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Subject: TRIM: LEGISLATIVE CONSENT MOTION - ENERGY BILL - RENEWABLE HEAT INCENTIVE : DEBATE 14 MARCH
Date: 04 March 2011 16:45:17
Attachments: [RHI LCM Debate.DOC](#)

Private Office

See attached in preparation for the Renewable Heat Incentive LCM Debate on 14 March.

Fiona

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**Copy Distribution List Below****From:** Fiona Hepper**Date:** 4 March 2011

1. Andrew Crawford
2. Arlene Foster MLA

LEGISLATIVE CONSENT MOTION – ENERGY BILL – RENEWABLE HEAT INCENTIVE POWERS – MONDAY 14TH MARCH 2.00 -2.15pm

Issue: A Legislative Consent Motion has been tabled in the Assembly to allow DECC to extend the current primary enabling powers (Energy Act 2008) for a renewable heat incentive to Northern Ireland.

Timing: The Motion is scheduled for Monday, 14 March (2.00-2.15pm)

Need for referral to the Executive: Not applicable at this stage.

Presentational Issues: None at present.

Freedom of Information: The content of this submission will be fully disclosable after the debate.

Financial Implications: HMT has advised that £25m of AME is available over the spending period should Northern Ireland choose to introduce a RHI.

Legislation Implications: A Legislative Consent Motion is required so DECC can amend current legislation so renewable heating powers can be extended to Northern Ireland.

PSA/PFG Implications: None at present, but it is likely that new PSA targets in relation to renewable heat will have to be developed.

Statutory Equality Obligations: Not applicable.

Recommendation: **That you note the attached briefing in advance of the debate.**

Background

At its meeting of 10th February 2011, the Executive agreed to the tabling of a Legislative Consent Motion (LCM) to extend powers relating to a renewable heat incentive to Northern Ireland. Following the ETI Committee's subsequent consideration of this issue on 24th February, the Motion has now been scheduled for Monday, 14th March 2011.

2. The Motion has been allocated 15 minutes, you will be asked to open and conclude the Debate with relevant speakers invited to contribute in the interim. Draft Speaking notes for the opening and closing speeches are attached at **Annex A** and **Annex B** respectively, with Q&A on renewable heat at **Annex C**. The opening speech lasts around seven minutes. You will have no more than a two and a half minutes at the end of the debate to wind up. The draft closing speech lasts just under 2 minutes, which should allow you some time to factor in responses to specific points raised by Members. Alison Clydesdale, Peter Hutchinson and myself will be in attendance.
3. The wording of the motion is as follows;

"That this Assembly agrees that the UK Parliament should consider amendments to the Energy Bill to provide powers for the Department of Enterprise, Trade and Investment to establish a scheme to facilitate and encourage renewable generation of heat, including the administration and financing of the scheme."

4. When Ministerial Colleagues were consulted in advance of this issue being considered at the Executive positive responses were received from OFMDFM, DFP, DOE, DCAL, DHSSPS, DEL, DSD and DE, no comments were received from DARD or DRD. In the joint response from OFMDFM, the deputy First Minister raised a query in regards to a possible fossil fuel level. This was responded to and OFMDFM is now content. The ETI Committee was briefed on 24 February and welcomed the action being taken. The Committee is content with the proposed LCM.

Key Issues

5. From previous submissions on this issue you will be aware of the renewable heat proposals and the potential introduction of a Renewable Heat Incentive (RHI) in GB. The sole purpose of this legislative consent motion is to allow DECC to amend the current Energy Bill to include provisions to extend renewable heat primary powers to Northern Ireland.

This is required to provide DETI with the legislative base to introduce a Northern Ireland incentive scheme in the future, via secondary legislation, and to create tariff structures, set eligibility standards, make payments etc. A legislative consent memorandum, outlining the purpose of the LCM and the key issues, has been drafted and circulated to all MLAs to provide a background on this issue, see attached at **Annex C**.

