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From: Hutchinson, Peter <Peter.Hutchinson@detini.gov.uk>
Sent: 10 March 2011 10:46
To: Boileau, Sam
Cc: Clydesdale, Alison; Wood, Charles; Phakey, Rajan; Bowdren, Helen
Subject: RE: DETI / Draft Instructions to Parliamentary Counsel - Renewable Heat Incentive Powers - comments on final draft
Attachments: 1387-renewable-heat-incentive.pdf; 1383-proposed-text-regs-amend-energy-act-2008.pdf; 1382-proposed-text-regulations-rhi.pdf

Sam,

DECC have just realised the final design of the GB RHI, attached for your information.

More pertinent is that they have also released plans to amend Section 100 of the 2008 Energy Act, information attached. Our instructions would need to take account of this amendment.

have also attached the draft regulations for the implementation of the GB RHI.

Thanks

Peter

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From: Boileau, Sam [mailto:sam.boileau@snrdenton.com]
Sent: 09 March 2011 19:24
To: Hutchinson, Peter
Cc: Clydesdale, Alison; Wood, Charles; Phakey, Rajan; Bowdren, Helen
Subject: RE: DETI / Draft Instructions to Parliamentary Counsel - Renewable Heat Incentive Powers - comments on final draft

Thank you for this, Peter. We will review these comments, incorporate the changes and get back to you as soon as we can with a revised draft. We will call you if we there any points we need to discuss.

Kind regards.

Sam

From: Hutchinson, Peter [mailto:Peter.Hutchinson@detini.gov.uk]
Sent: 09 March 2011 17:16
To: Boileau, Sam
Cc: Clydesdale, Alison; Wood, Charles; Phakey, Rajan; Bowdren, Helen
Subject: DETI / Draft Instructions to Parliamentary Counsel - Renewable Heat Incentive Powers - comments on final draft

Sam,

Our Departmental Solicitor's Office (DSO) has now considered the draft parliamentary instructions that you had prepared and has commented that they are perfectly clear and well drafted. They have only suggested a few minor amendments in connection to the references to legislation. These are listed below;

Paragraph 1.1

It would be helpful if SNR would either footnote the reference to the Energy Act 2008, or insert it's citation number in brackets immediately after the reference to it. The citation is 2008 c.32.

Paragraph 2.4

As above, it would be helpful if SNR could provide the reference for the 2003 Order. It is S.I. 2003/419 (N.I. 6)

Paragraph 3.17

In the grid, in the second column, second entry, reference is made to 32M of the Electricity Act 1989. This section 32M does not yet appear on the statute law database version of the 1989 Act, which obviously needs to be updated. It would be helpful if SNR's could provide details of the legislation that inserts section 32M in a footnote. They should say, "Section 32M was inserted by 2008 c.32, section 37."

In the grid, in the third column, under the first entry, the correct title for the Gas Order 1996, as referred to, is the "Gas (Northern Ireland) Order 1996 and it's citation is S.I. 1996/275 (N.I. 2).

In the third column, in the second entry, 'section 55(f)' is referred to. The use of the word 'section' is incorrect, it should be 'Article'. Also, there isn't an Article 55(f). I think this should be Article 55F. Article 55F provides a definition of 'renewable sources' and was inserted by SR 2009 No. 35, Article 2. This should be footnoted. Also the word 'sources' should be inserted after the word 'renewable'.

I have also made a few minor changes, grateful if you would consider;

Paragraph 1.4

In terms of timing the introduction I feel that it would be best to state that this will be at the discretion of DECC and they will introduce when it is most appropriate. Could wording be included to that effect?

Paragraph 2.8

Just for accuracy I have removed the inference that DETI explicitly referenced the RHI in July 2009, instead we commented on developing the renewable heat market to 10% by 2020.

Paragraph 3.4

I have removed first set of square brackets and amended to the sentence to state that DETI will obtain a LCM. This is scheduled for Monday, 14th March, if these instructions do not issue until middle of next week I can amend again to state that a LCM has already been obtained, providing the Assembly agrees.

There are also still two footnotes;

1. In regards the power to raise levy, as you point out if DETI were to take these powers under primary legislation this would be an excepted matter. That being the case I would suggest removing paragraphs 3.10 and 3.11 and remove that instruction. A mechanism for future funding post 2015 will need to be discussed with DECC in time but it may be presumptive to include these powers at this stage. **ALISON C - are you content with this?**

2. In regards to the cost of administration through Ofgem, we have had preliminary discussions with Ofgem in regards to administration but as yet no discussions on potential costs and the payment of costs. Is it necessary for powers to be included so this issue can be addressed? I would expect that this issue could be dealt with via the subordinate legislation providing powers akin to subsection 1, paragraph b of Section 100 of the 2008 Energy Act are included in the specific provisions for Northern Ireland. I see no further reference in Section 100 about administration and therefore think the issue could be dealt with in the subordinate legislation. Would be grateful for your advice on this issue.

Hope this all makes sense, I am happy to discuss if needed. At this stage grateful if you could amend the attached instructions to include the revisions suggested by DSO and grateful also if you would consider my comments and suggestions in regards to paras 1.4, 2.8 and 3.4 and the two footnotes and prepare a final draft. We are keen to get these instructions to DECC asap.

Once again thanks for your help with this issue and happy to discuss if any of the above is unclear.

Peter

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