Dear Simon,

Firstly I would like to thank the Committee for the work it has carried out in reviewing the 2019 RHI tariffs provided in the Regional Rates and Energy Act 2019. I recognise that these changes may have a significant impact on participants of the scheme, and am also mindful that many of them are small businesses seeking to succeed in a highly competitive market. Of course the UK Government is keen to support them. I note the Department for the Economy’s commitment to establishing an independently chaired hardship panel to look at individual cases. There is no doubt that this panel has an important task ahead.

I note the content of your report and the recommendations for the Department for the Economy. The committee has also raised two issues to which I want as Secretary of State to respond. I enclose my response to each and hope that this provides you with some measure of assurance as we move forward.

I look forward to working with the Committee in our shared goals of ensuring that Northern Ireland enjoys prosperity, security, and good governance, and that its people receive excellent public services.
Yours sincerely,

RT HON JULIAN SMITH MP
SECRETARY OF STATE FOR NORTHERN IRELAND
NIO Response to NIAC Report on RHI tariffs 2019

NIAC Recommendation

The Secretary of State must commit to ending the practice of passing Northern Ireland related legislation under emergency procedures as a matter of course. Until the Assembly and Executive are restored, Westminster must be able to offer a reasonable level of scrutiny and accountability. If the Northern Ireland Office considers there is sufficient urgency to warrant emergency procedures, this Committee should be informed so that we can assess the rationale and offer our view.

NIO Response

The Northern Ireland Office (NIO) understands the concerns of the Committee in relation to the speed with which NI legislation has been taken through the Parliamentary process. NIO will continue to work with the Committee in relation to this issue. However, NI legislation at times understandably needs to respond to the urgency arising within the NI context. Sometimes this unavoidably requires timeframes that are very challenging for the Government, the Northern Ireland Civil Service, and for Parliament.

In the case of the RHI legislation the NIO officials were aware of the need for legislation throughout 2018 as a result of the sunset clause, and the Secretary of State for Northern Ireland was briefed and updated on this issue in September, October, December 2018, and January 2019. Parliamentary Business Managers were also made aware that a Bill slot would be needed. However, what was not known was the long-term tariffs required. Work had not yet been completed in the DfE to determine what tariffs would be needed to comply with EC state aid rules and deliver the 12% rate of return policy objective set by the NI Executive. DfE also secured business case approval from the Department of Finance for the revised tariffs and the buy-out. The tariffs required and the proposed draft clauses for the Bill were then provided to NIO in February 2019.

NIAC Recommendation

The Department for the Economy, and ultimately the UK Government must look at the tariff structure and underlying calculations for the Republic of Ireland scheme. If there is cause for complaint, then there may be a very short window in which the initial decision must be challenged by the UK Government. If there is unfairness, then harm could be prevented. It may be, however, that the costs involved in the Irish scheme are correct, which would suggest that there are costs within the Northern Ireland scheme that need revisiting. In any event, this must be investigated as a matter of urgency.
NIO Response
The Department for the Economy has carried out work to assess the tariff structure in RoI. DfE will respond to this recommendation in their departmental response.