

From: [Alan Bissett](#)
To: [Stewart, Susan](#)
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [Thompson, Sandra](#); [David Trethowan](#)
Subject: RE: Review of Draft Regulations
Date: 07 March 2012 12:03:04
Attachments: [image001.jpg](#)

Susan

I refer to the Work Request Form ACX/RHI 003 attached to your email below and to our conference call this morning in relation to this matter.

We have reviewed your instructions and the associated documentation which you have provided to us - with regard to this, our fee proposal is as follows:

The Team

We would propose to staff this matter as follows:

Alan Bissett (Partner); and

David Trethowan (Junior Lawyer).

Scope of Work

Many thanks for agreeing that the initial revised draft of the NI RHI Regulations may be delivered on 14th March 2012 - further to our call earlier today, we note that the scope of work up to 14th March 2011 is the following:-

1. A review of the GB RHI Regulations, as enacted, to ensure that any amendments made following the DECC engagement with Ofgem (as flagged in the Ofgem Memo) are carried through to the draft NI RHI Regulations;
2. A review of the issues flagged in Appendix 1 of the Ofgem Memo to determine if there are any issues which should be dealt with urgently in the draft NI RHI Regulations (it is our understanding that the revised draft of the NI RHI Regulations should follow the enacted version of the GB RHI Regulations as closely as possible and that it is intended that the other issues in Appendix 1 of the Ofgem Memo will be addressed in future amendments to the NI RHI Regulations);
3. Addressing the NI specific comments in relation to the draft NI RHI Regulations as flagged in Appendix 2 to the Ofgem memo; and
4. A review of the issues flagged by the DSO and ensuring that each issue is dealt with in the draft NI RHI Regulations

We note that additional drafting will be required up to the 21st March 2012 to take into account the following:-

1. The outcomes of ongoing engagement with the Department, DSO and Ofgem;
2. Policy decisions which will be finalised by the Department, including:-
 - The types of technologies to be included;
 - Tariff levels and banding;
 - Treatment of AD facilities that currently receive incentives for renewable electricity under the NIRO.

Time spent

I would anticipate that the team will spend the following time on this matter during the period to 21st March 2012:

Fee-Earner	Estimate of time (Hrs)	Estimate of Cost (excluding VAT) (£)
Alan Bissett (Partner)	Sensitive commercial information redacted by the RHI Inquiry	
David Trethowan	Sensitive commercial information redacted by the RHI Inquiry	

(Junior Lawyer)

Fee estimate

This equates to a total fee estimate of £ Sensitive commercial information redacted by the RHI Inquiry for the work to be carried out.

I hope that the above is in order - if you would like to discuss the above or require any further information, please do not hesitate to contact me.

Kind regards

Alan

ALAN BISSETT
Partner
Arthur Cox
Capital House
3 Upper Queen Street
Belfast
BT1 6PU

DD: 028 9026 5528
T: 028 9023 0007
M: Personal information redacted by the RHI Inquiry
E: alan.bissett@arthurcox.com
www.arthurcox.com

From: Stewart, Susan [mailto: Susan.Stewart@detini.gov.uk]
Sent: 02 March 2012 16:12
To: Alan Bissett
Cc: McCutcheon, Joanne; Hutchinson, Peter; Thompson, Sandra; David Trethowan
Subject: FW: Review of Draft Regulations

Alan

I attach a work request form detailing the work needed to provide the Department with a Final draft version of Renewable Heat Regulations.

I also attach a copy of the previous comments from Ofgem along with a letter with comments on the draft Regulations from DSO. We have redrafted the Regulations to incorporate DSO comments which are attached for your convenience.

We request a quote only at this stage and we would appreciate if you could provide the quote by close of play Tuesday 6th March 2012.

If you need any more information, please don't hesitate to contact me

Many Thanks

Susan

Susan Stewart
Sustainable Energy
Department of Enterprise, Trade & Investment

Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9212 (ext: 29212)
Textphone: 028 9052 9304
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DETI ENERGY DIVISION (Renewable Heat Branch)
Work Request Form

Departmental Contact Name and tel: Peter Hutchinson (028) 9052 9532
Date: March 2012

