

EXPLANATORY MEMORANDUM TO

THE RENEWABLE HEAT INCENTIVE SCHEME AND DOMESTIC RENEWABLE HEAT INCENTIVE SCHEME (AMENDMENT) (No. 2) REGULATIONS 2017

2017 No. 857

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes changes to the Renewable Heat Incentive Scheme Regulations 2011 (the “2011 Regulations”) and the Domestic Renewable Heat Incentive Scheme Regulations 2014 (the “2014 Regulations”). This follows consultation on the reform of both the Domestic Renewable Heat Incentive (“Domestic RHI”) and Non-domestic Renewable Heat Incentive schemes (“Non-domestic RHI” and, together with the Domestic RHI, “the RHI”). A number of amendments are made, including to: methods for calculating and issuing scheme payments; budget control mechanisms; and the levels of tariffs for making payments to scheme participants. These amendments are made as part of reforms to the RHI in line with the Department’s objectives to ensure it focusses on long-term decarbonisation, promotes technologies with a credible role to play in that transition, and offers better value for money. This instrument introduces the first part of the reforms, focussing on budget controls and tariff changes being introduced to alleviate pressure on the RHI budget, with the rest of the reforms intended to follow later in 2017.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

Other matters of interest to the House of Commons

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

4. Legislative Context

- 4.1 This instrument introduces amendments to the Domestic and Non-domestic RHI schemes in line with the Government’s response to the consultation: [The Renewable Heat Incentive – A reformed and refocused scheme](https://www.gov.uk/government/consultations/the-renewable-heat-incentive-a-reformed-and-refocused-scheme)¹, published on 3rd March 2016.
- 4.2 The Non-domestic RHI was introduced in November 2011 and is open to producers of biomethane for injection into the gas-grid and to renewable heat installations that provide heat to buildings and for purposes other than heating a single domestic property. This includes, for example, systems providing renewable heating to public

¹ <https://www.gov.uk/government/consultations/the-renewable-heat-incentive-a-reformed-and-refocused-scheme>

buildings or commercial properties, for industrial or agricultural uses, or for heating a block of flats. The introduction of the Domestic RHI followed in April 2014, and is open to renewable heat installations that provide heat to single domestic properties. The RHI aims to facilitate and encourage the transition from conventional forms of heating to low-carbon alternatives. The RHI provides financial incentives to households and non-domestic consumers, including public bodies and charities, to help bridge the gap between the cost of renewable heating systems and the conventional alternatives.

- 4.3 The Autumn Statement in November 2015 confirmed the budget for the RHI to the end of the Spending Review period in 2020/21 and the reforms to the RHI are made to extract best value for money from this budget.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The RHI scheme was introduced under the powers afforded to the Secretary of State by the Energy Act 2008. It was introduced to deliver carbon emissions reductions to help the UK meet its obligations under the Climate Change Act 2008 and the Carbon Budgets established under this Act, and to help the UK meet its target under Directive 2009/28/EC (the “Renewable Energy Directive”) that 15% of energy consumption is to come from renewable sources by 2020. The Government intends that the renewable heat generated under the RHI will make a significant contribution to these obligations.
- 7.2 Section 100 of the Energy Act 2008 makes provision for the Secretary of State to make regulations which establish a scheme to facilitate and encourage the renewable generation of heat and govern the administration of the scheme and the calculation of payments to participants. As set out in the Impact Assessment published in December 2016 the Government estimated the scheme would deliver over 22 terawatt hours (TWh) of renewable heat in 2020/21, with 8TWh from deployment following the RHI reforms. Furthermore, the Government estimated the scheme (the Non-domestic and Domestic RHI combined) would deliver over 40 megatonnes of carbon abatement during each of the periods of the fourth and fifth Carbon Budgets, with over 18 megatonnes of abatement delivered by deployment following the reforms to the RHI. A new Impact Assessment will be prepared when the rest of the RHI reforms are introduced through an affirmative instrument intended to be laid before Parliament later in 2017.
- 7.3 The RHI operates by making subsidy payments to owners of eligible renewable heat technologies and producers of biomethane (in the Non-domestic scheme only) for the renewable heat generated or biomethane injected into the grid.

