

EXPLANATORY MEMORANDUM TO
THE DOMESTIC RENEWABLE HEAT INCENTIVE SCHEME (AMENDMENT)
REGULATIONS 2018

2018 No. [XXXX]

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 amends the Domestic Renewable Heat Incentive Scheme Regulations 2014 (S.I. 2014/928) following consultation to reform both the Domestic Renewable Heat Incentive (RHI) and Non-domestic RHI schemes. These amendments reform the RHI in line with the Department's objectives to ensure focus on long-term decarbonisation, promotion of technologies with a credible role to play in that transition, and offering better value for money for taxpayers.
- 2.2 These amendments introduce a number of changes, including to: the scheme eligibility criteria; methods for calculating and issuing scheme payments; budget control mechanisms; the ability for scheme participants to assign the rights to their RHI payments to third parties; and the ability to recover certain payments made under the scheme.

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 The Domestic RHI scheme was introduced to facilitate and encourage the renewable generation of heat within domestic dwellings by giving subsidy payments to owners of eligible renewable heating systems. The Domestic RHI Scheme Regulations came into force on 9th April 2014 and have been amended subsequently.
- 4.2 An equivalent scheme established by the Renewable Heat Incentive Scheme Regulations 2011 (S.I. 2011/2860) provides subsidy payments for the generation of renewable heat in the non-domestic sector (industrial, commercial, public sector and not-for-profit) and producers of biomethane injected into the gas grid.
- 4.3 This instrument introduces amendments to the Domestic RHI scheme in line with the Government's response to the consultation: [The Renewable Heat Incentive – A](#)

[reformed and refocused scheme](#)¹, published on 3rd March 2016. Some of the amendments informed by this consultation were introduced by the Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2017 (S.I. 2017/857) and the explanatory memorandum to that instrument provides additional detail. This instrument is introduced alongside the Renewable Heat Incentive Scheme Regulations 2018 (2018 No. XXXX), which consolidate the Renewable Heat Incentive Scheme Regulations 2011 and introduce amendments to the Non-domestic scheme.

- 4.4 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 scheme are made to achieve 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 The Rt Hon Claire Perry MP, Minister of State for Energy and Clean Growth, has made the following statement regarding Human Rights:

“In my view the provisions of the Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2018 are compatible with the Convention rights.”

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. The Government expects the scheme (the Domestic and Non-domestic RHI combined) to deliver over 21 terawatt hours (TWh) of renewable heat in 2020/21, with over 5TWh from deployment following these reforms. Furthermore, the Government expects the scheme to deliver over 35 megatonnes of carbon abatement during each of the periods of the fourth and fifth Carbon Budgets, with around 12 megatonnes of abatement delivered by deployment following these reforms.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505972/The_Renewable_Heat_Incentive_-_A_reformed_and_refocussed_scheme.pdf

- 7.3 The Domestic and Non-domestic schemes operate 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 RHI scheme, 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. The changes will also help to ensure the scheme's contribution to the UK's renewable energy targets, as well as its other objectives, are met.
- 7.5 To help householders overcome the barrier of the initial capital cost of a renewable heating system, and improve access to the scheme for consumers less able to pay, these amendments will allow Domestic RHI participants the option to finance their installations through 'assignment of rights'. Assignment of rights allows the householder to assign their right to RHI payments to a third party that has paid for all, or part, of their renewable heating system. The householder will still own the heating system. Third parties, or 'investors', who wish to offer installations to households as part of an assignment of rights arrangement will be required to register with The Office of Gas and Electricity Markets ("Ofgem"), which administers the RHI schemes. In order to ensure consumers are appropriately protected, investors will be required to be a member of a recognised consumer code, approved by the Chartered Trading Standards Institute (CTSI) under the Consumer Codes Approval Scheme. This will require certain standards from investors during their interactions with consumers, and provide a route of redress for consumers who wish to complain about the behaviour or service of an investor. As part of their application, householders will also be required to confirm to which registered investor they are assigning their RHI payments.
- 7.6 All new air source heat pumps (ASHPs) and ground source heat pumps (GSHPs) applying for support under the scheme will be required to have electricity metering in place alongside their heating system. This is to provide more information to consumers to allow them to engage more effectively with their heat pumps and help protect against poor performance and excessive electricity bills.
- 7.7 The reforms will also make changes to the scheme's budget management rules, which reduce the tariffs available to new applicants when certain conditions are met. These mechanisms 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 exceeded. The reforms will not alter this overall framework but will introduce changes designed to simplify the rules and improve transparency, and reflect learning from the scheme's operation so far. In particular, the changes will aim to remove the potential for the rules to continue to reduce tariffs even after deployment has slowed down.
- 7.8 The way in which additional payments are made for additional technical monitoring equipment – known as metering and monitoring service packages (MMSPs) – is also being changed. Consumers have previously been offered incentives to install this voluntary additional equipment through additional quarterly payments to cover the capital cost and paid over the course of their membership of the scheme. Take-up of MMSPs has been very low, so to encourage more installations, half of these total

payments will now be paid within the first three months following successful application. Increased installation of MMSPs will provide valuable additional performance data to consumers and also allow the Department to evaluate performance of heat pumps installed in domestic premises and inform future policy-making decisions.

