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30 September 2015

Mr Paul McGinn
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Victoria Hall
12 May Street
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Dear Paul

RENEWABLE HEAT INCENTIVE SCHEME – AMENDMENT REGULATIONS 2015

Thank you for your further letter of 10th September with your comments on the revised draft RHI amendment regulations we sent to you. For ease of reference I will respond in the order noted in your reply. A revised draft of the Regulations is provided for your consideration.

1. The title of the Regulations has now been changed in line with your suggestion.
2. Your direction in the need to reference the Interpretation Act (NI) 1954 is accepted.
3. In relation to your comments about Regulation 2 (1A), we have reflected on this and now feel this issue might be better addressed through amendments to Regulation 12 and 14 have therefore included amendments under 12 (1), and 14 (2) (b).
4. I agree that some confusion would appear to have crept in around the new Regulation 3 (2) (d). The policy intent here is to allow for processing through cleaning or drying outside of a building on a commercial basis in line with the position under the GB scheme. We have therefore now included the wording from the GB Regulations around this which should address the issue.
5. We note your comment about the use of the word “accredited” in relation to Regulation 24 and have followed your drafting advice.
6. There were a number of issues around amendments to regulation 36 which we have addressed in this revised draft. You will note that the references to “preliminary approval” have now been removed as the Department no longer wishes to proceed with this provision. The intent around this was to provide for installations at an advanced stage of development, awaiting planning approval for instance and who would not be able to have the installation completed prior to the

operational date. This was always going to be a difficult issue to manage and given the fact that the operational date will now be 4 November we feel there has been a sufficient notice period given.

7. In relation to the amendment to regulation 2 of the Domestic Renewable Heat Incentive Scheme Regulations (NI) 2014 we have now included your revised wording in relation to the “seasonal performance factor”.
8. The issues raised by the Regulator around Schedule 3A, (now renamed as 4), concerned the new tariffs for CHP. This has prompted us to provide for amendments to Regulation 9, 16 and 37 to take account of changes with the introduction of this new tariff.
9. You also addressed our query around being able to introduce a clause to prevent access to new applicants unless funding availability was confirmed. You indicated in your advice that given Section 113 (1) of the Energy Act 2011 this would be a matter for DETI and not DFP as we had suggested. Our issue around this is that we are currently seeking retrospective and prospective DFP approval to extend the RHI scheme for 18 months from 1 April 2015 to 30 September 2016 and there is currently no certainty of approval beyond September 2016. We need to ensure that no new non domestic renewable heating installations can be accredited beyond 30 September 2016 unless we secure further DFP approval to extend the scheme next year, our preference around the issue would be to deal with this administratively rather than through legislation. We would therefore welcome your advice on whether or not this is possible. Our thinking would be that Regulation 12 includes an amendment stating that eligibility for installations made after 30 September 2016 will be dependent on DETI’s ‘confirmation’ of available funding. Our proposal is that this ‘confirmation’ could take the form of a DETI Press Release. We effectively want accreditation of new applications to stop after 30 September 2016 if no ‘confirmation’ is provided by DETI.
10. If the administrative option isn’t possible, one other option which could be taken forward through further amendment regulation next year (after public consultation) might be to time bound the new tariffs (Schedule 4) so that they only apply to new installations accredited after 3 November 2015 but before 1 October 2016? If no tariffs are available for installations accredited after this period, would it be right to assume that the scheme effectively closes until new legislation is introduced? Or would we need to include a new Regulation 36 (7B) that specifically states that there will be no or zero tariffs for installations made after 30 September 2016?
11. Finally, there is one further issue that I would like to explore with you. We are as you know going to legislate for a 400,000kWh annual limit on heat payments for biomass applications from 4 November 2015. Would there be any legal impediment if we were to seek to apply this cap retrospectively to all biomass installations regardless of when they were accredited? The cap would then apply to future RHI payments for all accredited installations going forward.

I welcome your further consideration and response in due course.

Thanks for all you help and support to date.

Yours sincerely,

A handwritten signature in cursive script that reads "S. Wightman".

STUART WIGHTMAN
Energy Efficiency Branch

cc John Mills
Seamus Hughes
Adele Willis

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2015 No. 000

ENERGY

**The Domestic and Non Domestic Renewable Heat Incentive
Schemes (Amendment) Regulations (Northern Ireland) 2015**

Laid before the Assembly in draft

Made - - - - 2015

Coming into operation in accordance with regulation 1

The Department of Enterprise, Trade and Investment makes the following Regulations in exercise of the powers conferred on it by section 113 of the Energy Act 2011(a).