- 7.4 These Regulations make a number of changes to the existing Domestic and Non-domestic RHI schemes, in line with the Department's objectives to ensure the RHI focusses on long-term decarbonisation, promotes technologies with a credible role to play in that transition, and offers better value for money. The RHI reforms had been intended to be introduced through an amending instrument for the Domestic RHI and a consolidating instrument for the Non-domestic RHI in spring 2017 but these amendments could not be made before Parliament was dissolved ahead of the general election in June. Recent increases in deployment of Non-domestic medium biomass on the unreformed tariff have led to risks that the RHI budget for 2017/18 will be exceeded, so the changes to tariffs and other budget control measures included in this instrument have been brought forward in order to mitigate these budget risks, with the rest of the reforms to follow later in the year.
- 7.5 Since its launch in 2011, spending in support of deployment of biomass boiler systems has dominated the Non-domestic RHI, particularly in support of smaller scale systems. The reforms (summarised below) will amend the Non-domestic RHI with the intention of rebalancing further deployment supported under the Non-domestic RHI in order to mitigate the budget risks outlined in paragraph 7.4 above.
- 7.6 The reforms make a number of changes to the tariffs. In the Non-domestic RHI the changes will align the three tariffs currently available for biomass boilers of all capacities so that the tariff in support of heat produced from biomass boilers is the same for all capacities. This will apply only to new participants with the exception of owners of large biomass plant, who will be eligible for uplift to the higher tariff available to them if they applied to the scheme on or after the date of the consultation response on 14 December 2016. The tariff will also be tiered: each installation will be eligible to receive the initial 'Tier 1' tariff for a given amount of heat use each year. Beyond this, further heat use will receive a lower 'Tier 2' tariff. These changes are designed to deliver improved value for money to the taxpayer and society by: focussing biomass support on large biomass and biomass for process- and district-heating in line with the Government's long-term approach to heat decarbonisation; encouraging deployment that is sustainable without subsidy in the longer term; and controlling overall spend on biomass, in line with the available budget.
- 7.7 The RHI reforms include the introduction of higher tariffs for biomethane and biogas – the two technologies based on anaerobic digestion. The reforms will also bring in new feedstock requirements closely linked to the higher biomethane and biogas tariffs and designed to encourage the use of at least 50% agriculture and food waste rather than energy crops. These feedstock requirements require the affirmative procedure so cannot be implemented through this set of negative regulations. These tariff changes and feedstock requirements will therefore be introduced with the rest of the RHI reforms through an affirmative instrument intended to be laid before Parliament later in 2017.
- 7.8 In the Domestic RHI the tariffs for new air source heat pumps (ASHPs), ground source heat pumps (GSHPs), and biomass boilers and stoves are being increased to levels that are expected to increase deployment of these technologies. This increased deployment will allow the supply chain to develop and drive cost reductions to help build growing markets that provide quality to consumers and are sustainable without Government support in future.
- 7.9 To accompany the tariff changes in the Domestic RHI heat demand limits are being introduced for biomass and heat pump installations, to limit the level of annual heat

demand in respect of which any household can receive support. This will provide better value for money for taxpayers. This will not disqualify properties with higher heat demands from applying to the scheme – they will simply have their payments capped at the heat demand limit.

- 7.10 Changes are also being made to allow the scheme’s budget management mechanism to continue to operate correctly. This mechanism reduces the tariffs available to new applicants when certain conditions are met and control the spending both on individual technology types and on the scheme as a whole. Tariff reductions (referred to as tariff “degressions”) are triggered when specified thresholds for forecast expenditure or growth in forecast expenditure are reached. This instrument will not alter this overall framework but will introduce additional expenditure and growth thresholds to July 2018, in anticipation of these thresholds being extended out to 2020/21 in future amendments to the scheme.

