

Title: Future of Non-Domestic Renewable Heat Incentive Scheme	Regulatory Impact Assessment (RIA)	
	Date:	
	Type of measure : Primary Legislation through the NI Assembly	
Lead department or agency: Department for the Economy	Stage: Initial	
	Source of intervention: Domestic NI	
Other departments or agencies: N/A	Contact details:	

Summary Intervention and Options

<p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The Northern Ireland Renewable Heat Incentive Scheme for non-domestic use ('NIRHI', or 'the Scheme') was introduced in 2012 to incentivise generation of heat from renewable sources rather than fossil fuels, with the objective of reducing carbon emissions. Critical flaws in the Scheme's original design, including incorrect assumptions underpinning the tariffs and the absence of cost controls, resulted in a financial incentive to operators to produce excess heat, higher than expected uptake by participants, expenditure in excess of the Scheme's annual AME budget allocation with long term budgetary concerns, and overcompensation of many participants when compared with the internal rate of return agreed in the Scheme's 2012 State aid approval. The failings led to the establishment of the Public Inquiry which reported in March 2020. Subsequent legislative amendments to the tariff structure have brought the Scheme within its budgetary envelope and realigned it with State aid approvals, however, the tariff changes to date have adversely impacted on participants and the Scheme's environmental benefits are questionable.</p> <p>The New Decade, New Approach document, which in January 2020 underpinned restoration of the Northern Ireland Executive, stated: "<i>The parties recognise the need for a coordinated and strategic approach to the challenge of climate change within the Programme for Government. Actions and interventions will be required across a wide range of areas in order to address both the immediate and longer term impacts of climate change in a fair and just way.</i>" To this end, the document made a number of commitments including, "<i>RHI will be closed down and replaced by a scheme that effectively cuts carbon emissions.</i>"</p> <p>Options for the future of the Scheme are under consideration in light of the New Decade, New Deal statement on closure.</p>
<p>What are the policy objectives and the intended effects?</p> <p>It is the view of the Department for the Economy that the final policy progressed for the future of the Scheme should be guided by the following objectives:</p> <ul style="list-style-type: none"> • be consistent with the political agreement of the main political parties in Northern Ireland, as expressed within the New Decade, New Approach document; • be fair to legitimate participants of the Scheme who entered and participated in good faith; • consider the findings of the 'Buglass report' on hardship, and the outworking of the public consultation on Cornwall Insight's recommended medium biomass tariffs; • be fair to wider taxpayers, delivering value for money and being affordable within existing budgets; • address the systemic weakness in the design and operation of the Scheme, including long term financial uncertainty for both participants and taxpayers arising from the necessary tariff changes to the Scheme to date; the likelihood of future tariff reviews should the Scheme remain open, and ongoing risk of associated legal challenges; and • facilitate the most efficient use of available resources to achieve the strategic environmental objectives of cutting carbon emissions and addressing the challenges of climate change.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Four potential options for the future of the Scheme are under consideration and subject to public consultation:

- Option 1: Scheme remains operational for current participants with present tariffs for all technologies (status quo);
- Option 2: Scheme remains operational for current participants with all tariffs subject to review and adjustment as necessary;
- Option 3: Scheme closure with no further payments made to participants; or
- Option 4: Scheme closure with compensation paid to legitimate current participants.

All options would require legislation with the exception of the status quo.

The Executive's preferred approach is Option 4: Scheme closure with compensation paid to legitimate current participants.

Scheme closure recognises that the failings of the Scheme cannot be addressed through its continued operation. Option 4 includes provision of appropriate compensation to legitimate current participants, acknowledging that the Scheme has approximately 12-15 years remaining, subject to individual dates of accreditation, and that participants have an expectation of the potential to receive tariff payments for the generation of eligible heat from renewable sources for the remaining lifetime of their accreditations.

Will the policy be reviewed? Decision on review subject to option ultimately pursued. Scheme closure would not require review. Continued operation of the Scheme would be subject to ongoing review.

