

From: [Hughes, Seamus](#)
To: [Mills, John \(DETI\)](#)
Subject: FW: Draft SR: The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016
Date: 11 February 2016 16:03:30
Attachments: [image003.png](#)
[image001.gif](#)

John

For info.

Seamus

Seamus Hughes

Energy Efficiency Branch

Department of Enterprise, Trade & Investment

Netherleigh

Massey Avenue

Belfast, BT4 2JP

Tel: 028 9052 9532 (ext: 29532)

TextRelay: 18001 028 9052 9532

Web: www.detini.gov.uk



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

From: Wightman, Stuart

Sent: 11 February 2016 15:57

To: Hughes, Seamus; Vaughan, Helen; Anderson, Gail

Subject: FW: Draft SR: The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016

Oh dear!! Can we please check this out?

Stuart

From: Nabney, Gordon [<mailto:Gordon.Nabney@niassembly.gov.uk>]

Sent: 11 February 2016 15:56

To: Wightman, Stuart

Subject: Draft SR: The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016

Mr Stuart Wightman

DETI

Draft SR: The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016

As you know, the Department is moving with almost indecent haste, and the route is not easy.

I am aware that the Minister wrote to the Committee Chair (Mr McGlone) on Monday (when the draft SR was laid) and the Permanent Secretary appeared before the Committee on Tuesday. The motion for approval is down for Monday.

The draft SR seems on its face to be intra vires and I take it that the Department will have fully teased out any potential Convention rights issues with its legal advisers (say, in relation to Article 1 of the First Protocol ECHR and peaceful enjoyment of possessions).

Can I mention a point I have just noticed? I notice the amendments in regulations 5 and 6 (consequential "subject to" references to new Article 23A). Should there not be a

similar amendment for regulation 26(5) of the 2012 Regulations (see below)?

Regards

Gordon Nabney

(5) Where a plant has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for accreditation is made under this Part, the Department must, subject to regulation 23 [?or 23A?], grant that application unless it is satisfied that—

(a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;

(b) any condition attached to the preliminary accreditation has not been complied with;

(c) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Department known the true position when the application for preliminary accreditation was made, it would have been refused; or

(d) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused.



GORDON NABNEY

Examiner of Statutory Rules

work: [028 9052 1986](tel:02890521986)

email: gordon.nabney@niassembly.gov.uk

Room 234
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

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