Work request Ref no:	ACX/RHI 003
Issue:	<p>The current draft RHI Regulations have now closed to consultation. The consultation responses have required the Department to review the final design of the scheme to take account of the comments raised. The Departmental Solicitor's Office (DSO) and Ofgem, who are responsible for administering the scheme, have also made comments on these Regulations.</p> <p>The Regulations now need to be updated and finalised in line with the final design of the scheme. Comments raised by DSO and Ofgem should also be considered and, if appropriate, reflected in the final draft legislation.</p> <p>A meeting between the Renewable Heat team and Arthur Cox representatives should be held in the first instance to discuss specific issues.</p> <p>Please contact Susan Stewart on 02890 529212 to arrange.</p>
Action required:	Request to deliver a final draft version of the Northern Ireland Renewable Heat Incentive Regulations.
Date Required By:	<p>The Department intends to begin the legislation process to make these Regulations at the beginning of April subject to DSO approval. Therefore a first draft of the regulations will be required w/c Monday 12th March 2012 which will have taken account of the final design of the scheme and the comments from DSO and Ofgem.</p> <p>It should be noted that both DSO and Ofgem legal advisors will need to vet and clear the final draft regulations.</p> <p>There is likely to be iterative communication between the Department, Arthur Cox and Ofgem to reach a final resolution and the estimate should reflect this.</p> <p>This will allow the Department to review and make comments so that the final draft is received by Wednesday 21st March 2012 so that the Department can proceed to obtain DSO approval on the final version.</p>
Service Provider comment if appropriate:	<p>Many thanks for agreeing that the initial revised draft of the NI RHI Regulations may be delivered on 14th March 2012 - further to our call earlier today, we note that the scope of work up to 14th March 2011 is the following:-</p> <ol style="list-style-type: none"> 1. A review of the GB RHI Regulations, as enacted, to ensure that any amendments made following the DECC engagement with Ofgem (as flagged in the Ofgem Memo) are carried through to the draft NI RHI Regulations;

2. A review of the issues flagged in Appendix 1 of the Ofgem Memo to determine if there are any issues which should be dealt with urgently in the draft NI RHI Regulations (it is our understanding that the revised draft of the NI RHI Regulations should follow the enacted version of the GB RHI Regulations as closely as possible and that it is intended that the other issues in Appendix 1 of the Ofgem Memo will be addressed in future amendments to the NI RHI Regulations);

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 - Tariff levels and banding;
 - Treatment of AD facilities that currently receive incentives for renewable electricity under the NIRO.

Time spent

I would anticipate that the team will spend the following time on this matter during the period to 21st March 2012:

Fee-Earner	Hourly Rate (£)	Estimate of time (Hrs)	Estimate of Cost (excluding VAT) (£)
Alan Bissett (Partner)	Sensitive commercial information redacted by the RHI Inquiry		
David Trethowan (Junior Lawyer)	Sensitive commercial information redacted by the RHI Inquiry		

Fee estimate

This equates to a total fee estimate of Sensitive commercial information plus VAT for the work to be carried out

Service Provider (Company name):	Arthur Cox
Service Provider Contact Name	Alan Bissett

Estimated Cost:	<small>Sensitive commercial information redacted by the RHI Inquiry</small> including VAT
HOD Approval	F. [Signature]
HOD Approval Date	7-3-12.

From: Stewart, Susan
To: ["Alan Bissett"](#)
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [Thompson, Sandra](#); [David Trethowan](#)
Subject: RE: Review of Draft Regulations
Date: 07 March 2012 15:23:00
Attachments: [OTOP.png](#)
[image001.jpg](#)
[ACX RHI 003 - Fiona Hepper s approval.PDF](#)

Alan

Please see attached work request which confirms that your quote for the work to be undertaken on ACX/RHI 003 has been approved.

If you have any further queries, you can contact me

Thanks

Susan

Susan Stewart

Sustainable Energy
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9212 (ext: 29212)
Textphone: 028 9052 9304
Web: www.detini.gov.uk



www.ni2012.com

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

From: Alan Bissett [<mailto:alan.bissett@arthurcox.com>]
Sent: 07 March 2012 12:02
To: Stewart, Susan
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [Thompson, Sandra](#); [David Trethowan](#)
Subject: RE: Review of Draft Regulations

Susan

I refer to the Work Request Form ACX/RHI 003 attached to your email below and to our conference call this morning in relation to this matter.