If applicable, set review date: Ongoing

Cost of Preferred (or more likely) Option

Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
The preferred option does not impose costs on business.	The preferred option does not impose costs on business.	TBC. Costs associated with implementation of preferred option is short term are expected to be significantly lower than those which would be incurred if the scheme were to continue until natural closure in 2036.

Does Implementation go beyond minimum EU requirements?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>		
Is this measure likely to impact on trade and investment?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>		
Are any of these organisations in scope?	Micro Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Medium Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Large Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by:

Date:

Summary: Analysis and Evidence

ECONOMIC ASSESSMENT

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
	(constant price)	Years		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				TBC ¹
<p>Description and scale of key monetised costs by ‘main affected groups’ Maximum 5 lines</p> <p>Businesses participating on the Scheme are the main affected group.</p> <p>Under Option 1, the status quo, no changes would be introduced.</p> <p>Under Option 2, legislation would be introduced to increase tariffs for medium biomass installations in the immediate term, while all tariffs would be subject to future review as necessary to ensure they provided an appropriate incentive for generation of heat from renewable sources, taking account of up to date evidence of costs associated with generation of heat. Based on the outcome of such reviews, tariffs could be subject to future adjustment upwards or downwards.</p> <p>Under Option 3 the Scheme would be closed to all participants. While this would not impose any direct cost, it would remove the tariff support for generation of eligible heat anticipated by participating business for a further 12-15 years subject to the date of accreditation of their installations.</p> <p>Under Option 4 the Scheme would be closed to all participants. As with Option 3, this would not impose any direct cost but would remove the tariff support for generation of eligible heat anticipated by participating business for a further 12-15 years subject to the date of accreditation of their installations. Under Option 4, compensation for early closure of the Scheme would be paid to legitimate participants.</p> <p>None of the options considered will impose any additional costs on business related to compliance with new regulation.</p> <p>The public consultation exercise will further inform assessment of costs and benefits.</p>				
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>Following implementation of any option there is the potential that some businesses may choose to increase the proportion of heat generated from fossil fuels, or to fully switch from a renewable heating system to one that is fossil fuel based, potentially incurring additional costs. Such conversion is considered more likely under Options 1 and 3 than under Options 2 and 4, and would be at the discretion of businesses subject to individual circumstances rather than mandated by legislation.</p> <p>The public consultation exercise will further inform assessment of costs and benefits.</p>				
Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
	(constant price)	Years		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

¹ Costs and benefits to be fully considered within business case associated with final option post-consultation and reflected in final Regulatory Impact Assessment.

Description and scale of key monetised benefits by ‘main affected groups’

Under Option 1, the status quo, no changes would be introduced. No benefits would be anticipated.

Under Option 2 tariffs for medium biomass would be increased to take account of changes in the variable costs associated with generation of heat. Payments under the Scheme are dependent upon the level of eligible heat generated by accredited installations. Typical levels of heat production would result in annual payments in respect of a 99kW installation increasing from c.£2,210 under present tariffs to c.£5,100, while for a 199kW installation payments would increase from £3,140 to c.£5,800.

Under Option 3 the Scheme would be closed to all participants. No monetised benefits to participants would be anticipated.

Under Option 4 the Scheme would be closed to all participants, with compensation paid to legitimate current participants as detailed within the Department’s consultation document based on estimates of future tariff potential for typical installations on the Scheme were it to remain operational. The impact on some participating businesses of the changes to the Scheme’s tariffs to date was described within the Buglass report. While the manifested impacts varied dependent upon individual business circumstances, the key driver was the reduction in cash flow. Option 4 intends to compensate for the early closure of the Scheme and, through upfront payment, to address present economic challenges associated with the reductions in cash flow.

The public consultation exercise will further inform assessment of costs and benefits.

Other key non-monetised benefits by ‘main affected groups’

Under Options 3 and 4 the Scheme would be closed to all participants. Participants would no longer be subject to the Scheme’s legislative obligations, including submission of meter readings and retention of fuel records, and accommodation of inspection of installations to determine regulatory compliance.

