

## RESTRICTED POLICY DEVELOPMENT

Energy

Minister: for your consideration and if  
Content agreement/approval please.



Department of  
**Enterprise, Trade  
and Investment**  
www.deti.gov.uk

(i) agree draft letter

From: Fiona Hepper  
Energy Division

Date: 25<sup>th</sup> November 2010

To: 1. Andrew Crawford  
2. Arlene Foster MLA

(ii) note and agree DETI pursuing enabling powers for a RHI

(iii) agree that any DETI (external) action in relation to the Green Deal should await the outcome of the meeting chaired by

DSD

J26/S

3/2 agreed by  
Sign

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**COR 553/2010 – ENERGY SECURITY AND GREEN ECONOMY BILL - LETTER  
FROM CHRIS HUHNE**

<b>Issue:</b>	Chris Huhne, Secretary of State, has written to advise that he is aiming to introduce the Energy Security and Green Economy Bill in the House of Lords in December 2010.
<b>Timing:</b>	Routine
<b>Need for referral to the Executive:</b>	Not Applicable
<b>Presentational Issues:</b>	The majority of provisions apply to GB. The inclusion of legislative powers for a GB Green Deal may cause some interest/ criticism from the Green New Deal in Northern Ireland Group.
<b>Freedom of Information:</b>	This submission is restricted under policy development.
<b>Financial Implications:</b>	None
<b>Legislation Implications:</b>	Not Applicable
<b>Statutory Equality Obligations:</b>	Not Applicable at this stage.
<b>Recommendation:</b>	It is recommended that you:-  (i) reply to Chris Huhne. A draft reply is attached at Annex A for your consideration; and

- (ii) note and agree to DETI pursuing enabling powers for a RHI via Westminster legislation; and
- (iii) agree that any DETI (external) action in relation to the Green Deal should wait until the outcome of the meeting on the Green New Deal (to be chaired by DSD) is known.

## Background

Chris Huhne, Secretary of State, has written to inform you of his intention to seek Parliamentary Business and Legislation Committee approval for the Energy Security and Green Economy Bill. His aim is to introduce the Bill in the House of Lords around the second week of December 2010.

2. Only two of the measures in the Bill will apply to Northern Ireland. These relate to nuclear funded decommissioning and to the UK Continental Shelf, both of which are reserved matters.
3. The first (nuclear funded decommissioning programmes), will enable DECC to enter into an agreement with an operator of a new nuclear power station to ensure that there is an appropriate balance in DECC's powers to protect the taxpayer and the operator's need for clarity over how those powers will be exercised. This policy will contribute to clarifying liabilities by giving prospective operators greater certainty over the costs of their decommissioning and waste management.
4. The second is to provide flexibility in designating areas of the UK continental shelf. This will enable better management of resources, including hydrocarbon resources, thus contributing to improved energy security for the UK.
5. Energy Division has been working closely with DECC and we agree that these are reserved matters and as such a Legislative Consent Motion will not be required. The legislative action is to be welcomed as it helps to improve security of energy supply for the United Kingdom as a whole.
6. The Bill further supports the work underway between DECC and DETI officials to advance collaborative action on security of supply. This will strengthen the links between the two Departments and ensure early compliance with the new Security of Gas Supply Regulation.

**Policy Issues arising**

7. There are a number of wider policy matters that this Bill raises which you should take the opportunity to raise with DECC in your reply to Chris Huhne. These are:

**(a) Offshore decommissioning**

8. The Energy Act of 2004 sets out a range of requirements in relation to the offshore production of energy, including the application of safety zones and statutory decommissioning regimes for offshore renewables energy (wind, wave and tidal) installations and related electricity lines. While these provisions in the Energy Act 2004 do extend to Northern Ireland, our territorial waters were not included in the definition of geographical coverage and therefore, these provisions have no practical effect. This legislative gap means that Northern Ireland waters are not covered in relation to the safety zone or decommissioning regimes which are currently in place in GB waters.
9. It will be important, however, for Northern Ireland to have in place a regime consistent with the rest of the UK, in advance of any commercial developments entering NI waters. The Offshore Renewable Energy Strategic Action Plan therefore proposed that DETI would work with DECC in relation to the introduction of the necessary powers to develop this regime for Northern Ireland waters.
10. We had asked whether DECC could legislate to extend our decommissioning regime to include NI waters and also whether DECC would be able to administer the regime. DECC's response was that, given Northern Ireland has full legislative competence for energy (unlike Scotland), they would support us in bringing in such a regime via NI legislation and share their experiences of operating a decommissioning regime but **would not** include NI within their scheme. DETI does not have either the experience or the resource to undertake this work, which in practice, will not amount to a significant level of work for DECC's experienced team.
11. Energy Division believes the current Energy Bill presents a very timely opportunity to introduce legislative amendments to include Northern Ireland in a UK-wide regime on offshore decommissioning. I would recommend that you take the opportunity to raise this in your response to Chris Huhne.