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E: alan.bissett@arthurcox.com
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From: Stewart, Susan [mailto:Susan.Stewart@detini.gov.uk]
Sent: 02 March 2012 16:12
To: Alan Bissett
Cc: McCutcheon, Joanne; Hutchinson, Peter; Thompson, Sandra; David Trethowan
Subject: FW: Review of Draft Regulations

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Departmental Contact Name and tel: Peter Hutchinson (028) 9052 9532
Date: March 2012

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Alan Bissett (Partner)	Sensitive commercial information redacted by the RHI Inquiry		
David Trethowan (Junior Lawyer)			

Fee estimate

This equates to a total fee estimate of £[redacted] plus VAT for the work to be carried out

Service Provider (Company name):	Arthur Cox
Service Provider Contact Name	Alan Bissett

Estimated Cost:	£ [redacted] including VAT
HOD Approval	F. [Signature]
HOD Approval Date	7-3-12.

SCHEDULE 3 - Tariffs

Table 1

<i>Tariff name</i>	<i>Sources of energy or Technology</i>	<i>Installation capacity</i>	<i>Tariff Pence/kWh</i>
Small commercial Biomass	Solid biomass including solid biomass contained in municipal solid waste and CHP	Less than 20kWth	6.2
Medium commercial Biomass	As above	20kWth and above up to but not including 100kWth	5.9
Large commercial Biomass	As above	100kWth and above up to but not including 1000kWth	1.5
Small commercial heat pumps	Ground source heat pump, water source heat pump, deep geothermal	Less than 20kWth	8.4
Medium commercial heat pumps	As above	20kWth and above up to but not including 100kWth	4.3
Large commercial heat pumps	As above	100kWth and above	1.3
All Solar collectors	Solar collectors	Below 200kWth	8.5
Biomethane and biogas combustion	Biomethane injection and biogas combustion	All biomethane injection and biogas combustion below 200kWth	3.0

From: [Alan Bissett](#)
To: [Stewart, Susan](#)
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [Thompson, Sandra](#); [David Trethowan](#)
Subject: RE: Review of Draft Regulations
Date: 14 March 2012 19:29:19
Attachments: [image002.jpg](#)
[Draft NI RHI Regulations - 14.03.12.doc](#)
[DV.14.03.12 against DSO version November 2011.pdf](#)

Susan

In accordance with the Work Request Form for this matter, please find attached for your review a revised draft of the Northern Ireland Renewable Heat Incentive Scheme Regulations (the "**NI RHI Regulations**"). As previously discussed and for ease of reference, we have attached a blacklined version marked to show the changes made to the DSO version that you shared with us.

As you will see, we have incorporated the amendments which were introduced into the GB RHI Regulations prior to them being enacted which were not included in the version to be debated in Parliament that we used to prepare the previous draft of the NI RHI Regulations. We have dealt with the issues flagged by the DSO by making some additional amendments and have also addressed those issues raised in Appendix 2 of the Ofgem report which relate to drafting rather than policy issues.

We should be grateful if the Department would provide us with some clarification on a few points at this stage:-

1. In our discussions with you last week, we note that you referred to the definition of the term "Northern Ireland authority" that appears in Section 114 of the enabling legislation (the Energy Act 2011) – this term is defined for the purposes of Section 114 only as the Department or the NIAUR. We note that the powers in the enabling act provide for the Department or the NIAUR to have *vires* to establish the scheme and you mentioned that it has been determined that the Department is to establish the scheme. If this is the case, we could dispose of the definition of "NI Authority" altogether from the NI RHI Regulations and refer only to the "Department" where the term "NI Authority" is currently used – I should be grateful if you would confirm if this is appropriate.
2. In relation to Part 4, Chapter 1 which refers to the reporting functions relating to the use of municipal waste as an energy source, we have noted the DSO's comments and can confirm that we are in broad agreement with these. However, we have slightly amended Article 28(7) (a) to conform it with the parallel reporting function used in the Renewables Obligation (Northern Ireland) Order 2009. As you will see, this refers to data published by the Department of the Environment or a district council and, in this regard, we should be grateful if the Department would confirm that the data publishing regime has not changed since 2009 in order for these provisions to operate.

Once you have had an opportunity to review the amended version the NI RHI Regulations attached, we would welcome a call or meeting to have your thoughts and comments on this draft and the points raised above. We also look forward to discussing with you the next section of the work order involving iterative engagement with the Department, the DSO and Ofgem and further discussions with the Department in relation to the final policy decisions which will need to be reflected in the final form of the NI RHI Regulations.

I should be grateful if you would acknowledge receipt of this email and its attachments.

Kind regards

Alan

ALAN BISSETT
Partner
Arthur Cox
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3 Upper Queen Street
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