The public consultation exercise will further inform assessment of costs and benefits.

Key Assumptions, Sensitivities, Risks

The final decision on future of the Non-Domestic NIRHI Scheme will be taken by the Northern Ireland Executive, informed by the responses and evidence submitted through this consultation process. Any option other than the status quo would require passage of legislation through the Northern Ireland Assembly.

In the event that the final policy decision is for a compensated closure of the Scheme, implementation will be subject to a final decision on budget affordability. Following enactment of legislation on Scheme closure, payment of compensation would be made as early as administratively possible.

Although the United Kingdom has now left the European Union, the State aid rules continue to apply to the Scheme. Therefore, although it is not anticipated, if the European Commission concludes the closure compensation payments are not reasonable, it may adopt a negative decision regarding the closure compensation payments.

BUSINESS ASSESSMENT

Direct Impact on business (Equivalent Annual) £m		
Costs:	Benefits:	Net:

Cross Border Issues

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

The NIRHI Scheme was an adaptation of a Scheme already operational in Great Britain and which remains operational. Aspects of the design of the NI Scheme were critically flawed, necessitating the legislative changes required to date. The changes themselves have had adverse impacts on both participants and the Department which cannot be readily addressed through its ongoing operation.

The Cornwall Insight Tariff Review² included a comparison between the Northern Ireland Scheme, the RHI Scheme in GB, and the Support Scheme for Renewable Heat (SSRH) in the Republic of Ireland. It concluded that while the three schemes share features in common, there are significant differences with regard to initial design, subsequent reviews/changes and cost elements for tariff calculations. A full analysis is set out in Section 6 of the report.

The proposed medium biomass tariffs for the NIRHI Scheme under Option 2 have been calculated to reflect costs faced by participants in NI, which are not the same as those faced by participants in schemes in other jurisdictions. These proposed tariffs have also been taken into account when developing the compensated approach to Scheme closure proposed at Option 4.

² <https://www.economy-ni.gov.uk/sites/default/files/consultations/economy/Cornwall-Insight-NIRHI-tariff-review.pdf>

Background

The former Department of Enterprise, Trade and Investment (DETI)³ introduced the Northern Ireland Renewable Heat Incentive Scheme for non-domestic use ('NIRHI', or 'the Scheme') in 2012 to incentivise generation of heat from renewable sources rather than fossil fuels, with the objective of reducing carbon emissions. Installations accredited to the Scheme receive periodic payments for eligible heat generated from renewable sources, calculated based on tariffs which are dependent upon the renewable technology being used to generate heat and the size of the installation.

The tariffs were calculated with the intention of compensating for the additional costs of renewable heat compared to a fossil fuel alternative. They aimed to contribute towards any difference in fuel and maintenance costs, and additional administrative "hassle" associated with the renewable technology. It was also intended that they would provide a typical installation on the Scheme with a specified annual internal rate of return, over 20 years, on the additional capital investment in the renewable technology in comparison with the costs of an equivalent oil boiler.

Flaws in the establishment of the Scheme, including incorrect assumptions underpinning the tariffs and the absence of cost controls, resulted in a financial incentive to operators to produce excess heat, higher than expected uptake by participants, expenditure in excess of the Scheme's annual AME budget allocation, and overcompensation of many participants beyond the intended internal rate of return on additional capital investment which had been anticipated when its State aid approval was originally granted. The flaws led to the establishment of the Public Inquiry which reported in March 2020⁴.

The Scheme was suspended to new applicants in February 2016. It remains operational for installations accredited before that date, with regulations providing for tariff payments for generation of eligible heat for a period of 20 years from the date of accreditation. The final payments under the Scheme would be expected in 2036.

