



Department for the

**Economy**

An Roinn

**Geilleagair**

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**Our ref: CQ DfE 283/25**

**Your Ref: EC2025:517**

**Date: 13 11 2025**

Dear Peter

**RHI (Closure of Domestic Scheme) Bill**

Further to your letter dated 17 October 2025, seeking sight of the Delegated Powers Memorandum and Keeling Schedule for the RHI (Closure of Non-Domestic Scheme) Bill. Please see response below which has been cleared by Minister Archibald. This submission may be exempt from disclosure under Exception 12(4)(e) of the Environmental Information Regulations 2004.

A Delegated Powers Memorandum in relation to the Bill is attached at Appendix A.

With regard to a Keeling Schedule, the Bill does not amend the Energy Act 2011 (or any other legislation), and it is therefore not possible for a Keeling Schedule to be produced.

Should the Committee require any further information or clarification, please do not hesitate to contact the Department.

Yours sincerely

**GARY FINLAY**  
**Departmental Assembly Liaison Officer**

**RHI (CLOSURE OF NON-DOMESTIC SCHEME) BILL**  
**DELEGATED POWERS MEMORANDUM**

**Prepared by the Department for the Economy**

**Introduction**

1. This Memorandum identifies those provisions in the RHI (Closure of Non-Domestic Scheme) Bill which confer powers to make delegated legislation. It explains why the powers have been taken, why the matter has been left to be dealt with by delegated legislation, and the reasons for choosing the Assembly control selected.
2. The Bill supplements the powers of the Department for the Economy (formerly the Department of Enterprise, Trade and Investment) as set out in Sections 113 and 114 of the Energy Act 2011. It does not amend Sections 113 or 114 of the Energy Act 2011, or any of the regulations made under the powers set out therein, but rather clarifies the powers set out in Sections 113 and 114 in respect of closure of the Non-Domestic RHI Scheme (“the Scheme”).

**Overview of the RHI (Closure of the Non-Domestic Scheme) Bill**

3. The Bill will provide the Department with the powers to bring forward regulations to close the Scheme. Specifically, the Bill:
  - a. provides the Department with the power, by regulations, to partially or completely close the Scheme, including provisions in relation to the arrangements, administration and financing of Scheme closure (and as to conferring functions).
  - b. expressly allows regulations to be made from time to time to (i) alter the Scheme until the Scheme is completely closed, and (ii) amend or revoke part or all of the Renewable heat Incentive Scheme Regulations (Northern Ireland) 2012 (the 2012 Regulations) (or other regulations made under section 113) in pursuance of closure of the Scheme.
  - c. clarifies that, in the context of closure of the Scheme, regulations may provide that (i) references to payments in subsection (2) of section 113 may include one-off, periodical or instalment payments, and (ii) payments may be calculated on the basis of deemed or notional generation of heat.
  - d. ensures that regulations may make provision concerning events that have occurred prior to the coming into operation of the Bill. This is to facilitate the transition of participants from the current

Scheme to the proposed closure arrangements which will be established by the Regulations.

### Delegated Powers

4. The Bill contains 2 clauses and does not contain any schedules. The provisions which contain powers to make rules or regulations by Statutory Rule are set out in the following table.

<b>Clause</b>	<b>Nature of statutory rule which can be made</b>	<b>Assembly control</b>	<b>Notes</b>
Clause 1(3)-(5)	Regulations	Draft affirmative resolution	Regulations may be made under section 113 to close, partially or completely, the Non-Domestic RHI Scheme, including the arrangements by which closure is to be achieved, and administration and financing of closure, and the conferral of functions.
Clause 1(6)(a)	Regulations	Draft affirmative resolution	The scheme may, through use of the power in subsection (1), (5) or (6) of section 113, be altered from time to time (including by varying the sums payable under the scheme) until the scheme is completely closed
Clause 1(6)(b)	Regulations	Draft affirmative resolution	Regulations under section 113 by virtue of this clause may from time to time modify, including by amending in any way or revoking to any extent— (i) the 2012 Regulations, and (ii) the associated regulations under that

			section, in furtherance of, or in consequence of, partial or complete closure of the scheme
Clause 1(10)	Regulations	Draft affirmative resolution	Regulations under section 113 by virtue of this clause may include provisions concerning things done, or facts or circumstances existing, before this clause comes into operation.

