

EXPLANATORY MEMORANDUM TO

THE DOMESTIC RENEWABLE HEAT INCENTIVE SCHEME AND RENEWABLE HEAT INCENTIVE SCHEME (AMENDMENT) REGULATIONS 2020

2020 No. 650

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 legislation concerning both the Non-Domestic and Domestic Renewable Heat Incentive schemes.
- 2.2 The Domestic RHI scheme is set out in the Domestic Renewable Heat Incentive Scheme Regulations 2014 (SI 2014/928). The Non-Domestic RHI scheme is set out in the Renewable Heat Incentive Regulations 2018 (SI 2018/ 611).
- 2.3 Amendments to the Domestic Renewable Heat Incentive Scheme Regulations 2014 make provisions to extend the domestic scheme for a further year and introduce a new set of extended degression triggers to ensure scheme cost control.
- 2.4 Amendments to the Renewable Heat Incentive Regulations 2018 make provisions to introduce a flexible new allocation of Tariff Guarantees on the Non-Domestic RHI. This will require plant to have submitted Stage 2 information evidencing financial close prior to the closure of the NDRHI to new applicants at midnight on 31 March 2021. The payment period will last until 31st March 2041. No NDRHI payments will be made after 31st March 2041. Payments will begin on the tariff start date. This provides investment certainty to larger, better value for money installations, which are crucial to delivering our Net Zero target.
- 2.5 Amendments to the Renewable Heat Incentive Scheme Regulations 2018 make provisions to extend commissioning deadlines for all projects that have submitted a stage 1 Tariff Guarantee application on or after 17th July 2019 and before 29th June 2020, to a flat date of 31st March 2022. This provision will also apply to applicants in this group that were given a commissioning deadline prior to the coming into force of these regulations (20th July 2020), so that they may also benefit from this extension to commissioning deadlines.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The Non-Domestic RHI was introduced in November 2011. It 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 buildings or commercial properties, for industrial or agricultural uses, or for heating a block of flats.
- 6.2 The Domestic RHI followed in April 2014 and is open to renewable heat installations that provide heat to single domestic properties.
- 6.3 Both RHI schemes aim 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.
- 6.4 On 11 March 2020, the Chancellor of the Exchequer announced as part of the Budget that the government intends to extend the Domestic Renewable Heat Incentive (DRHI) Scheme for an additional year until 31 March 2022 and introduce a 3rd flexible allocation of Tariff Guarantees on the Non-Domestic Renewable Heat Incentive Scheme. These proposals are designed to ensure a smooth transition between the Renewable Heat Incentive (RHI) and the future support mechanisms, outlined in the consultation: Future Support for Low Carbon Heat.
- 6.5 Further to the proposals outlined in the Budget, we announced on the 28th April that we intend to bring forward legislation to extend the commissioning deadline for projects currently holding a Tariff Guarantee, to grant these projects additional time to fully commission in light of delays caused by COVID-19.
- 6.6 These amendments build on the reforms achieved by the Renewable Heat Incentive Scheme Regulations 2018 (SI 2018/611) and the Renewable Heat Incentive and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2019 (SI 2019/1052), details of which can be found in the Explanatory Memorandum to the respective sets of regulations.

7. Policy background

What is being done and why?

