

Docbuster

From: Irrelevant information redacted by the RHI Inquiry (Legal Services) <Irrelevant information redacted by the RHI Inquiry@decc.gsi.gov.uk>
Sent: 24 March 2011 17:27
To: Hutchinson, Peter; Irrelevant information redacted by the RHI Inquiry (DECC); Irrelevant information redacted by the RHI Inquiry (Office for Renewable Energy Deployment)
Cc: Clydesdale, Alison; Wheeler, Nicola; Irrelevant information redacted by the RHI Inquiry (DECC LEGAL)
Subject: RE: Instructions to Parliamentary Council - Northern Ireland RHI

Peter,

Yes, given the pending amendments to section 100, we think that the only way forward is for NI to have a freestanding clause along the lines you propose in your second paragraph.

I appreciate that this was one of the options you had included in your instructions. Our proposal is only that the instructions are amended to outline the position regarding the pending amendments to section 100 and to make it clear that, in the circumstances, the only way forward would appear to be for NI to have a freestanding clause.

Happy to discuss.

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Irrelevant information redacted by the RHI Inquiry | [Legal Adviser](#) | [Legal 1 - Energy Efficiency, Planning and Strategy](#) | [Department of Energy and Climate Change](#) | [Level 7, 3 Whitehall Place, London, SW1A 2AW](#) | [Tel: 0300 068 5379](#)

Working pattern: Monday-Wednesday

e-mail: Irrelevant information redacted by the RHI Inquiry [@decc.gsi.gov.uk](mailto:Irrelevant information redacted by the RHI Inquiry@decc.gsi.gov.uk)

From: Hutchinson, Peter [<mailto:Peter.Hutchinson@detini.gsi.gov.uk>]
Sent: 24 March 2011 17:23
To: Irrelevant information redacted by the RHI Inquiry (Legal Services); Hutchinson, Peter; Irrelevant information redacted by the RHI Inquiry (DECC); Irrelevant information redacted by the RHI Inquiry (Office for Renewable Energy Deployment)
Cc: Clydesdale, Alison; Wheeler, Nicola; Irrelevant information redacted by the RHI Inquiry (DECC LEGAL)
Subject: RE: Instructions to Parliamentary Council - Northern Ireland RHI

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Thanks for considering this issue and responding.

Can I just clarify that you wish us to revise our Instructions to Parliamentary Counsel to specify that a freestanding clause is inserted in the current Energy Bill that will grant powers to Northern Ireland similar to those already held by DECC under Section 100 of the 2008 Energy Act. This freestanding clause, solely for NI, would also take account of the proposed amendments to Section 100, i.e. inclusion of biogas and definitions of biogas and biomass? Our current Instructions did include the option for parliamentary council to use a free-standing clause (para 3.5).

I just want to be clear on what the instructions should specify. Grateful if you would advise.

We will seek to have our instructions revised as a matter of urgency and with you again shortly, I do not envision this to require too much time. In my mind it will just be a matter of giving a definitive instruction in regards the free-standing clause and clarify the reference to the DECC amendment to Section 100. If you feel anything further will be required please let me know.

Thanks for your advice on this matter, happy to discuss further if needed.

Peter

Peter Hutchinson

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From: [Irrelevant information redacted by the RHI Inquiry] (Legal Services) [mailto:[Irrelevant information redacted by the RHI Inquiry]@decc.gsi.gov.uk]
Sent: 24 March 2011 17:04
To: Hutchinson, Peter; [Irrelevant information redacted by the RHI Inquiry] (DECC); [Irrelevant information redacted by the RHI Inquiry] (Office for Renewable Energy Deployment)
Cc: Clydesdale, Alison; Wheeler, Nicola; [Irrelevant information redacted by the RHI Inquiry] (DECC LEGAL)
Subject: RE: Instructions to Parliamentary Council - Northern Ireland RHI

Peter,

Thank you for your e-mail. We have discussed this internally. Our primary concern is around timings. Our RHI regulations are dependent on the regulations amending section 100 to have effect and we cannot therefore jeopardise the timing of their introduction. This therefore rules out the second of the two options you have proposed as we cannot wait until we have powers under section 100 to make amendments which would also extend to NI nor can we ensure that the amendments are made in advance of any extension of the section 100 powers to NI via the Bill. I'm not sure how the drafting would work to enable DETI to make amendments to section 100 to extend to NI. Mightn't this be clumsy as it would somehow have to be made clear that the amendments made by our regulations did not extend to NI.

Given this and the fact that both our regulations and the NI Bill clause are likely to be before Parliament at the same time which will cause additional confusion (and presentational difficulties), we think that the best way forward is for NI to have a freestanding clause which includes the amendments we are also proposing.