**CLAUSES IN THE BILL WHICH CREATE NEW DELEGATED POWERS OR WHICH AMEND OR ALTER THE EFFECT OF EXISTING ONES**

**Clause 1: Power to make regulations**

*Power conferred on: The Department for the Economy*

*Power exercisable by: Regulations*

*Assembly procedure: Draft Affirmative resolution*

Context and purpose

5. The Department's existing powers with respect to the Scheme are set out in Sections 113 and 114 of the Energy Act 2011. They enable the Department to, by regulations, establish a Scheme to facilitate and encourage renewable generation of heat in Northern Ireland, and to make regulations about the administration and financing of the Scheme.
6. By virtue of Section 113(8), regulations made under Section 113 are to be made under the draft affirmative process, and may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
7. The 2012 Regulations were made in exercise of the powers set out in Section 113, and introduced the Scheme in Northern Ireland.

8. Further Regulations amending the 2012 Regulations were subsequently made under Section 113: SR 2014 No. 301, SR 2015 No. 371, SR 2016 No. 47, and SR 2017 No. 32. The 2012 Regulations were also amended by 2018 c.6 and 2019 c.13.
9. The 2020 New Decade, New Approach (NDNA) agreement between the British and Irish governments contained a commitment that the Scheme should be closed. The Northern Ireland Executive subsequently endorsed closure of the Scheme as being its preferred option in July 2024, and in September 2024 endorsed a pathway to delivering Scheme closure.

#### Justification for taking the power

10. Section 113, while providing the Department for the Economy with the powers to establish the Scheme, is silent on closure of the Scheme. There is therefore a vires gap in terms of the Department's ability to deliver on the NDNA and Executive commitments to close the Scheme. Clause 1(3)-(5) addresses this by setting out that the Department may make regulations to close the Scheme and introduce closure arrangements, including administration and financing of those arrangements.
11. Clause 1(6) is required in order to amend or revoke existing regulations, and if required, to make amendments to new regulations made under the new powers.
12. Clause 1(10) sets out that regulations made under Section 113 may include provisions concerning things done, or facts or circumstances existing, before this section comes into operation. This provision is in order to ensure that the timing complexities of transitioning participants from the current Scheme to closure arrangements can be managed in a way that ensures a fair and equitable transition, taking into account participants' varying accreditation dates, a proposed switch from quarterly to annual payment, and the timing of the coming into operation of the regulations.
13. The purpose of the delegated legislation is to reflect the level of detail that is required. Some of this detail is highly technical in nature and would not be appropriate for inclusion in a Bill.

#### Justification for the procedure

14. Section 113(8) provides for the draft affirmative resolution procedure and this procedure applied to the 2012 Regulations and subsequent amending Regulations. Clause 1(11) provides for consistency with section 113(8) by requiring the same procedure for the proposed Regulations.
15. It is considered, given the controversial history of the Scheme, that the Assembly should be given the opportunity to consider and debate regulations made under the powers set out in the Bill, and that the draft affirmative resolution procedure therefore provides the appropriate level of Assembly scrutiny.



Northern Ireland  
Assembly

## Committee for the Economy

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Our Ref: **EC2025: 517**

17 October 2025

Dear DALO,

### **RHI (Closure of Domestic Scheme) Bill**

At its meeting of 15 October 2025, the Committee to write to the Department seeking sight of the delegated powers memorandum and Keeling Schedule for the RHI (Closure of Non-Domestic Scheme) Bill.

A written response providing the above at your earliest convenience would be greatly appreciated.

If you require further information or clarification in respect of the above, please do not hesitate to contact me.

Yours sincerely,

*Peter McCallion*

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**Peter McCallion**  
Clerk to the Committee for the Economy