6. Currently DETI does not hold any primary powers for this area of work. DECC took primary powers for renewable heat via last minute amendments to the 2008 Energy Act, these are general enabling powers that in turn will allow the RHI to be designed and implemented through specific secondary legislation. The amendment to the Energy Bill will extend these powers to Northern Ireland (attached at **Appendix I**).
7. SNR Dentons, Energy Division's external legal advisors, has drafted instructions to parliamentary counsel that will inform the drafting of the amendment to the current Energy Bill. These instructions are currently being considered and vetted by Departmental Solicitor's Office and will be with DECC shortly.
8. The actual design and implementation arrangements of a RHI for Northern Ireland will require secondary legislation, to be agreed and passed in the Assembly in due course. The taking of primary powers, in this way, will allow the timely introduction of these regulations in the new mandate.
9. Sustainable Energy Branch is working on a full economic appraisal of a Northern Ireland RHI. This will inform the future design of the incentive scheme. The design and implementation of a Northern Ireland RHI will be subject to public consultation and Executive approval in the future.

Recommendation

10. I recommend that you note the attached briefing as follows;

- **Annex A:** Opening Speech
- **Annex B:** Closing Speech
- **Annex C:** Legislative Consent Memorandum
- **Annex D:** Q&A on Renewable Heat
- **Appendix I:** Section 100 of the 2008 Energy Act (RHI powers)

(signed)

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Opening Speech

“That this Assembly agrees that the UK Parliament should consider amendments to the Energy Bill to provide powers for the Department of Enterprise, Trade and Investment to establish a scheme to facilitate and encourage renewable generation of heat, including the administration and financing of the scheme.”

- Mr Speaker, we are here today to consider the issue of extending primary legislative powers for renewable heat to Northern Ireland to ensure that my Department can bring forward proposals to incentivise this important market in the near future.
- Ensuring a more diverse, sustainable and secure supply of fuel for Northern Ireland is one of the key priorities for my Department. Currently Northern Ireland is overly dependent on imported fuel, leaving consumers vulnerable to price fluctuations beyond our control; this is especially true within the heat market.

- Heat energy accounts for close to half of all the energy consumed within Northern Ireland. However 98% of our heating fuels are imported.
- In order for the Northern Ireland heat market to become more sustainable it is vital that renewable fuel sources are developed and that the uptake of renewable heating technologies is encouraged.
- The Strategic Energy Framework includes a target for Northern Ireland to achieve 10% renewable heat by 2020, this is an ambitious and stretching target when you consider that currently only 1.7% of our heating demand is met from renewable sources.
- In order to reach this target it is essential that support mechanisms are developed to encourage the uptake of renewable heat technologies within the domestic, commercial, industrial and public sectors.
- The Department of Energy and Climate Change (DECC) has made clear plans to incentivise the renewable heat market in Great Britain through a Renewable Heat Incentive (RHI).
- The heat market in Northern Ireland is very different to the market in GB. Northern Ireland is largely dependent on oil with a developing natural gas market, whereas in GB the gas

market is well established and is the predominant fuel source.

- There are also differences in fuel prices between GB and Northern Ireland and the amount of our income that goes towards heating our homes and businesses, as a consequence the levels of fuel poverty tends to be higher.
- Finally the geography of Northern Ireland is very different to GB, with Northern Ireland being more rural with fewer larger cities and therefore having a very different heat density. All these factors have meant that it has been appropriate for a separate consideration to be given as to how the heat market here might be encouraged and incentivised – so a Northern Ireland solution can be developed for the Northern Ireland context.
- In September 2010 I announced that my Department would seek to support the renewable heat market in Northern Ireland by developing a RHI scheme, similar to the GB proposals, but specifically designed and tailored to incentivise the local market. Work on this is already underway.
- In response to this announcement, Her Majesty's Treasury (HMT) allocated £25m for the spending review period for a Northern Ireland RHI, should one be introduced. This is a significant level of funding and will have a positive impact on this emerging industry.