Citation and commencement

1. These Regulations may be cited as the Domestic and Non Domestic Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 and come into operation on the day after the day on which they are made.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(b) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012

3. The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012(c) are amended in accordance with regulations 4 to 14.

Amendment of regulation 3 (renewable heat incentive scheme)

4. In regulation 3 in paragraph (2) omit “used in a building for any of the following purposes” and thereafter insert –

“(a) used in a building for any of the following purposes—

- (i) heating a space,
- (ii) heating water,
- (iii) carrying out a process; or

(b) used otherwise than in a building for either of the following purposes carried out on a commercial basis—

- (i) cleaning,
- (ii) drying.”.

(a) 2011 c. 16
(b) 1954 c.33 (N.I.)
(c) SR. 2012 No.396

Amendment of regulation 8 (eligible installations generating heat using heat pumps)

5. In regulation 8 in (a)(ii) after “liquid” insert “or ground liquid”.

Amendment of regulation 9 (eligible installations which are CHP systems)

6. In regulation 9 –

- (1) in paragraph 1(a) after “biomass” insert “or bioliquid”;
- (2) omit paragraph 2(a);
- (3) in paragraph 2(b) after “NIRO” insert “prior to 1 October 2015”;
- (4) omit paragraph 2(c).

Amendment of regulation 12 (other eligibility requirements for technologies)

7. In regulation 12 after paragraph 1(d) insert –

“(e) the plant providing heat for a given building forms part of a single heating system regardless of whether a particular plant is hydraulically linked to others or is stand alone.”

Amendment of regulation 14 (plants comprised of more than one plant)

8. In regulation 14(2)(b) after “system” add “ being used for the same purpose, heating a building or carrying out a process, or both”.

Amendment of regulation 16 (metering of plants in simple systems)

9. In regulation 16 omit paragraph 1(c).

Changes in location of accredited RHI installations

10. After regulation 24 insert –

“Changes in location of accredited RHI installations

24A.—(1) This regulation applies where an accredited RHI installation is moved to a new location during its tariff lifetime.

(2) No periodic support payment may be made in respect of the RHI installation after the date on which it is moved to the new location until—

- (a) the owner has notified the Department of the change in location; and
- (b) the Department has concluded that the accredited RHI installation should continue to be accredited.

(3) On receipt of a notification under paragraph (2) the Department —

- (a) may require the owner to provide such of the information specified in Schedule 1 as the Department considers necessary for the proper administration of the scheme; and
- (b) must review the accreditation of the RHI installation to determine whether it continues to meet the eligibility criteria in the new location (except the requirement in regulation 12(1)(b)) and accordingly whether it should continue to be accredited.

(4) Where the Department concludes that the RHI installation should continue to be accredited it must update the central register referred to in regulation 22(6)(c) if appropriate.

(5) Where the Department concludes that the accredited RHI installation should continue to be accredited, periodic support payments calculated from the date of that decision and for the remainder of the tariff lifetime of that accredited RHI installation shall be payable.”.

Amendment of regulation 36 (payment of periodic support payments to participants)

11. (1) Regulation 36 is amended as follows.

- (2) In paragraph (7) after “The tariffs” insert “for installations accredited before 4th November 2015 or before the operation date of the Domestic and Non Domestic Renewable

Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 in accordance with regulation 1”;

(3) After paragraph 7 insert -

“(7A) The tariffs for installations accredited on or after 4th November 2015—
 (a) for the period beginning with 4 November 2015 or before the operation date of the Domestic and Non Domestic Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 in accordance with regulation 1 and ending with 31st March 2016, are the tariffs set out in Schedule 4, ; and
 (b) for each subsequent year commencing with 1st April and ending with next following 31st March, are the tariffs applicable on the immediately preceding 31st March adjusted by the percentage increase or decrease in the retail prices index for the previous calendar year (the resulting figure being rounded to the nearest tenth of a penny, with any twentieth of a penny being rounded upwards).”.

(4) After paragraph (8) insert -

“(9) Where an accredited RHI installation falls within the small or medium biomass tariffs as set out in Schedule 4—
 (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation is the relevant tier 1 tariff specified in Schedule 4;
 (b) the tariff for further heat generated in that same 12 month period up to a maximum of 400,000 kWh is the relevant tier 2 tariff; and
 (c) any further heat generated over 400,000 kWh in the same 12 month period shall not be eligible for RHI payments.
 (10) For the purposes of paragraph (9), “the initial heat” means the heat in kWh generated by an accredited RHI installation running at its installation capacity for 1,314 hours.”.

