

Renewables Obligation (Scotland) Energy Intensive Industries

Devolved aspects of the review of the Scheme that provides relief to energy-intensive industries for a proportion of the costs of funding renewable energy generation, that includes the Renewables Obligation (Scotland)

19 August 2022

Closing date: 23 September 2022

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Introduction-Purpose of this Consultation Paper

1. This consultation enables the Scottish Government to fulfil its obligation in parallel with the UK Government which is seeking views on the exemption scheme for energy-intensive industries (EII) from the indirect costs of funding the Contracts for Difference (CfD), Renewables Obligation (RO) and small-scale Feed-in Tariffs (FIT) schemes (collectively defined as the “Exemption Scheme” or “Scheme”).
2. The Scottish Government is seeking feedback and evidence to consider whether there is a rationale for increased measures to mitigate the increased costs of electricity due to renewable electricity policies and whether existing measures need to be amended.

Territorial extent

3. This consultation covers Scotland. A parallel consultation is taking place that covers England and Wales¹ which covers many general aspects of Scheme scope and its operation. Many of these issues relate to reserved powers and are therefore not considered in this consultation. We encourage Scottish EII stakeholders to reply to the Department for Business, Energy & Industrial Strategy (BEIS) consultation on these aspects of the Scheme, in addition to the option of responding to specific questions in this consultation.
4. Further information on the consultation being undertaken by BEIS, and how Scottish stakeholders may reply, is provided below.

Scope of this consultation

5. This consultation is limited to the following specific aspects of the review:
 - The Renewables Obligation Scotland 2009 (ROS) (amended).
 - The ROS will be subject to the timing of any changes receiving sufficient information to support the relevant control assessment. Therefore, any amendment to the EII Regulations will be subject to the draft affirmative procedure in the Scottish Parliament.
 - The UK Government will be consulting in parallel as the Renewable Obligation is devolved in England and Wales. The Exemption Scheme does not operate in Northern Ireland.
6. The Scottish Government has limited the scope of this consultation for the following reasons:
 - The operation of the Exemption Scheme is carried out by the UK Government including for eligible businesses located in Scotland;
 - Scotland does not have devolved powers regarding the CfD and FIT;
 - A previous consultation (2018) on widening the eligibility for the ROS had only a handful of responses.

¹ Exemption scheme does not apply in Northern Ireland. Therefore, it is GB-based

- The administration of the Scheme is carried out at Great Britain (GB) level and this covers entry tests – business level and sector level - where there is no apparent benefit of divergence and limited powers to do so - for only the RO part of the Scheme, for which we don't have specific data on size of funds to potentially redistribute;
 - The rationale for undertaking the review is the same for Scottish stakeholders, with the significant impacts felt by any proposed changes likely felt by a similar profile of primary EII stakeholders;
 - The key change proposed by the UK Government, a commitment that was stated within the UK Energy Security Strategy of 7 April 2022 - is to consider including increasing the subsidy intensity of the CfD, RO and FIT exemption to 100%.
 - BEIS consultation document provides an overview of the available evidence regarding the impacts of the CfD, the RO, FIT on electricity prices and subsequently on international competitiveness and the potential increasing risk of carbon leakage.
 - With other parts of the UK we share the intent to promote measures to support business, and a level-playing field to operate within.
7. The Scottish Government may consult further with stakeholders depending on the outcomes of the UK Government's consultation or after studying the responses by Scottish stakeholders to this consultation.
8. The Scottish Government has a devolved responsibility for the operation of the ROS. To ensure that EII operating all or in part within Scotland are granted equal consideration as those across GB, it is our intention to follow the same approach as BEIS in investigating the impacts of any possible changes to the current exemption mechanism.

Scope of the UK Government's consultation

9. BEIS' are considering all aspects of the current Exemption Scheme including its benefits to stakeholders and whether, and how, to continue the Scheme for the longer-term in the context of the UK's subsidy control regime and broader Government objectives. The review covers all aspects, these are listed in **Table-1** below

Table-1

UK Government Consultation Aspects
Rationale for Exemption Scheme
Rationale for undertaking the review
Scope of the review
Timing of any changes
Purpose of the consultation
Subsidy Control
Analytical Evidence Base
Review of the Exemption Scheme (including Subsidy Intensity)
Review of the Design of the Exemption Scheme

10. Stakeholders in Scotland are invited to access the parallel consultation here: [BEIS - Review of the scheme to provide relief to energy intensive industries for a proportion of the indirect costs of funding renewable electricity policies](#) . We have liaised with BEIS on this approach.

Renewables Obligation - specific Scottish aspects related to the Exemption Scheme

11. The review includes a section that addresses proposed changes to the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (the **EII Regulations**) (which contain the criteria for the exemption) and to the Renewables Obligation Order 2015 (in respect of the arrangements for setting the level for the 2023/24 obligation period).
12. In Scotland this consultation will address proposed similar changes to the Renewables Obligation (Scotland) Order 2009.
13. In addition to many of the general aspects listed in Table-1, BEIS' document contains the following sections that we do not intend to reproduce because we propose the same approach for calculations in Scotland (instead they are clearly signposted using the link above).
 - How the RO works
 - Calculating the obligation level for England and Wales
 - Calculating the total number of ROCs required for a supplier to discharge its annual Renewables Obligation
 - Energy Intensive Industries exemption
 - Publication of the 2023/24 obligation level
14. The Renewables Obligation (RO) is a domestic energy and climate change policy designed to encourage investment in low carbon and renewable electricity generation and support the achievement of national decarbonisation targets. Scotland has a devolved responsibility for managing the RO in Scotland. The cost associated with funding this scheme is recovered through obligations and levies on electricity suppliers, which are passed on to consumers through their electricity bills.
15. In 2017, the Scottish Government and the UK Government delivered legislative changes to create a scheme that exempts EII from a proportion of the indirect cost of the RO which are significantly large for these types of businesses. This replaced the previous compensation scheme from 1st April 2018. The UK Government made similar provisions to exempt industry from a proportion of the indirect costs of the (CfD) scheme.
16. Given our devolved responsibility for the RO in Scotland (the ROS)², in 2018 the Scottish Government consulted alongside the UK government to seek