- 7.9 Additional powers are also being granted to Ofgem to allow them to recover payments made for MMSPs that are found to be beyond what the participant was entitled to, due to non-compliance with scheme rules or the provision of false information. This provides additional protection to the public purse and the reputation of the scheme.

Consolidation

- 7.10 The Department does not intend to consolidate the relevant legislation at this time. The original scheme Regulations and subsequent amendments are available through the legislation.gov.uk website.

8. Consultation outcome

- 8.1 Between January and March 2015 the Government ran a [call for evidence](#)² on the possibility of opening up the Domestic RHI to third party finance to help householders overcome the barrier of the initial capital cost of a renewable heating system. The call for evidence proposed either: assignment of rights (allowing householders to assign their right to RHI payments to a company that has financed their renewable heating technology, with the householder owning the system and applying to the RHI); or third party ownership (allowing a company that has financed and owns a renewable heating technology to apply directly to the RHI and receive RHI payments).
- 8.2 The call for evidence received 48 responses and a clear majority of the responses indicated that: the cost of renewable heat installations was a barrier to uptake (34 agreed, 2 disagreed); the introduction of third party financing would help overcome that barrier (28 agreed, 2 disagreed); there is a demand for third party financing (24 agreed, 6 disagreed); and assignment of rights was the more popular model (17 in favour, 4 for third party ownership financing and 6 in favour of allowing both models in the scheme).
- 8.3 In November 2015, the Government renewed its commitment to the transition to a low carbon economy by confirming a continued budget for the RHI out to 2020/21. This additional funding was linked to the introduction of a package of reforms to the RHI. In March 2016, the Government set out its initial proposals for reform of both the Non-domestic and Domestic RHI schemes in a consultation: The Renewable Heat Incentive - A reformed and refocused scheme. The consultation ran from 3rd March to 27th April 2016 and received 370 responses from individuals, businesses, trade bodies and other organisations. The consultation document and Government Response can be found on the [GOV.UK website](#)³ but the relevant points for the content of this instrument are summarised below.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398981/Renewable_Heat_Incentive_Call_for_Evidence_-_Increasing_the_flexibility_of_financing_options_in_the_Domestic_and_Non-Domestic_RHI.pdf

³ <https://www.gov.uk/government/consultations/the-renewable-heat-incentive-a-reformed-and-refocused-scheme>

- 8.4 Out of the respondents, 92% agreed that further Government and industry action is required to drive up the performance of heat pumps and tackle underperforming installations on the RHI. A number of options were discussed with industry representatives following the consultation and the decision was taken that the mandatory installation of electricity meters, without heat meters also having to be installed, provided a suitable level of information to consumers without excessive financial or technical burden.
- 8.5 There was widespread recognition that degression has delivered its headline objective to control spending of the RHI budget and that such measures are necessary. 45% of respondents agreed with the proposed approach for degression and threshold setting – thresholds being the levels of forecast expenditure above which tariff reductions are triggered – but 53% disagreed, with many respondents feeling that tariff reductions created too much uncertainty across the industry. Some alternative proposals for the degression methodology were provided, but, again, there was general acceptance that degression was required to protect the scheme budget, with a desire for enough headroom to be given in thresholds to support increased deployment.
- 8.6 Of the 57 responses to the question asking what could be done to make MMSPs more attractive, the most popular responses were to provide upfront payments and to relax the data storage/transfer requirements, both of which are being implemented. Other respondents suggested mandating the installation of MMSPs and, while the Department did not believe this to be a proportionate response, it did help to inform the Department’s decision to introduce mandatory electricity metering for heat pumps, as described in paragraphs 7.6 and 8.4.
- 8.7 The provision of additional powers to Ofgem to recover MMSP payments that exceed the amount to which the participant was entitled was not specifically consulted on, but simply makes more explicit these powers for Ofgem to protect payments made under the RHI and provide better value for money to the taxpayer, and aligns with existing powers to recover other RHI payments.

9. Guidance

- 9.1 The Government Response to the consultation explains the amendments in detail and provides clarification of the changes to the scheme eligibility criteria. Ofgem 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 is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

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

12. Monitoring & review

- 12.1 The Department will undertake an evaluation of the reformed RHI scheme following the introduction of these reforms. The 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. The details of the evaluation will be confirmed later in 2018.

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.