Amendment of regulation 37 (periodic support payments for accredited RHI installations in simple systems)

12. In regulation 37 omit paragraph 1(c).

Amendment of Schedule 1 (information required for accreditation and registration)

13. In Schedule 1 replace paragraph 1 (1) with the following,

“(1) This Schedule specifies the information that may be required of

- (a) a prospective participant in the scheme; or
- (b) the owner of an accredited RHI installation who moves it to a new location during its tariff lifetime.”.

Tariffs

14. After Schedule 3 (Tariffs) insert the Schedule set out in the Schedule to these Regulations.

Amendment of the Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014

15. The Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014^a are amended in accordance with regulation 16 and 1.

^a SR 2014 No.301

Amendment of regulation 2 (Interpretation)

16. In regulation 2 in the definition of “Seasonal Performance Factor” for “and will be fixed at 2.5;” substitute “and will be fixed at a minimum of 2.5; determined from the certification certificate for the installation”.

Amendment of regulation 13 (Plants where heat generation must be metered)

17. In regulation 13-

- (a) paragraph (9) omit “or a public tenancy.”;
- (b) paragraph (10) omit the definition of “public tenancy”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on

John Mills
A senior officer of the
Department of Enterprise, Trade and Investment

SCHEDULE

“ SCHEDULE 4 - Tariffs

Regulation 36

Table 1

<i>Tariff name</i>	<i>Sources of energy or Technology</i>	<i>Installation capacity</i>	<i>Tariff Pence/kWh</i>
Small Biomass	Solid biomass including solid biomass contained in municipal solid waste.	Less than 20kWth	Tier 1: 6.7 Tier 2: 1.5
Medium Biomass	As above	20kWth and above up to but not including 200kWth	Tier 1: 6.4 Tier 2: 1.5
Large Biomass	As above	200kWth and above up to but not including 1000kWth	1.5
Combined Heat and Power	Biomass or bioliquid combined heat and power	New systems all sizes	3.5
		Conversion from fossil fuels all sizes	1.7
Small heat pumps	Ground source heat pump, water source heat pump	Less than 20kWth	9.0
Medium heat pumps	As above	20kWth and above up to but not including 100kWth	4.6
Large heat pumps	As above	100kWth and above	1.3
All Solar collectors	Solar collectors	Below 200kWth	9.1
Biomethane and biogas combustion	Biomethane and biogas combustion	All biomethane and biogas combustion below 200kWth	3.3

“

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Northern Ireland, amend the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 (the "2012 Regulations") and the Domestic Renewable Heat Incentive Scheme (Northern Ireland) 2014 (the "2014 Regulations"). The 2012 Regulations established a renewable heat incentive scheme for non-domestic and the 2014 Regulations a renewable heat incentive scheme for domestic, under which owners of plants which generate heat from specified renewable sources and meet specified criteria may receive payments at prescribed tariffs for the heat used for eligible purposes. The 2012 Regulations and 2014 Regulations confer functions on the Department in connection with matters relating to the general administration of the schemes.

Regulation 4 amends regulation 3 in the principal Regulations to extend the scheme to cleaning and drying carried on otherwise than in a building.

Regulation 5 expands the sources of energy in regulation 8.

Regulation 6 expands energy sources in regulation 9.

Regulation 7 expands eligibility requirements in regulation 12.

Regulation 8 expands definition in regulation 14 to be regarded as a single plant.

Regulation 9 amends regulation 16 to extend metering of plants in simple systems to CHP systems.

Regulation 10 inserts a new regulation 24A allowing accredited RHI installations to be moved to a new location.

Regulation 11 amends regulation 36 of the 2012 Regulations to introduce a tiered tariff for small and medium commercial biomass tariff, and also introduces an annual cap of 400,000kWh hours for eligible heat payments.

Regulation 12 amends regulation 37 of the 2012 Regulations to expand periodic support payments for accredited RHI installations in simple systems to CHP.

Regulation 13 updates reference in Schedule 1 in the 2012 Regulations to reflect insertion of new 24A.

Regulation 14 inserts Schedule 4 in the 2012 Regulations introducing a tiered tariff structure for medium biomass and a new CHP tariff from 5 October 2015.

Regulation 16 amends the definition of "Seasonal Performance Factor" in the 2014 Regulations.

Regulation 17 amends regulation 13 to remove the reference to "public tenancy" and its definition.

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**Enterprise, Trade
and Investment**

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