² The Renewables Obligation is managed by the UK Government's Department for Business, Energy and Industrial Strategy in England and Wales and the Northern Ireland Renewables Obligation (NIRO) is operated by the Department for the Economy in

views and evidence from stakeholders on widening eligibility. This was a response to criticism that current rules create competitive distortions - by providing those who are eligible with a lower cost per unit of electricity, relative to ineligible businesses who operate in the same market

17. The Scottish Government response for the 2018 consultation is accessible in this [LINK](#).

Consultation Questions

18. The Scottish Government is obliged to gather responses from Scottish stakeholders from the following questions, which are reproduced from the BEIS consultation:

(i) What benefits does the electricity relief exemption scheme provide to energy intensive industries including, how the scheme addresses the issue of carbon leakage?

(ii) Do you agree with our proposal to replace the reference to UID with AIEA in the guidance?

(iii) Do you agree that we, where relevant, use a five year rather than three-year baseline to reflect the impact of the Covid Pandemic to businesses? Please explain why

(iv) Should we consider accepting applications from businesses with fewer than two financial quarters of financial data? Please explain why?

(v) Is the 85% level of exemption sufficient for your business or sector? If not, please provide supporting evidence to demonstrate why not.

(vi) If we were to consider increasing the subsidy intensity level, what level would be appropriate? Please provide supporting evidence for your answer.

(vii) Do you agree that supporting industry to decarbonise through existing decarbonisation and net zero strategies is the appropriate approach for Energy Intensive Industry? Please add further information to support your response.

(viii) Do you agree with our proposal to adjust the 2023/24 renewable obligation level partway through the obligation year (if proposed changes are made as a result of this consultation)? If not, please explain why and, if possible, suggest alternative approaches.

(ix) Do you consider that a minimum of three months' notice between the revised obligation level being published and implemented, is reasonable (if

proposed changes are made to the Exemption Scheme as a result of this consultation)? If not, please explain why and, if possible, suggest alternative approaches.

For Consideration/ Points to Note

19. The [Energy Efficient Scotland](#) route map launched in May 2018.. This wide-reaching programme to invest in our existing buildings will improve energy performance.
20. The Scottish Government currently provides free advice and support to Scottish SME's to understand how to become more energy efficient, reduce energy bills and decarbonise, through Business Energy Scotland (BES). BES is responsible for signposting businesses to the Scottish Government funded [SME Loan fund](#). Scottish SMEs support to invest in energy efficiency measures to save money and resources.
21. As laid out in our [Energy Strategy](#), we are working with Scottish industry to build on [existing programmes of support](#) and to reduce their costs by encouraging investment in energy efficiency. This can reduce operating costs and protect against energy price rises.
22. Consideration should also be given to the fact that if the UK Government decides that the subsidy intensity should be raised, but Scotland does not in parallel raise its subsidy intensity, this may create discrepancies across GB. If Scotland have a lower subsidy intensity, Scottish industrial bodies consuming the same proportions of electricity as their UK counterparts, may not receive the same benefit.

Responding to this Consultation

23. We are inviting responses to this consultation by 23 September 2022
24. Please respond to this consultation online using the Scottish Government's consultation platform, Citizen Space link below:

[Consultation: Devolved aspects of the review of the Scheme that provides relief to energy-intensive industries for a proportion of the costs of funding renewable energy generation, that includes the Renewables Obligation \(Scotland\)](#)

You can view/respond and also save and return to your responses while the consultation is open.

Please ensure that consultation responses are submitted before the closing date of 23 September 2022

25. If you are unable to respond online, please complete the Respondent Information Form (see “Handling your Response” below) to:

Industrial Decarbonisation Team
4th Floor
5 Atlantic Quay
150 Broomielaw
GLASGOW
G2 8LU

Handling your response

26. If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.
27. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.
28. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to- responses made to this consultation exercise.

Next steps in the process

29. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material,
30. responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.
31. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.
32. An analysis of the responses will be shared with BEIS as this is a parallel consultation that encompasses the questions on the wider review and how the scheme will operate. They will do the same with the Scottish Government.

Approval

33. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a final position.

Subject to stakeholders' views, and the approval of the Scottish Parliament, if we decide to proceed with the proposals our aim would be to bring them into effect in Scotland at the same time as the rest of the UK. We will confirm the intended timetable in our response to this consultation.

Comments and complaints

34. If you have any comments about how this consultation exercise has been conducted, please send them to:

Industrial Decarbonisation Team
4th Floor
5 Atlantic Quay
150 Broomielaw
GLASGOW
G2 8LU

Email: ROS@gov.scot

Scottish Government consultation process

35. Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

36. You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

37. Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)

38. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

39. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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