Consolidation

- 7.11 The Department intends to consolidate the Non-domestic RHI Regulations later this year but does not yet intend to do so for the Domestic RHI. The original scheme Regulations and subsequent amendments for both schemes are available through the legislation.gov.uk website

8. Consultation outcome

- 8.1 The changes outlined in section 7 were informed by a consultation which set out proposals relating to both the Non-domestic and Domestic RHI schemes: [The Renewable Heat Incentive – A reformed and refocused scheme](#). The consultation ran from 3 March to 27 April 2016 and received 370 responses from individuals, businesses, trade bodies and other organisations. The Government Response to the consultation can be found here: [RHI Reform consultation: Government response](#).² The relevant points for the content of this instrument are summarised below.
- 8.2 In response to questions relating to the introduction of new tariff arrangements for biomass boilers in the Non-domestic scheme, the majority of respondents (64%) supported the principle of tiering the tariff. There was no consensus as to the exact method of calculating each participant’s tiering threshold (the point at which they move from receiving the Tier 1 to the Tier 2 tariff), though the Government’s proposal, outlined in paragraph 7.6 above, had the support of a significant proportion (38%).
- 8.3 A majority of respondents (66%) disagreed with the Government’s proposal that the Tier 1 tariff should be in the range of 2.03 – 2.9p/kWh, with many arguing that it would be insufficient to stimulate deployment of further smaller scale non-domestic biomass systems. A small majority of respondents (56%) disagreed with the Government’s proposal that the Tier 2 tariff should be in the range of 1.8 – 2.03p/kWh. Almost all of these respondents used this question as an opportunity to repeat their opposition to tiering in general or to restate that the Tier 1 tariff was not sufficient to drive deployment. However, the Government believes the Tier 1 tariff introduced by the reforms will be sufficient to incentivise deployment of larger systems, for example those providing district- and process-heating, while also supporting smaller systems that offer comparable value for money to come forward.

²<https://www.gov.uk/government/consultations/the-renewable-heat-incentive-a-reformed-and-refocused-scheme>

- 8.4 Regarding the proposed increase to heat pump tariffs in the Domestic scheme, 64% of respondents agreed that the tariff available should be reviewed for ASHPs and 58% agreed that the GSHP tariff should be reviewed. The consultation did not propose to increase the biomass tariff but feedback received through the consultation and other stakeholder engagement provided the Department with enough additional information and justification to reset to this tariff to the level available between October and December 2015, adjusted for inflation.
- 8.5 Of those who responded, 56% opposed the introduction of heat demand limits, largely due to concerns that they would make larger installations less attractive without increasing the attractiveness of smaller installations. It was not clear, though, that these responses took account of the proposed increases to tariffs that could counteract these concerns. Many respondents, however, noted a number of positive outcomes from heat demand limits, including that they may help to rebalance deployment of the various technologies through the scheme and ensure support is available for smaller properties and not just larger, less efficient buildings, meaning that a greater number of properties overall can be supported with the same level of funding. This is in line with the Government's commitment to provide better value for money through the RHI, so, given that there were not any viable alternatives, heat demand limits are being introduced.

9. Guidance

- 9.1 The Government Response to the consultation explains the amendments in detail. The Office of Gas and Electricity Markets, which administers the RHI schemes, will also publish supporting guidance that will provide further information for scheme applicants, participants and installers.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies, given the RHI is a voluntary scheme.
- 10.2 There is no impact on the public sector, given the RHI is a voluntary scheme.
- 10.3 An Impact Assessment has not been prepared for this instrument. An [Impact Assessment](#)³ was published alongside the Government Response to the consultation in December 2016 and a further, updated Impact Assessment will be prepared when the rest of the RHI reforms are introduced through an affirmative instrument intended to be laid before Parliament later in 2017.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses, given the RHI is a voluntary scheme.

12. Monitoring & review

- 12.1 The Department will undertake an evaluation of the reformed RHI scheme following the introduction of the rest of the RHI reforms. The evaluation will assess the impact of the scheme and identify lessons for future policy development. The evaluation will

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577026/RHI_Reform_Govt_Response_Impact_Assessment_FINAL.pdf

include assessment of the reformed RHI's impact on renewable heat generation, carbon abatement and contribution towards the development of a sustainable market. Regular monitoring data and evidence review reports are expected throughout the evaluation (2017-2021), with a published report after scheme close. The details of the evaluation will be confirmed following the full implementation of the reforms intended to be introduced later in 2017.

13. Contact

- 13.1 Neal Stewart at the Department for Business, Energy and Industrial Strategy, Telephone: 0300 068 5585 or email: neal.stewart@beis.gov.uk, can answer any queries regarding the instrument.