

Cromie, Elizabeth

From: ps.ministers@ofmdfmi.gov.uk
Sent: 08 February 2016 09:46
To: Bullick, Richard; O'Connor, Ciaran
Subject: EXEC-0021-2016: DETI REQUEST FOR A DECISION BY URGENT PROCEDURE - CLOSURE OF THE RENEWABLE HEAT INCENTIVE (RHI) SCHEME
Attachments: Advice and draft reply for Urgent Decision E (UP)(16) 06.docx; Submission 5-2-16 EXEC 0021-16.pdf

Date Referred: 08/02/2016

Reference: EXEC-0021-2016

DEPUTY FIRST MINISTER'S COPY

Subject: EXEC-0021-2016: DETI REQUEST FOR A DECISION BY URGENT PROCEDURE - CLOSURE OF THE RENEWABLE HEAT INCENTIVE (RHI) SCHEME

To FM Adviser : Bullick, Richard
To dFM Adviser : O'Connor, Ciaran

Please see attached response (which you will receive by hard copy)

It is recommended that Ministers consider the request from the Minister of Enterprise, Trade and Investment, and the advice provided, and if content, respond to the Minister by means of the letter attached at Annex A.

Regards,
Elizabeth Cromie
Central Correspondence Unit
88232

ACRESD
COLC
05.02.16

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TJ content 5/2/16

From the Office of the Minister



Department of
**Enterprise, Trade
and Investment**

www.detini.gov.uk

NETHERLEIGH
MASSEY AVENUE
BELFAST
BT4 2JP

Tel: 028 90 529452

Fax: 028 90 529545

Text Relay: 18001 028-9052-9452

E Mail: private.office@detini.gov.uk

Our Ref: DETI SUB 0057/2016

FROM: JONATHAN BELL MLA

DATE: 5 FEBRUARY 2016

TO: FIRST MINISTER AND DEPUTY FIRST MINISTER

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

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 (RHI) Scheme. The urgent decision is required to minimise significant Resource DEL (RDEL) 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 RDEL 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 only a very small proportion of any required future

savings (likely to be of the order of 5%) would have to be funded direct by NI through RDEL.

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 honoured. 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 overspend. This means that the Block RDEL 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)

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 uptake of the scheme.

Consultation

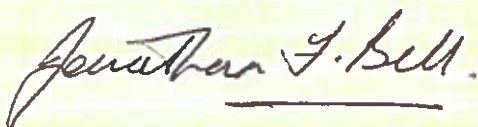
15. I have consulted the Finance Minister on these issues and he concurs with my concerns and desire to minimise the exposure of the NI Block DEL.

Timing

16. Given the urgency of the situation I propose to close both the RHI schemes as soon as possible, subject to Assembly approval of the legislation. Indeed, the financial risk is such that I am seeking your approval on the basis that there is not sufficient time for the established convention of consideration of the draft legislation by the ETI Committee. I propose to lay the regulations in draft and table the motion for debate at the earliest possible juncture, without seeking prior Committee approval. This would mean asking the Business Committee (at its 9 February meeting) to schedule the motion for debate on 15 February.
17. Subject to your agreement, I will write to the Chair of the Committee, explaining the circumstances and the reasons for urgent action.

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 Schemes (RHI), subject to 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



Copy distribution list see below

**FROM: NEILL JACKSON
EXECUTIVE DIVISION**

DATE: 5 FEBRUARY 2016

TO: PS/FIRST MINISTER AND PS/DEPUTY FIRST MINISTER

DETI URGENT DECISION REQUEST: CLOSURE OF THE RENEWABLE HEAT INCENTIVE SCHEME (RHI)

Issue: The Minister of Enterprise, Trade and Investment has requested agreement to take an urgent decision in relation to closure of the Renewable Heat Incentive Scheme (RHI), subject to Assembly approval of the required legislation.

Timing: Immediate: a decision is required by 8 February, to enable inclusion of appropriate notification in briefing material for the Business Committee meeting of 9 February, with a view to scheduling the motion for debate on 15 February.

Press Office Advice: Unlikely to generate media interest for OFMDFM.

FOI Implications: Unlikely to be disclosable.

Recommendation: It is recommended that Ministers consider the request from the Minister of Enterprise, Trade and Investment, and the advice provided, and if content, respond to the Minister by means of the letter attached at Annex A.

Background

1. The Minister of Enterprise, Trade and Investment has requested agreement, in accordance with paragraph 2.14 of the Ministerial Code, to take an urgent decision in relation to closure of the Renewable Heat Incentive Scheme (RHI), subject to Assembly approval of the required legislation, in order to minimise significant Resource DEL overspending on the scheme.