Could we therefore please ask that you make the necessary amendments to the Instructions to Parliamentary Counsel.

Many thanks.

Happy to discuss.

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Working pattern: Monday-Wednesday

e-mail: Irrelevant information redacted by the RHI Inquiry @decc.gsi.gov.uk

From: Hutchinson, Peter [mailto:Peter.Hutchinson@detini.gsi.gov.uk]

Sent: 22 March 2011 14:48

To: Irrelevant information redacted by the RHI Inquiry (Legal Services); Hutchinson, Peter; Irrelevant information redacted by the RHI Inquiry (DECC); Irrelevant information redacted by the RHI Inquiry

(Office for Renewable Energy Deployment)

Cc: Clydesdale, Alison; Wheeler, Nicola; Irrelevant information redacted by the RHI Inquiry (DECC LEGAL)

Subject: RE: Instructions to Parliamentary Council - Northern Ireland RHI

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Thank you for your email.

I think the key principle in paragraph 3.16 is that we are keen to ensure that the amendments that you are making to Section 100 of the 2008 Energy Act read-across to Northern Ireland via the amendment that we are seeking. Therefore, wish to have biogas included as a source of energy within the Northern Ireland legislation and ensure that the definitions of biogas and biomass (and other technologies) are consistent in both GB and Northern Ireland.

The draft instructions included two potential legislative options for the amendment that we are seeking (para 3.5);

- Extension of Section 100 of the 2008 Energy Act to Northern Ireland; or
- A free standing clause to be included in the current Bill which would be equivalent to Section 100 of the 2008 Act.

In terms of how your amendments to Section 100 could read across to the NI amendment it probably depends on which of the above options is pursued for the NI amendment. If a freestanding clause in the current Bill was preferred then the clause/section would need to be drafted to already include your proposed amendments (re biogas and biomass definitions). If an extension of Section 100 was the preferred option then we would wish to ensure that either your amendments could also apply to NI or, that DETI could make similar amendments (again for biogas and biomass definitions) in due course via regulations.

As always, we are happy to take your guidance and advice on this issue and do not wish to overly complicate or delay the passage of the Bill in any way. As I said, it is the principle of consistency that is important - that the same technologies and the same definitions are included within the powers for GB and the powers for Northern Ireland.

I hope this is of some use - happy to discuss further if needed.

Thanks in advance for your help,

Peter

Peter Hutchinson

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From: Irrelevant information redacted by the RHI Inquiry (Legal Services) [mailto: Irrelevant information redacted by the RHI Inquiry @decc.gsi.gov.uk]
Sent: 22 March 2011 12:48
To: Hutchinson, Peter; Irrelevant information redacted by the RHI Inquiry (DECC); Irrelevant information redacted by the RHI Inquiry (Office for Renewable Energy Deployment)
Cc: Clydesdale, Alison; Wheeler, Nicola; Irrelevant information redacted by the RHI Inquiry (DECC LEGAL)
Subject: RE: Instructions to Parliamentary Council - Northern Ireland RHI

Peter,

Thank you for your e-mail. We have one query regarding the instructions to Parliamentary Counsel. This concerns your final paragraph (3.16).

First, our amendments to section 100 also include the addition of biogas as a source of energy. Do you intend this amendment to apply to NI?

Second, we are unclear as to how you are proposing these amendments would have effect in NI. As currently drafted the regulations amending section 100 (which will be laid in Parliament in May) do not extend to NI as we do not of course have vires to extend their scope beyond GB. We cannot delay the introduction of these regulations until the NI amendment has been made as it would delay the implementation of the principal regulations setting up the RHI in GB. We would therefore be grateful for clarification of your instructions. Are you proposing that Parliamentary Counsel will make these changes? If so, how do you envisage this working given the timing issues (both the regulations and the NI amendment are likely to be in Parliament at the same time).

I look forward to hearing from you.

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Working pattern: Monday-Wednesday

e-mail: Irrelevant information redacted by the RHI Inquiry @decc.gsi.gov.uk

From: Hutchinson, Peter [mailto:Peter.Hutchinson@detini.gsi.gov.uk]
Sent: 15 March 2011 16:32
To: Irrelevant information redacted by the RHI Inquiry (DECC); Irrelevant information redacted by the RHI Inquiry (Office for Renewable Energy Deployment); Irrelevant information redacted by the RHI Inquiry (Legal Services)
Cc: Clydesdale, Alison; Wheeler, Nicola

Subject: Instructions to Parliamentary Council - Northern Ireland RHI
Importance: High

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by the RHI Inquiry

Please see attached final version of the instructions to Parliamentary Council, in respect to the potential amendment to the current Energy Bill to extend powers relating to Renewable Heat to Northern Ireland.

Grateful if you would consider.

Happy to discuss.

Thanks,

Peter

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