

From: Stuart Wightman

Tel No: 29425

Date: xx January 2017

To: 1. John Robinson
2. Simon Hamilton MLA

Copy Distribution List below

COR 1358-2016 – NON DOMESTIC RENEWABLE HEAT INCENTIVE SCHEME

Issue: Correspondence from Jim Allister MLA about the non domestic Renewable Heat Incentive Scheme and State Aid Approval.

Timing: Due for reply 22 December, ~~12~~ (extended with Private Office pending DSO advice).

Executive Committee Referral: N/A.

PFG Implications: N/A.

Presentational Issues: None.

FOI Implications: Not discloseable.

Financial Implications: N/A.

Legislation Implications: N/A.

Statutory Equality Obligations: N/A.

Recommendation: That you note the background to the issue and respond to Mr Allister using the draft provided at **Annex A**.

BACKGROUND

1. Jim Allister has written to you with a number of queries relating to the EU Commission approval for the non domestic Renewable Heating Incentive Scheme (RHI) issued on 12 June 2012. He highlights paragraph 25 of the document which records only “useful heat” as being eligible for payments under the RHI, and paragraph 34 which refers to installations being calibrated to have a specific load factor and the tariff then being calculated with reference to that load factor (**Annex B**).

2. Mr Allister goes on to raise three specific queries:-
 - He asks you to confirm that the Commission was able to reach these conclusions on the basis of information and assurances provided by DETI and asks where and how that can be accessed.
 - He asks where precisely within the Scheme Regulations and standard Letter of Offer are the provisions where the “useful heat” and calibration are provided for.
 - Finally he asks if the defining document in terms of a contractual relationship between the beneficiaries and the Department is the letter of accreditation issued to each applicant.

DSO advice ~~[DN advice awaited]~~

3. DSO is of a view that Mr Allister ~~he is shaping up to~~ is trying to show that the Commission reached its view (re: “useful heat” and “load factor”) on the basis of the material presented to it by DETI and presumably that ~~that~~ DETI information was somehow inaccurate or otherwise mislead the Commission to make the determination they did. ~~There seems to be no alternative but to simply confirm that the Commission made its determination on the basis of the papers/information presented to it – after all, this is what happened. As to where or how the confusion/mistaken belief came to be thereafter is something we can leave to any interpretation he may wish to place on the material.~~ The advice from DSO is that the Department should confirm straightforward approach I would advocate would be to confirm (a) that the Department submitted papers to the Commission and ~~(b) that~~ the Commission made its determination on the basis of those papers.
4. The second question DSO considers to the be ~~is~~ the most difficult of the three questions, ~~we all~~ since it is recognised that the “useful heat” requirement may not have translated across into the RHI Regulations as originally intended - “eligible purpose” is defined as a purpose specified in regulation 3(2) – DSO advice is that ~~thinks~~ we can do no more than refer to this particular regulation. As for “calibration”, this doesn’t form part of the Regulations at all.
5. In response to the third question DSO advice is that we can confirm that the scheme is governed by a combination of the principal Regulations, the letter of accreditation and the relevant guidance.

Recommendation

- 6.. That you note the background to the issue and respond to Jim Allister using the draft provided at **Annex A**.

STUART WIGHTMAN
Energy- Renewables Division

Ext. 29425

cc: John Robinson
Andrew McCormick
Chris Stewart
June Ingram
Lucy Marten
Seamus Hughes
Siobhan Tweedie
Press Office

Annex A

Mr Jim Allister QC MLA
38 Henry Street
Harryville
Ballymena
Co Antrim
BT42 3AH

Xx January 2017

Dear,

Thank you for your letter of 12 December 2016 concerning the non domestic Renewable Heat Incentive Scheme.

You raised a number of queries in your letter and I would respond as follows:-

- The Department submitted papers to the Commission and the Commission made its determination based on these papers.
- With regard to your second query, “eligible purpose” is defined as a purpose specified in Regulation 3 (2) of the 2012 scheme Regulations.
- In relation to your final question the scheme is governed by the principal Regulations, the letter of accreditation and the relevant guidance.

I hope this is helpful to you.

SIMON HAMILTON MLA