Subsequent legislative amendments to the tariff structure have brought the Scheme within its budgetary envelope and realigned it with the principles upon which State aid approval had been granted, however, the tariff changes to date have adversely impacted on participants, as reported in an independent report by energy consultant Andrew Buglass (the Buglass report) and the Scheme's environmental benefits are questionable.

The New Decade, New Approach⁵ document, which in January 2020 provided the basis for the formation of a new Northern Ireland Executive, stated: "*The parties recognise the need for a coordinated and strategic approach to the challenge of climate change within the Programme for Government. Actions and interventions will be required across a wide range of areas in order to address both the immediate and longer term impacts of climate change in a fair and just way.*" To this end, the document made a number of commitments including, "*RHI will be closed down and replaced by a scheme that effectively cuts carbon emissions.*"

Business Sectors benefitting from Non-Domestic RHI

As part of the accreditation process, applicants were asked to specify the sector in which their business operated. A breakdown of the sectors relevant to RHI applications for accreditation is set out in the table below.

³ On 8 May 2016, DETI merged with the Department of Employment and Learning to form the Department for the Economy (DfE)

⁴ [The Report of the Independent Public Inquiry into the Non-domestic Renewable Heat Incentive \(RHI\) Scheme | Renewable Heat Incentive Inquiry \(archive-it.org\)](#)

⁵ [The New Decade, New Approach document](#)

Sector	Number of Installations	% of Installations	Total Installation Capacity MW	Total Eligible Heat Output GWh
Agriculture	1,124	53%	124.9	1,402.70
Forestry / Wood	178	8%	24.1	211.5
Retail & Offices	145	7%	11.7	76.3
Hospitality	106	5%	9.1	76.4
Other*	575	27%	51.8	435.4
Grand Total	2,128	100%	221.6	2,202.30

*Examples of sectors within 'other' include education, manufacturing, and sport and recreation.

Research previously undertaken by the Department has indicated that approximately 88% of accredited installations are located in rural areas. Revisions to the Scheme are therefore likely to have a greater impact on rural businesses than on urban businesses.

Policy objective

In light of the publication of New Decade, New Approach, the future of the Non-Domestic NIRHI Scheme is under consideration. It is the view of the Department for the Economy that the final option progressed for the future of the Scheme should be guided by the following objectives:

- be consistent with the political agreement of the main political parties in Northern Ireland, as expressed within the New Decade, New Approach document;
- be fair to legitimate participants of the Scheme who entered and participated in good faith;
- consider the findings of the 'Buglass report'⁶ on hardship, and the outworking of the public consultation on Cornwall Insight's recommended medium biomass tariffs⁷;
- be fair to wider taxpayers, delivering value for money and being affordable within existing budgets;
- address the systemic weakness in the design and operation of the Scheme, including long term financial uncertainty for both participants and taxpayers arising from the necessary tariff changes to the Scheme to date; the likelihood of future tariff reviews should the Scheme remain open, and ongoing risk of associated legal challenges; and
- facilitate the most efficient use of available resources to achieve the strategic environmental objectives of cutting carbon emissions and addressing the challenges of climate change.

Options under consideration

The following four options are the subject of a public consultation exercise from 11 February 2021 to 9 April 2021:

- Option 1: Scheme remains operational for current participants with present tariffs for all technologies (status quo);

⁶ [NI Non-Domestic RHI - Buglass Energy Advisory - Research into Hardship - Report of Findings](#)

⁷ [NI Renewable Heat Incentive Scheme – 2020 Tariff Review](#)

- Option 2: Scheme remains operational for current participants with all tariffs subject to review and adjustment as necessary;
- Option 3: Scheme closure with no further payments made to participants; and
- Option 4: Scheme closure with compensation paid to legitimate current participants.

None of the options proposed would impose new costs on businesses.

