

Northern Ireland (Regional Rates and Energy) (No. 2) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, will be published separately as HL Bill 165-EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Duncan of Springbank has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Northern Ireland (Regional Rates and Energy) (No. 2) Bill are compatible with the Convention rights.

Northern Ireland (Regional Rates and Energy) (No. 2) Bill

CONTENTS

Regional rates

- 1 Regional rates

Renewable heat incentive scheme

- 2 Introductory
- 3 Tariffs for periodic support payments
- 4 Voluntary buy-out arrangements
- 5 Duty to report on operation of buy-out arrangements

Final provisions

- 6 Commencement
- 7 Extent and short title

Schedule – Schedule to be inserted after Schedule 4 to 2012 Regulations

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Make provision about the regional rate in Northern Ireland for the year ending 31 March 2020; and amend the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Regional rates***1 Regional rates**

- (1) This section applies in respect of the year ending 31 March 2020.
- (2) The regional rate to be levied on the rateable net annual values of hereditaments is to be 34.01 pence in the pound. 5
- (3) The regional rate to be levied on the rateable capital values of hereditaments is to be 0.4574 pence in the pound.
- (4) A rate specified in subsection (2) or (3) may be varied by an order made by the Department under Article 7(1) of the Rates Order.
- (5) An order made by virtue of subsection (4)— 10
 - (a) may be made only after the first occasion on which all the Ministerial offices are filled after the passing of this Act, but
 - (b) may set the rate in respect of the whole of the year for which it is made.
- (6) In this section— 15
 - “the Ministerial offices” means—
 - (a) the offices of First Minister and deputy First Minister, and
 - (b) the Ministerial offices to be held by Northern Ireland Ministers (within the meaning of the Northern Ireland Act 1998);
 - “the Rates Order” means the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)); 20and any expression used in this section and in the Rates Order has the meaning

given by that Order.

Renewable heat incentive scheme

2 Introductory

- (1) The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 (S.R. (NI) 2012 No. 396) (“the 2012 Regulations”) are amended in accordance with sections 3 and 4. 5
- (2) Nothing in those sections affects the power to make regulations under section 113 of the Energy Act 2011 amending or revoking any provision amended or inserted by those sections.

3 Tariffs for periodic support payments 10

- (1) In regulation 36(3) for “(7B)” substitute “(7C)”.
- (2) In regulation 36(5) –
- (a) for “(7B)” substitute “(7C)”;
 - (b) for “or 4” substitute “, 4 or 5”.
- (3) In regulation 36(6) for “(7B)” substitute “(7C)”. 15
- (4) In regulation 36(7) after “(7B)” insert “or (7C)”.
- (5) In regulation 36(7A) after “accredited on or after 18th November 2015” insert “, other than installations to which paragraph (7C) applies”.
- (6) In regulation 36 after paragraph (7B) insert –
- “(7C) The tariffs for installations (whether accredited before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) falling within the small or medium biomass tariffs set out in Schedule 5 –
- (a) for the period beginning with 1st April 2019 and ending with 31st March 2020, are the tariffs set out in Schedule 5; 25
 - (b) for each subsequent year commencing with 1st April and ending with the next 31st March, are the tariffs applicable on the immediately preceding 31st March adjusted by the percentage increase or decrease in the consumer prices index for the previous calendar year (the resulting figure being rounded to the tenth of a penny, with any twentieth of a penny being rounded upwards). 30
- (7D) For the purposes of paragraph (7C) “the consumer prices index” means –
- (a) the consumer prices index calculated and published by the Office for National Statistics; or 35
 - (b) where the index is not published for a year, any substituted index or figures published by that Office.”
- (7) In regulation 36(8) for “(7B)” substitute “(7C)”.
- (8) In regulation 36(9A) after “set out in Schedule 3A” insert “and the tariff for the installation falls to be determined for the period mentioned in paragraph (7B)”. 40

- (9) In regulation 36 after paragraph (9A) insert—
- “(9B) Where an accredited RHI installation falls within the small biomass tariff set out in Schedule 5—
- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation (regardless of whether that date falls before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) is the Tier 1 tariff specified in Schedule 5; 5
 - (b) the tariff for further heat generated in that same 12 month period is the relevant Tier 2 tariff specified in Schedule 5. 10
- (9C) Where an accredited RHI installation falls within either of the medium biomass tariffs set out in Schedule 5—
- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation (regardless of whether that date falls before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) is the relevant tariff specified in Schedule 5; and 15
 - (b) any further heat generated in that same 12 month period shall not be eligible for periodic payments.” 20
- (10) In regulation 36(10) for “and (9A)” substitute “to (9C)”.
- (11) In Schedules 3 and 4 omit the entries relating to small and medium biomass installations.
- (12) After Schedule 4 insert the Schedule set out in the Schedule to this Act. 25
- (13) Nothing in this section has effect in relation to periodic support payments (within the meaning of the 2012 Regulations) for heat generated before this section comes into force.
- 4 Voluntary buy-out arrangements**
- After regulation 23A insert— 30
- “23B Voluntary buy-out arrangements**
- (1) The powers conferred by paragraph (2) may only be exercised in the period while there is no Executive.
 - (2) The Department may, in respect of the financial year beginning with 1st April 2019 and each of the two financial years immediately following, prepare and publish in such manner as it thinks appropriate arrangements (“buy-out arrangements”) which— 35
 - (a) enable a participant to apply in writing to the Department to receive a payment (“a buy-out payment”) in respect of an accredited RHI installation; 40
 - (b) set out the method by which the Department is to determine—
 - (i) whether a participant qualifies for a buy-out payment in respect of an accredited RHI installation; and
 - (ii) if the participant does qualify, the amount of that payment; 45

