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Energy



From: Jenny Pyper
Energy Division
27 October 2008

Copy recipients listed below

1. Andrew Crawford
2. Arlene Foster MLA o/r

ENERGY BILL – LORDS AMENDMENTS ON RENEWABLE ENERGY

Issue:	UK Government amendments to the Energy Bill on micro-generation feed-in-tariff (FIT) and renewable heat incentive (RHI).
Timing:	Urgent – Minister will need to write to ETI Committee as soon as possible. Amendments will be introduced on 29th October and will be debated on 5th November.
Need for referral to the Executive:	Not at this stage.
Presentational Issues:	Depending on the timing of the bringing into force of clauses on micro-generation FIT - Northern Ireland could end up as the only part of the UK with a Renewables Obligation (RO) for micro-generation.
Freedom of Information:	Exempted under Section 35 of the FoI Act.
PfG/PSA Implications:	Not applicable.
Financial Implications:	None at present.
Legislation Implications:	NI will probably have to follow rest of UK on micro-generation FIT – and possibly also on renewable heat incentive if we decide this route is suitable for NI.
Statutory Equality Obligations:	No equality implications identified.
Recommendation:	That the Minister: (i) notes introduction of amendments to the Energy Bill; (ii) sends a letter on the issue to the ETI Committee as soon as possible; and (iii) notes that we will probably need to reflect any Energy Bill amendments following analysis of the implications for Northern Ireland in legislation here.

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Background

1. Further to my submission of 22nd September and our subsequent discussion, you were content that Northern Ireland should not seek to be included in any potential amendments to the Westminster Energy Bill on a feed-in tariff (FIT) for electricity micro-generation and a renewable heat incentive (RHI).
2. We have today received confirmation from DECC that it will introduce clauses on 29th October for debate on 5th November to give the Secretary of State powers to introduce a FIT and an RHI.

Policy aspects – electricity micro-generation FIT

3. NI has followed DECC policy in proposals to reform the Renewables Obligation (RO). We are currently consulting (ends mid-December) on banding the NIRO which would give micro-generators the additional incentive of two Renewable Obligation Certificates (ROCs) per mega-watt hour (MWh) instead of one. BERR has made it clear in the UK Renewable Energy Strategy currently out for consultation that it will stick with the RO for large-scale renewables at least until 2020 to provide certainty for investors.
4. Now that powers for a micro-generation FIT are to be introduced for GB through the Energy Bill, we believe that it will be difficult to maintain the NIRO for micro-generation when the rest of the UK and ROI have a FIT. We are not sure exactly when DECC will exercise any new powers for micro-generation FIT if the Energy Bill receives Royal Assent. However, we do understand that DECC is pressing ahead with amendments to the GB Renewables Obligations to introduce banding by 1st April 2009. Therefore it is likely that it will bring in the micro-generation FIT at a later date – we should therefore not abandon our own work on amending the NIRO. There is a Northern Ireland Gas Bill planned for mid-summer and that may be an appropriate vehicle for necessary amendments to our own legislation to reflect what DECC is doing.
5. The ETI Committee should be informed of these developments (draft letter attached at Annex A). We believe it is likely to support similar developments here. However, the option of a FIT for micro-generation provides another opening for those who believe we should harmonise incentives with the Republic for all levels of electricity generation.

Policy aspects – renewable heat incentive

6. As I said in my 22 September submission, we are not in a position to advise you on what form of heat incentivisation might be best for Northern Ireland: our feeling is that, since, for example, NI's domestic heat market is so different from GB's (eg 70% oil supplied in the main by small local companies as opposed to 80% gas there provided by a handful of large companies) there are likely to be very different issues for legislation here, but we cannot be certain without further work. We have not, as yet, been in a position to devote resources to this area of work – and indeed we currently have no vires in this area.
7. Since powers for a renewable heat incentive are being brought forward in the Energy Bill, we will come under pressure to explain what we are doing in this

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area and to legislate similarly. We had planned to do some work on this issue in late 2009 but the BERR pressure has moved it up the agenda.

8. Since we would wish to develop the amount of renewable heat in Northern Ireland we will want to incentivise it in some way. We will need a study to determine what is required here and, if necessary, to legislate. Again, the Gas Bill planned for later in 2009/10 may be an opportunity to legislate for a renewable heat incentive if we are to follow DECC's policy. However, if we decide that NI requires a different policy, then it may take longer to develop. This unplanned work is likely to displace other output in renewable energy.

Recommendations

9. I recommend therefore that you:
 - (i) note the introduction of amendments to the Energy Bill;
 - (ii) send a letter on the issue to the ETI Committee as soon as possible; and
 - (iii) note that we will probably need to reflect any Energy Bill amendments, following analysis of the implications for Northern Ireland, in legislation here.

Jenny Pyper

Head of Energy Division

cc: Stephen Quinn
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RESTRICTED - POLICY**DRAFT LETTER TO CHAIR OF ETI COMMITTEE**

Mark Durkan MP MLA
Chairman, ETI Committee

**UK GOVERNMENT AMENDMENTS TO THE ENERGY BILL:
MICROGENERATION FEED-IN TARIFF AND RENEWABLE HEAT INCENTIVE**

On my return to Northern Ireland from the US, I learned that the Department of Energy and Climate Change (DECC) has last week laid amendments (attached) to the Energy Bill which will give the DECC Secretary of State powers to introduce a feed-in tariff (FIT) for electricity micro-generation as well as broad powers to introduce a renewable heat incentive (RHI).

I was consulted on a confidential basis on the potential for these amendments in late September. We took legal advice which confirmed that these amendments deal with transferred matters and would therefore require a Legislative Consent Motion (LCM) for Northern Ireland to be included in these clauses of the Energy Bill.

I took the view that for Northern Ireland to be included in these amendments would have rushed the requisite LCM process to the extent that I would have been unhappy that sufficient time and scrutiny had been devoted to the complex issues involved.

Having said that, I believe that the introduction of a FIT in GB will mean that Northern Ireland will almost certainly have to follow suit in order to stay in step with policy both in GB and the Republic. I understand that DECC intends to press on with reforms to the Renewables Obligation which would give micro-generation 2 ROCs per MWh. As you know, we are also consulting on a similar basis on reforms to the NI Renewables Obligation due to be introduced by 1st April 2009. It seems likely that the micro-generation FIT will be introduced in a slower time-frame and my officials can discuss this with you and the committee when we have more information.

As you know, my Department does not currently enjoy vires on renewable heat. I will have to examine in more detail the amendment on a RHI to see if it would be the best course of action for Northern Ireland whose heat market is, on the face of it, quite different from the rest of the UK's. No doubt my officials will brief you on this issue in due course, but that work is likely to take longer.

I am sorry I could not give you earlier warning of these changes while I was away on business.

ARLENE FOSTER
MINISTER OF ENTERPRISE, TRADE AND INVESTMENT

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