- In order for an incentive scheme to be introduced in the future, DETI require appropriate legislative powers to create tariff structures, set eligibility standards, make payments etc.
- Currently DETI do not hold any primary powers for this area of work. DECC took primary powers for renewable heat via last minute amendments to the 2008 Energy Act, these are very general enabling powers that in turn will allow the GB RHI to be designed and implemented through specific secondary legislation.
- I am now seeking the Assembly's consent to enable DECC to amend the current Energy Bill to provide powers for DETI to introduce and administer a Northern Ireland RHI in due course.
- Taking these powers through this route will allow my Department to introduce an incentive scheme via detailed subordinate legislation in a timely manner.
- If this opportunity is missed there could be significant ramifications for the date at which an incentive scheme could be introduced which, in turn, would have a negative impact on the local market and result in losing an element of the funding provided by HMT. The Executive is content with this course of action.

- I should stress that the powers to be taken by DETI will be general enabling powers for renewable heat, akin to Section 100 of the 2008 Energy Act that grants DECC with the necessary primary powers.
- A future RHI for Northern Ireland will require secondary legislation in due course .
- In addition, there will also be a full public consultation on the design of the RHI in advance of implementation – it will be vital that consumers, industry, local representatives and other relevant stakeholders get a chance to contribute to this policy making process.
- Financial incentives have already been successful within the Northern Ireland Renewable Electricity market. Since the introduction of the Northern Ireland Renewables Obligations (NIRO) in 2005, the level of electricity generated from renewable sources has increased from 3% to approximately 9%.
- It is now important for a similar commitment to be made towards the renewable heat market.
- I am confident that by supporting and developing the renewable heat market there will be positive opportunities for Northern Ireland to reduce its' dependence on imported fossil

fuels, to cut carbon emissions and to develop the emerging renewables industry with new 'green jobs'.

- Passing this Legislative Consent Motion today is an important step in this process.

Annex B**Closing Speech**

- May I begin by thanking those that have supported the motion and contributed to the debate.
- I must specifically thank my Executive Colleagues, the ETI Committee and the Business Committee for the way they considered this matter in a timely manner which has allowed this Motion to take place today. I appreciate the positive manner in which this issue has been dealt with and the agreement from all sides of the House.

I will seek to pick up on one or two of the issues raised during the debate.

[Respond to Questions]

- Mr Speaker, the development of the renewable heat market is a key objective for my Department as it supports the wider policy aims of increasing fuel security, reducing carbon emissions and creating new 'green jobs'.
- Passing the Legislative Consent Motion today will highlight DETI's intention to incentivise this market and, indeed, will highlight the priority that the Executive and this Assembly gives to renewable energy.

- This is an important step in developing and implementing a renewable heat incentive in Northern Ireland and enjoying the many benefits of a more diverse, secure and sustainable heat market.
- I commend the motion to the Assembly and thank Members for their support.

Q&A - Renewable Heat.**i) What is Renewable Heat?**

- Renewable heat is simply heat produced from renewable sources such as solar radiation, biomass materials, heat pumps, geothermal energy, anaerobic digestion and waste materials.

ii) Why is the LCM needed and why is it so urgent?

- The legislative consent motion is required so the Department of Energy and Climate Change (DECC) in GB can include an amendment in the current Energy Bill to extend renewable heat powers to Northern Ireland. DETI will then use these powers to design and implement a local RHI, via subordinate legislation, in due course.
- The urgency is because of the time required to draft and table an amendment at Westminster and to ensure that the DECC Energy Bill is not delayed because of this amendment. It is therefore necessary to pass a LCM now, in advance of dissolution of the NI Assembly for elections.
- If this route isn't successful DETI would need to introduce primary legislation early in the next mandate. This would mean a RHI could not be implemented in Northern Ireland for another 18 months and could lead to a loss of funding not to mention disadvantaging the local market.

iii) What is the timeframe for the passage of the DECC Energy Bill?