- (c) where the Department determines that a participant does not qualify for a buy-out payment, require the Department to serve a notice on the participant stating that fact and setting out how the Department made that determination;
- (d) where the Department determines that a participant qualifies for a buy-out payment, require the Department to serve on the participant a notice (“a buy-out offer”) setting out –
- (i) the proposed amount of that payment,
 - (ii) how that payment is calculated, and
 - (iii) the effect of paragraph (5);
- (e) enable the participant to serve a notice on the Department accepting or rejecting the buy-out offer; and
- (f) require the Department, subject to paragraph (4)(b), to make to a participant the buy-out payment proposed in a buy-out offer which has been accepted by the participant.
- (3) The method referred to in paragraph (2)(b) –
- (a) must be such as to take into account the amount of periodic support payments previously received by the participant in respect of the accredited RHI installation; and
 - (b) may accordingly be such that the participant does not qualify for a buy-out payment.
- (4) The buy-out arrangements may contain such other provisions as appear to the Department to be necessary or expedient for the proper administration of the arrangements, including provisions –
- (a) setting out the times at which, or the periods within which, the steps mentioned in paragraph (2) must be taken by a participant or, as the case may be, the Department;
 - (b) preventing a buy-out payment being made to a participant at any time when periodic support payments to the participant are being withheld or reduced under Part 7 or are suspended under that Part;
 - (c) for the Department to suspend periodic support payments in respect of an accredited RHI installation while an application in respect of that installation is being dealt with under the arrangements;
 - (d) applying provisions of these regulations relating to the scheme to the arrangements (with or without modifications).
- (5) Where in accordance with the buy-out arrangements, the Department makes a buy-out payment to a participant in respect of an accredited RHI installation, the installation ceases from the date of the payment to be an accredited RHI installation.
- (6) In paragraph (1) “the period while there is no Executive” means the period –
- (a) beginning with the coming into operation of section 4 of the Northern Ireland (Regional Rates and Energy) Act 2019; and
 - (b) ending on the next occasion when the offices of all of the Northern Ireland Ministers (including those of the First Minister and the deputy First Minister) are filled.”

5 Duty to report on operation of buy-out arrangements

- (1) The Department must, after the end of each financial year for which buy-out arrangements are published by it, prepare a report on the operation of the arrangements in that year.
- (2) A report under this section in respect of a financial year must, in particular, set out –
 - (a) the number of participants who have received a buy-out payment in that year, and
 - (b) the total amount of the buy-out payments made by the Department in that year.
- (3) In the period while there is no Executive –
 - (a) the Department must send a report under this section to the Secretary of State, and
 - (b) the Secretary of State must lay the report before Parliament.
- (4) At any other time, the Department must lay a report under this section before the Northern Ireland Assembly.
- (5) In this section “the Department”, “buy-out arrangements”, “buy-out payment” and “the period while there is no Executive” have the same meaning as in regulation 23B of the 2012 Regulations (inserted by section 4).

Final provisions 20

6 Commencement

- (1) This section and sections 1 and 7 come into force on the day on which this Act is passed.
- (2) Sections 2 and 3 and the Schedule come into force on 1 April 2019.
- (3) Sections 4 and 5 come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

7 Extent and short title

- (1) This Act extends to Northern Ireland only.
- (2) This Act may be cited as the Northern Ireland (Regional Rates and Energy) Act 2019.

SCHEDULE

Section 3

SCHEDULE TO BE INSERTED AFTER SCHEDULE 4 TO 2012 REGULATIONS

“SCHEDULE 5

Regulation 36

TARIFFS FOR SMALL AND MEDIUM BIOMASS INSTALLATIONS (WHENEVER
ACCREDITED)

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<i>Tariff name</i>	<i>Sources of energy or Technology</i>	<i>Installation capacity</i>	<i>Tariff Pence/kWh</i>
Small Biomass	Solid biomass including solid biomass contained in municipal solid waste	Less than 20kWth	Tier 1: 7.4 Tier 2: 1.8
Medium Biomass (lower capacity)	As above	20kWth and above up to but not including 100kWth	1.7
Medium Biomass (upper capacity)	As above	100kWth and above up to but not including 200kWth	1.2”

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