Option 1 represents the status quo. Under this option there would be no change to the Scheme's present operation, including its tariffs. The Cornwall Insight tariff review, and responses to the 2020 consultation on its implementation, have confirmed that appropriate tariffs for medium biomass installations to incentivise generation of heat from renewable sources, in line with the Scheme's objectives are likely to be higher than those presently in place. Additionally, the Buglass report on hardship report concluded that many of those who engaged with Mr Buglass had suffered one or more forms of economic hardship as a result of reduced cash flow following the changes in tariffs to date. The nature of the impacts varied significantly depending on the individual circumstances of each business. Continuation of the status quo would fail to recognise that in present economic conditions it is likely that a higher tariff for medium biomass installations would be appropriate to incentivise generation of renewable heat. This may also lead to an increase in generation of heat from fossil fuels rather than from renewables.

Under Option 2 medium biomass tariffs would be increased to take account of changes in the variable costs associated with generation of heat, in line with the outworking of the public consultation on Cornwall Insight's tariff review. Payments received by participants under the Scheme are dependent upon the level of eligible heat generated by accredited installations. Under this option, typical levels of heat production would result in annual payments in respect of a 99kW installation increasing from c.£2,210 under present tariffs to c.£5,100, while for a 199kW installation payments would increase from £3,140 to c.£5,800. All Scheme tariffs would be subject to future review, and could increase upwards or downwards dependent upon changes in the costs associated with generation of heat.

Under Option 3 the Scheme would be closed to all participants, removing the tariff support for generation of eligible heat anticipated by participating business for approximately a further 12-15 years subject to the date of accreditation of their installations. This would have a detrimental economic impact on participating businesses. It may also result in operators ceasing to use accredited boilers, with the possibility of reversion to fossil fuel based heat sources.

Under Option 4 the Scheme would be closed with no further tariff-based payments. Compensation for its early closure would be paid to legitimate current participants based on future tariff potential for reference installations as detailed within the Department's consultation document.

The Buglass report described the impact on some participating businesses of the changes to the Scheme's tariffs to date. While the reported impacts were varied and dependent upon individual business circumstances, the key driver was the reduction in cash flow. Option 4 intends to compensate for the early closure of the Scheme and removal of anticipated tariff income, and through upfront payment to address present economic challenges associated with the reductions in cash flow. The proposed payments also take account of the outworking of the public consultation on implementation of Cornwall Insight's medium biomass 2020 tariff review.

Option 4 is the Executive's preferred option.

Rationale and evidence that justifies the level of analysis used in the RIA (proportionality approach)

The evidence informing selection of the options includes:

- Independent tariff review report produced by Ricardo Energy and Environment (2018)
- Independent tariff review report produced by Cornwall Insight (2020)
- Independent report on hardship experienced by participants as a consequence of changes to the Scheme prepared by independent energy expert Andrew Buglass (2020) based on direct engagement with participants
- Responses from previous consultation and call for evidence exercises, primarily received from Scheme participants:
 - 2018 public consultation on options for the future of the Scheme, taking account of Ricardo's review of the biomass tariff structure
 - 2019 call for evidence on hardship
 - 2020 public consultation on implementation of revised medium biomass tariffs based on Cornwall Insight's tariff review

It is anticipated that further relevant evidence will be obtained through the present public consultation exercise. The draft Regulatory Impact Assessment will be revised following conclusion of the public consultation to take account of any relevant evidence submitted.

Implementation of any of the options under consideration other than the status quo (Option 1) will require enactment of legislation. The final policy option progressed will impact primarily on businesses and individuals participating on the Scheme. None of the proposed options impose new costs or regulatory requirements. Should closure of the Scheme (Option 3 or Option 4) be progressed, the administrative requirements associated with ongoing compliance with the Scheme's regulations will no longer apply to participants.

Wider impacts

In addition to this draft Regulatory Impact Assessment, a draft Rural Needs Impact Assessment (RNIA), draft Data Protection Impact Assessment Report and draft equality screening have been completed. All are available on the Department's website, and will be revisited and finalised following conclusion of the public consultation exercise and prior to the introduction of any new legislation to ensure all relevant issues have been taken into account. A business case for the final policy option to be progressed will also be prepared.