- 7.1 The RHI schemes were introduced under the powers afforded to the Secretary of State by the Energy Act 2008. They were intended 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 renewable heat generated under the RHI has and will continue to 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.
- 7.3 Both schemes operate by making subsidy payments to owners of eligible renewable heat technologies and producers of biomethane (in the Non-Domestic scheme only).
- 7.4 These amendments to the Domestic Renewable Heat Incentive Scheme Regulations 2014 (SI 2014/928) will extend the Domestic scheme for a further year, closing to new applications at midnight on 31 March 2022. A new set of extended degression triggers will ensure scheme cost control.
- 7.5 The extension to Domestic RHI will provide for a streamlined transition into a new Clean Heat Grant scheme, through continued targeted support for key technologies for a further year. The scheme will continue in its current form with no changes to eligibility criteria or ongoing obligations for participants.
- 7.6 These amendments will further introduce a flexible new allocation of Tariff Guarantees on the Non-Domestic RHI. Tariff Guarantees offer investment certainty to larger, better Value for Money non-domestic renewable heat generation projects which contribute significantly towards the Government’s commitment to meeting our legally binding carbon targets. In this new allocation, plants would be required to submit stage 2 (financial close) Tariff Guarantee information at the latest by the scheduled closure of the Non Domestic RHI on 31 March 2021, granting participants the flexibility to fully commission at a date after the closure of the scheme. The payments begin on the tariff start date and are linked to the stage 1 application date (the date which the applicant plant is accredited or producer is registered). The scheme administrator specifies the date by which the plant must be commissioned, and the accreditation date must be no later than 31 March 2022.
- 7.7 It is the view of the Department that this flexible new allocation of Tariff Guarantees will provide the certainty required for new projects with long build times to be accredited to the scheme that would otherwise not have had time to fully commission prior to scheme closure. Tariff Guarantees have proven to be particularly effective at encouraging the construction of biomethane plants, as such, this measure will ensure continued support for biomethane supply chains, in preparation for the launch of a new Green Gas Support Scheme.
- 7.8 These amendments also extend commissioning deadlines for all projects that have submitted a stage 1 Tariff Guarantee application on or after 17 July 2019 and prior to the 29th June, to a flat date of 31st March 2022. This is in order to aid projects that may struggle to meet Tariff Guarantee commissioning deadlines in light of Covid-19 related delays. The amendments also provide for a Tariff Guarantee 2 applicant that has already been given a commissioning deadline prior to the coming into force of these regulations (20th July 2020) to benefit from the extended commissioning deadline. This will afford these projects the flexibility to commission at least 14 months after their previously issued commissioning deadline (31st January 2021 or earlier). This will help to protect industry jobs and vital GB supply chains in the run

up to the launch of future support schemes and in light of impacts of the Covid-19 pandemic.

- 7.9 Projects that commission after the closure of the Non Domestic RHI on 31st March 2021 will receive a reduced payment window relative to their commissioning date. This will work on the same basis as Tariff Guarantees awarded under the new flexible allocation, above.
- 7.10 This extension to commissioning deadlines for Tariff Guarantee 2 applicants is specifically aimed at affording Covid-19 impacted projects significantly more time to commission. We intend to protect taxpayer money and the RHI budget by avoiding a surge of new applications outside of the policy intent. Therefore, any applicant that submits an initial stage 1 application on or after 29th June, but before the opening of Tariff Guarantee 3 will be treated under existing scheme rules, meaning they will receive the tariff rate as per the date of stage 1 submission, but they must have submitted stage 3 information by 31st January 2021 or 183-days after their specified commissioning date.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 The Department does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

- 10.1 In accordance with section 100(7) of the Energy Act 2008, the Secretary of State has obtained the consent of the Scottish Ministers to the making of these Regulations.
- 10.2 In accordance with section 148A(1) of the Government of Wales Act 2006, the Secretary of State has consulted with the Welsh Ministers in relation to the making of these Regulations.
- 10.3 On 28th April, BEIS published a Stakeholder Notice titled ‘Changes to the Renewable Heat Incentive (RHI) Schemes’. Interested parties were given a 3-week window to respond with thoughts and comments on the proposals outlined. A total of 15 responses were received from a range of stakeholders including industry bodies, public bodies and businesses, most were broadly supportive though some raised concerns over clarity of the mechanisms involved. The government response to this notice set out the intention to proceed with the proposals, with some amendments to address respondents' feedback.
- 10.4 In addition to the Notice, BEIS officials also held a webinar to outline the content of the proposals and encourage stakeholders to respond to the Notice. There were over 60 attendees, representing a comprehensive cross-section of the renewable heat industry. Attendees were given the opportunity to ask officials questions and raise their concerns and comments on the proposals.

11. Guidance

- 11.1 Ofgem, which administers the RHI schemes, will publish supporting guidance that will provide further information for scheme applicants, participants and installers.

12. Impact

- 12.1 The impact will be positive for business. There will be continued support for low carbon heat, which will help secure jobs and businesses in the low carbon heat sector and create market conditions for expansion. However, this needs to be balanced against changes in the fossil fuel heating sector, therefore the overall economic impact on the heating market is uncertain. There will be no, or no significant, impact on charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Department is undertaking an evaluation of the reformed Domestic and Non-Domestic RHI schemes following the introduction of the 2018 reforms. This evaluation will assess the impact of the scheme and identify lessons for future policy development. The evaluation will 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.

15. Contact

- 15.1 Will Lord at the Department for Business, Energy and Industrial Strategy, Telephone: 020 72156306 or email: William.Lord2@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rebecca Vallance, Deputy Director for the Renewable Heat Incentive and Future Funding, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Kwasi Kwarteng MP, Minister of State for Business, Energy and Clean Growth at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.