- The Bill is currently in the report stage in the House of Lords. The proposed amendment will be tabled when the Bill reaches the House of Commons, once the amendment is drafted by Parliamentary Council, probably in May 2011.
- The Bill is scheduled to receive Royal Assent in July 2011. It is therefore essential that this LCM is passed now so the passage of the Bill is not delayed because of the proposed DETI amendment.

iv) Why are no other elements of the DECC Energy Bill being extended to Northern Ireland?

- The only reason these powers are being taking in this way is timing. Amending the Energy Bill in this way will allow for the timely introduction of an incentive scheme through subordinate legislation.
- Other issues included in the Bill, such as Green Deal, Energy Supplier Obligations or Energy Efficiency, are issues that need to be considered in the Northern Ireland context by relevant departments.

v) What funding will be available for a Northern Ireland RHI?

- Her Majesty's Treasury (HMT) has allocated £25m for the spending review period for a Northern Ireland RHI, should one be introduced. The funding is split over the budget period with £2m in year one, £4m in year two, £7m in year three and £12m in the final year. This is a significant level of funding and will have a positive impact on this emerging industry.
- If the introduction of a RHI in Northern Ireland is delayed, because of the lack of the necessary powers or other issues, there is a danger that this funding would not be utilised. The amendment in the Energy Bill will assist in the timely introduction of a RHI scheme.

vi) Why is Northern Ireland not included within the GB scheme?

- The scheme proposed for GB will not apply to Northern Ireland as the differences between the heat markets mean that a separate assessment of the appropriate method of developing the local market is required.
- Northern Ireland is largely dependent on oil (77% of total heat demand) with a developing natural gas market, whereas in GB the gas market is well established and is the predominant fuel source.
- There are also differences in fuel prices between GB and Northern Ireland and the amount of our income that goes towards heating our homes and businesses, as a consequence the levels of fuel poverty tend to be higher.
- Finally the geography of Northern Ireland is very different to GB, with Northern Ireland being more rural with fewer larger cities and therefore having a very different heat density.
- All these factors have meant that it was appropriate for a separate consideration to be given as to how the heat market here might be encouraged and incentivised.

vii) Can the Minister provide an overview of the current NI heat market?

- Over 98% of Northern Ireland's heat demand is met through imported fossil fuels, with only 1.7% coming from renewable sources; this has obvious implications for fuel security issues and carbon emissions. Oil provides the majority of heating at 77% of the overall demand. Gas is the second largest heating provider at 17% of the overall demand. Coal currently meets around 3.2% of the overall demand; electricity (Economy 7) and biomass both provide about 1.5% of the overall heating.
- The majority of heat used is in the domestic sector, at 61% of the total heat demand or 10.6 Terra Watt hours. The large industrial sector consumes an estimated 22% of the total heat demand; interestingly this heat demand is generated by only 17 large industrial sites. The commercial sector accounts for 12% of heating demand and finally the public sector 4%.
- Looking forward to 2020, Northern Ireland's overall heat demand is predicted to drop from current levels of 17.4 Terra Watt hours to 16.7 Terra Watt hours, with rises in demand from new development being outweighed by reductions in demand with efficiency improvements in the existing sector.
- Considering the net reduction of heat demand to 16.7 Terra Watt hours in 2020, the 10% target for renewable heat therefore equates to 1.6 Terra Watt hours. With current renewable heat levels around 300 Giga Watt hours, an additional 1300 Giga Watt hours or 1.3 Terra Watt hours of renewable heat therefore needs to be developed.

viii) When will DETI publish proposals on a Northern Ireland RHI / a road map for renewable heat in Northern Ireland?

- The current economic appraisal of a Northern Ireland will complete in April 2011. The findings from this appraisal will inform a draft incentive scheme which will be subject to a public consultation. This consultation will take place in Summer 2011.

ix) When will a Northern Ireland RHI be implemented?