2. The Minister advises that the Non Domestic RHI Scheme, which was introduced in November 2012, and the Domestic RHI Scheme, which was introduced in December 2014, provide payments for people to move from conventional heating, mainly oil, to sustainable heating such as wood pellets (biomass).
3. Successful Domestic RHI applicants receive a payment of up to £3,500, with seven annual tariff payments of up to £2,500. The Minister advises that there have been about 700 applications since the scheme was introduced.
4. The Non Domestic RHI Scheme involves 20 years of annual tariff payments, averaging £24,000 per applicant. The Minister advises that a surge in applications for this Scheme was the catalyst for the legislative changes he brought through the Assembly in November 2015 to introduce a tiered tariff on RHI biomass payments. This triggered a further rush of applications, with over 900 being received in the run-up to the legislative changes.
5. The Minister advises that the high level of applications means that over 6% of Northern Ireland's heating needs are being provided by renewable technologies, exceeding the Programme for Government target of 4%, and placing us well on track to achieve the 2020 target of 10%.
6. However, as a result of the success of both schemes, the Minister advises that forecast RHI expenditure in 2016/17 is expected to be around £45m.

Discussion

7. The Minister advises that the affordability of the Northern Ireland RHI schemes depends on the budget available. AME cover available to Northern Ireland is £18.3, £22.3, £25.7 and £28.9 million from 2016-17 to 2019-20. HMT has confirmed that should RHI spending in any year exceed the allocated budget, Northern Ireland would need to repay this in future years.

The Chancellor's Autumn Statement confirmed that the AME cap for Northern Ireland would be set at the Barnett share of about 3%. Northern Ireland will have to cover the full costs of any overspend, meaning that the Block RDEL will be penalised for any excess spend for a period of at least the next five years and possibly up to 20 years ahead.

8. Minister Bell advises that he must proceed on the basis that the major overspend that has now arisen will now impact upon the NI Block, as DETI does not have the funding to meet this overspend. He is therefore proposing immediate closure of both schemes to prevent the overspend from increasing further, subject to Assembly approval of the required legislation.
9. He advises that the financial risk is such that he is seeking agreement to his urgent decision request on the basis that there is not sufficient time for the established convention of consideration of the draft legislation by the ETI committee.

Views of Other Ministers

10. The Minister has copied his urgent decision request to all Executive Ministers. No responses have been received to date.

Urgency/Timing

11. A decision is required by 8 February, to enable inclusion in briefing material for the Business Committee meeting of 9 February, with a view to scheduling the motion for debate on 15 February.

Recommendation

12. It is recommended that the First Minister and deputy First Minister consider

the request from the Minister of Enterprise, Trade and Investment, and if content, respond to the Minister by means of the letter attached at Annex A.

Neill Jackson

NEILL JACKSON
EXT: 88149

Drafted by: Bernie McCusker

Cleared by: [Neill Jackson]

Copy distribution list:

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Colette Kerr
Executive Secretariat

ANNEX A

E (UP)(16) 06

**Mr Jonathan Bell MLA
Minister of Enterprise, Trade and Investment**

DETI URGENT DECISION REQUEST: CLOSURE OF THE RENEWABLE HEAT INCENTIVE SCHEME (RHI)

You wrote to us on 5 February 2016, to request agreement, in accordance with paragraph 2.14 of the Ministerial Code, that you take an urgent decision in relation to closure of the Renewable Heat Incentive Scheme (RHI), subject to Assembly approval of the required legislation, in order to minimise significant Resource DEL overspending on the scheme.

We have considered your request, and in the circumstances you describe, we are content to agree that you take this urgent decision.

A copy of this memo has been sent to all Executive Ministers, to the Attorney General, the Departmental Solicitor, First Legislative Counsel and Executive Secretariat for information.

**ARLENE FOSTER MLA
First Minister**

**MARTIN McGUINNESS MLA
deputy First Minister**



Stormont Castle
BELFAST
BT4 3TT

TEL: 028 9037 8158
FAX: 028 9037 8040
e-mail: ps.ministers@ofmdfmi.gov.uk

FROM: FIRST MINISTER & DEPUTY FIRST MINISTER E (UP)(16) 06
DATE: 9 FEBRUARY 2016 OUR REF: EXEC 0021-16
TO: MR JONATHAN BELL MLA
MINISTER OF ENTERPRISE, TRADE AND INVESTMENT

DETI URGENT DECISION REQUEST: CLOSURE OF THE RENEWABLE HEAT INCENTIVE SCHEME (RHI)

You wrote to us on 5 February 2016, to request agreement, in accordance with paragraph 2.14 of the Ministerial Code, that you take an urgent decision in relation to closure of the Renewable Heat Incentive Scheme (RHI), subject to Assembly approval of the required legislation, in order to minimise significant Resource DEL overspending on the scheme.

We have considered your request, and in the circumstances you describe, we are content to agree that you take this urgent decision.

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MARTIN McGUINNESS MLA
deputy First Minister