes. However, in the run up to these legislative changes, there was an unprecedented surge in new applications with a further 900 applications received in 6 weeks. This doubled the total number of installations under the non-domestic scheme. It is now estimated that over 6% of NI's total heating needs are now provided through renewable technologies. The PfG target of 4% renewable heat by 2015 has been exceeded.

However, this success comes at a price. Total expenditure for RHI in 2015/16 is now forecast to exceed £30m. Even if no new applications are received in 2016/17 (i.e. both schemes are closed), forecast expenditure is expected to reach £45m. These increased costs together with budget cuts arising from the Spending Review and changes to how RHI expenditure is treated by Treasury 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, possibly as much as £19m p.a., for the next 5 years.

To prevent further overspend I must act now to close both schemes to new applications until such times as additional funding might be secured. Subject to the outcome of the public consultation I will bring forward legislation to the Assembly to close both schemes to new applications. A copy of the SL1 for the legislation will follow separately.

**JONATHAN BELL MLA**

Minister of Enterprise, Trade and Investment

**Consultation Document attached separately**

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**Consultation Paper**

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**Proposed closure of the Northern Ireland  
Renewable Heat Incentive.**

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February 2016

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# Purpose of Consultation and how to Respond

# 1

## Purpose of consultation

- 1.1 The purpose of this consultation is to seek views on the proposal to close the domestic and non domestic Renewable Heat Incentive schemes ('the RHI') to new applications.
- 1.2 Following an extensive consultation in July 2013, cost control measures were recently introduced to the non domestic RHI in November 2015. These included tiered tariffs for biomass, a change in biomass banding, and an annual cap on heat payments. However, an unprecedented increase in applications in the run up to these changes together with reduced budgets and altered treatment of funding arising from the Chancellor's November Spending Review Statement now means the RHI budget has been exhausted.
- 1.3 It is therefore, proposed to close the RHI to new applicants to prevent further overspend until such time as additional funding might be secured. The 2013 consultation envisaged measures such as suspension although, at that time, neither the significant increase in applications nor the budget changes were anticipated.
- 1.4 Further details and information on the proposal is set out in Chapter 2. A further public consultation will be carried out to inform long term policy for renewable heating in Northern Ireland after both schemes have been closed.

**In the absence of additional funding being allocated to the scheme, DETI is seeking views on:**

- 1) Whether there are feasible options other than closure of the RHI schemes with immediate effect; and
- 2) Whether there are factors which should be taken account in the closing the scheme.

### **How to respond**

- 1.5 Responses should be sent, preferably by email, **to arrive by 5pm on 16 February 2016** to:

[NI.RHI@detini.gov.uk](mailto:NI.RHI@detini.gov.uk)

or by post to:

**Energy Efficiency Branch  
Energy Division  
Department of Enterprise, Trade and Investment  
Netherleigh, Massey Avenue  
BELFAST  
BT4 2JP**

- 1.6 All responses should include the name and postal address of the respondent.

### **Confidentiality & Data Protection**

- 1.7 Your response may be made public by DETI and placed on the DETI website. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

- 1.8 Information provided in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 1.9 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

### **Impact Assessment**

- 1.10 The Department has screened the proposals for Equality Impact, Regulatory Impact and Rural Proofing. Copies of these documents can be provided on request.

### **Copies of the document**

- 1.11 This document is being produced in electronic form and may be accessed on the [DETI Energy website](#) or may be obtained from the address above or by telephoning 028 9052 9581.
- 1.12 If you require access to this consultation paper in a different format – e.g. Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department on 028 9052 9581 and appropriate arrangements will be made as soon as possible.



# PROPOSED RHI CLOSURE

## 2

### Background

- 2.1 The RHI, introduced in November 2012 to the non-domestic sector and in December 2014 to the domestic sector has been very successful. Over 3,500 renewable heating installations have been incentivised to date under the NI RHI schemes and we have met and exceeded the Executive's 2015 target of 4% renewable heat. It is currently estimated that around 6% of Northern Ireland's heating needs are provided through renewable heating technologies. This is well on the way towards the Executive's 2020 target of 10% renewable heat.
- 2.2 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 cost control measures introduced on 18 November 2015. This success has placed significant pressures on the available budget.
- 2.3 Funding for the NI RHI is provided by Treasury, and up to this point has been additional to the NI Block Grant, meaning that it does not affect funding for other NI public services. However, the increase in committed RHI payments associated with the recent influx in non domestic applications means that the NI funding allocations from 2016/17 onwards will be exceeded even if both schemes are closed to new applications. This situation is exacerbated by the UK Government's November Spending Review which included a significant reduction in

future RHI funding and moved responsibility for supporting anything in excess of existing allocations to the NI Block.

- 2.4 Despite total renewable heating capacity installed through the NI Non Domestic RHI Scheme currently equating to around 7% of total installed capacity in the GB scheme, NI receives below 3% of the GB RHI allocation.
- 2.5 To meet RHI commitments for existing installations, significant levels of funding will have to be found from within the NI Executive's budget to address the current deficit for the next 5 years. This could take much needed funding away from other public services. To prevent further overspend it is proposed to close both schemes to new applications until such times as additional funding might be secured.

### **Options and recommendation**

- 2.6 The Department must act now to address the budget issue. Keeping the RHI open is not possible as the available budget from 2016/17 onwards has already been exceeded by existing RHI commitments. A reduction in tariffs for new applicants will not be sufficient to address the issue. Although it would reduce the costs associated with new applications, the available budget from 2016/17 onwards is already exceeded by existing RHI commitments.
- 2.7 The Minister has considered the possibility of reallocating funds from elsewhere within DETI but with pressure on budgets in other areas this is not possible.
- 2.8 Given the budget position, there seems little option other than to close the scheme until further funding becomes available to cover, not only the current deficit, but any new commitments. This preliminary view is subject to the outcome of this consultation and the legislative process. Subject to these considerations closure of the scheme will be taken forward as soon as possible during this Assembly. Without prejudice to the outcome of consideration of consultation responses, this may include the taking of preparatory steps during consultation

Department of Enterprise,  
Trade and Investment  
Netherleigh  
Massey Avenue  
BELFAST  
BT4 2JP

**E:** email  
**T:** 028 9052 xxxx  
**F:** 028 9052 9549  
**Textphone:** 028 9052 xxxx  
**[www.energy.detini.gov.uk](http://www.energy.detini.gov.uk)**