**(b) Extending Renewable Heat Powers to Northern Ireland.**

12. You will be aware that DECC took statutory powers to implement a RHI via amendments to the Energy Act 2008. However, Northern Ireland was not included in this measure and therefore, whilst the RHI will apply in England, Scotland and Wales, separate legislation will be required in NI.

13. At the time DECC did inform us in advance that they were making these amendments to the Energy Act and of their intentions to introduce a RHI. Time constraints and a lack of a solid evidence base as to the benefits of a RHI to Northern Ireland meant that NI was not included in these provisions at that time.
14. However, given that Energy Division has now completed a study into the potential for renewable heat, which has indicated that a Northern Ireland RHI would be an appropriate means of incentivising the industry here, combined with the confirmation of £25m of funding from DECC for an RHI, it would seem that this new Bill could present a timely opportunity to extend these powers to Northern Ireland.
15. We have raised this at official level with DECC who have advised that the timescale is too tight to amend the Bill at the introduction stage. But they would be content for a Northern Ireland MP to table an amendment in the New Year seeking extension of these powers to NI.
16. Legislative Programme Secretariat in OFMDFM has advised that a Legislative Consent Motion will be required in due course if we choose this route. We are also, on advice from OFMDFM, looking again at the possibility of introducing an amendment to the current Energy Bill in the Assembly. Previous advice from Legislative Counsel was that renewables was outside the scope of the current energy bill and I believe that the availability of the £25m funding will not change this. We are waiting a final position from OFMDFM on this issue before moving forward with a LCM for the Westminster amendment.
17. It is recommended that you raise RHI in very general terms in your response to Chris Huhne

### **Green Deal in GB**

18. One of the key aspects of the Energy Security and Green Economy Bill will be to allow, among other things, legislative provision for a Green Deal to be rolled out in GB from October 2012. The Green Deal aims to provide finance to fund fixed improvements to the energy efficiency of domestic and non-domestic properties, which will provide savings for the bill payer.
19. The Green Deal will include a financial framework – “pay as you save” – that enables energy saving measures to be paid for in instalments via energy bills. The core principle is that the instalment payment for the energy saving measures should not exceed the projected associated cost savings on an average bill. The responsibility to make Green Deal repayments lies with the bill payer for a particular meter and defaults will be treated in the same way as defaults on payments for the energy they use.

20. The GB scheme will draw financing from the private sector through the establishment of Green Deal providers and will allow householders to repay through their energy bills, **with no Government funding being required**. This is underpinned through a supplier obligation on energy companies and additional legislation through this Energy Bill.
21. A key element that will be required will be the establishment of Green Deal providers and an accreditation scheme – at official level we have advised DECC that we are keen that these would be UK wide – to ensure that NI companies can participate in the GB marketplace, but also to allow us to utilise these mechanisms should you choose to legislate for a similar green deal scheme here.

### **Main Difference between the GND (NI) and Green Deal (GB)**

22. You are aware that the Green New Deal Northern Ireland Group has recently launched the “Green New Deal Housing Fund” business plan to develop a proposal for a pilot scheme (for the Barcroft/Loanda area of Newry Low Carbon City Zone) to retrofit 65,000 houses with energy efficiency measures at a cost to Government of £72 million. The DSD Minister has requested a meeting to discuss the way forward and you have nominated David Thomson to attend this.
23. Any proposal that involves repayment through energy bills will require changes to energy legislation. DETI is already committed to looking at a supplier obligation in the SEF and is currently exploring what legislative changes would be needed here to allow the repayment of a green deal type savings through energy bills. However the predominance of oil fired central heating in Northern Ireland may make the recovery of finance more difficult than in GB where natural gas heating predominates.
24. The GB approach would seem to suggest that the same outcomes can be achieved, in the domestic and non domestic buildings sector at least, through a private sector funding initiative, where the Government contribution is simply the enabling legislation. Importantly this concept allows a number of green deal suppliers to be set up, thus preserving competitiveness in the market.
25. The DECC legislation is likely to open up the debate around how best to deal with the Green Deal concept. Our understanding is that the energy companies will be the main provider of the green deal finance in GB and DECC has already started some consultation with the industry around this matter. I would suggest that we hold fire on consulting with energy companies in NI until the outcome of the meeting DSD will chair is known.

**Recommendation**

26. It is recommended that you reply to Chris Huhne in relation to the Energy Security and Green Economy Bill. A draft is attached at **Annex A** for your consideration.
27. In addition it is recommended that you agree to:
- (i) Energy Division pursuing the enabling powers for the renewable heat incentive potentially through an amendment to the Westminster Bill and:-
  - (ii) Await the outcome of the DSD chaired meeting on Green New Deal before DETI takes any specific action.

(signed)  
**FIONA HEPPER**  
Energy Division  
Ext. 29215

cc David Sterling  
David Thomson  
Alison Clydesdale  
Olivia Martin  
Peter Hughes  
Peter Hutchinson  
Barbara Swann  
Dan Sinton  
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