- It would be wrong for me to pre-judge the ongoing economic appraisal and indeed the future public consultation by specifying a date at which a Northern Ireland RHI will be implemented. It is essential that the economic appraisal considers all options and once a preferred method is agreed that the policy is scrutinised by all interested stakeholders as part of a public consultation.
- Following the consultation it will be for DETI to finalise proposals and gain the Executives approval. The appropriate legislation will also need to be put in place and this House will again have a role in considering that matter.
- I must stress, however, that my Department wishes to see an incentive scheme put in place as soon as possible to ensure the allocated funding is utilised and that the local market is not disadvantaged in comparison to Great Britain.

x) Is the 10% Renewable Heat target is achievable?

- The 10% renewable heat target is achievable but only with significant government intervention.
- We must of course consider renewable heat as part of the wider “heat” market which is currently dominated by oil and gas.
- Heat demand in NI has been estimated as approx 17,000 GWh /year (currently 77% of heat energy is supplied through oil – the remainder is coal , gas, and Economy 7).
- Only 1.7% of the heat supply is through renewable heat at present – biomass makes up the vast majority of this.
- Energy Division is currently looking at the economics of a Renewable Heat Incentive which will help to make the target more attainable.

xi) Why is developing a Renewable Heat market beneficial?

- Developing the renewable heat market presents many potential benefits. The current reliance on imported fossil fuel (over 98%) is unsustainable, by increasing levels of renewable heat and decreasing dependence on oil there is the potential to significantly increase Northern Ireland’s fuel security, whilst cutting carbon emissions.
- The renewable heat market also presents opportunities for new ‘green jobs’ for manufacturers, suppliers and installers of renewable heating technologies.
- In designing the Northern Ireland RHI consideration will also be given to how the RHI could assist those in fuel poverty, specifically considering opportunities for renewable heating in social housing.

xii) Will the Minister consider introducing a fossil fuel levy to pay for a RHI post 2015?

- Currently there are no plans to include powers to allow a levy on fossil fuel; this would indeed be a reserved matter to be considered on a UK-wide basis.
- The funding of £25 from HMT is 'annually managed expenditure' (AME) directly from DECC's budget. This method of funding should be welcomed as it means the cost of the RHI is not borne by consumers. The issue of levying fossil fuels was considered by DECC and HMT when sourcing funding for the RHI but it was discounted.

xiii) Will generators of renewable electricity and renewable heat be able to claim both ROCs and RHI?

- It will be important that the linkages between heat incentives and electricity ROC's are considered as part of the ongoing economic appraisal and the future policy development.
- It is also important that technologies are not over-subsidised or receive double incentives. This issue will be considered as part of the ongoing economic appraisal.

LEGISLATIVE CONSENT MEMORANDUM

ENERGY BILL – EXTENSION OF RENEWABLE HEATING POWERS

Draft Legislative Consent Motion

1. The draft motion is:

"That this Assembly agrees that the UK Parliament should consider amendments to the Energy Bill to provide powers for the Department of Enterprise, Trade and Investment to establish a scheme to facilitate and encourage renewable generation of heat, including the administration and financing of the scheme."

Background

2. The Energy Bill was introduced in the House of Lords on 8 December 2010. The Bill can be found at:

<http://services.parliament.uk/bills/2010-11/energyhl.html>

3. DETI is seeking an amendment to this Bill that would extend powers relating to renewable heating to Northern Ireland, in turn these powers would allow DETI to establish a Renewable Heat Incentive (RHI) in Northern Ireland to encourage the development and uptake of renewable heat generation.
4. The Department of Energy and Climate Change (DECC) already have powers for renewable heat, these were taken as part of the 2008 Energy Act. DETI is seeking an extension of these powers to Northern Ireland via an amendment to the current Bill. The relative powers can be found at:

<http://www.legislation.gov.uk/ukpga/2008/32/part/5/crossheading/renewable-heat-incentives>

Renewable Heat

5. Renewable heat is simply heat produced from renewable sources such as solar radiation, biomass materials, heat pumps, geothermal energy, anaerobic digestion and waste materials.
6. The EU Renewable Energy Directive (2009/28/EC), published in the Official Journal of the European Union on 5 June 2009, requires that member states ensure that 15% of their energy consumption comes from

renewable sources by 2020. This requirement extends beyond electricity to heating and cooling and to transport. In line with this, the Strategic Energy Framework (SEF) includes a target to achieve a level of 10% renewable heat by 2020. This is broadly in line with targets of 12% for England and Wales, 11% for Scotland and 12% for the Republic of Ireland over the same time period.

7. In order to develop and encourage the renewable heat market in Great Britain, DECC intend to introduce a Renewable Heat Incentive (RHI) from June 2011. This policy was first suggested in the DECC Renewable Energy Strategy in July 2009 with the detail regarding the design and implementation of the scheme published in February 2010 through a public consultation document.
8. DECC are currently in the process of submitting final proposals for the design and implementation of the RHI to Ministers. It is expected that the final details of the scheme will be published in March 2011 in order for the scheme to be in place for June 2011. DECC are also currently drafting regulations for the implementation of the scheme, these will be laid in Parliament in May/June 2011.

A Renewable Heat Incentive for Northern Ireland

9. The scheme proposed for GB will not apply to Northern Ireland as the differences between the heat markets mean that a separate assessment of the appropriate method of developing the local market is required. Northern Ireland is largely dependent on oil (77% of total heat demand) with a developing natural gas market, whereas in GB the gas market is well established and is the predominant fuel source. There are also differences in fuel prices between GB and Northern Ireland and the amount of our income that goes towards heating our homes and businesses, as a consequence the levels of fuel poverty tend to be higher. Finally the geography of Northern Ireland is very different to GB, with Northern Ireland being more rural with fewer larger cities and therefore having a very different heat density. All these factors have meant that it was appropriate for a separate consideration to be given as to how the heat market here might be encouraged and incentivised.
10. A study undertaken by DETI has demonstrated that whilst the current uptake of renewable heating technologies is low there is significant potential for development and growth. By developing and supporting this industry there are opportunities to increase fuel security by reducing Northern Ireland's dependence on imported fuels, cut carbon emissions by switching to cleaner more sustainable technologies and create 'green jobs' in new industries.
11. DETI is currently undertaking an economic appraisal of a RHI for Northern Ireland. This work will assess the various options for incentivising the renewable heat market and assist in designing a cost-effective RHI which

is tailored specifically for the local heat market. This work will complete in April 2011.

Content of the Energy Bill

12. The Energy Bill has three principal objectives: tackling barriers to investment in energy efficiency; enhancing energy security; and enabling investment in low carbon energy supplies. In summary, the Bill seeks provisions for:

- The Green Deal in GB.
- The Private Rented Sector.
- Energy Company Obligation.
- Measures to improve energy efficiency.
- Measures to improve energy security.
- Measures to enable low carbon technologies.
- Measures extending the role of the Coal Authority.

13. None of the current provisions of the Bill apply to Northern Ireland.

Aims of the amendment to the Energy Bill

14. **The sole purpose of this legislative consent motion is to allow DECC to amend the current Energy Bill to include provisions to extend renewable heating powers to Northern Ireland.** This is required to provide DETI with the legislative base to introduce an incentive scheme in the future, via secondary legislation, and to create tariff structures, set eligibility standards, make payments etc.

15. Currently DETI does not hold any primary powers for this area of work. DECC took primary powers for renewable heat via last minute amendments to the 2008 Energy Act, these are general enabling powers that in turn will allow the RHI to be designed and implemented through specific secondary legislation. The amendment to the Energy Bill will extend these powers to Northern Ireland.

16. The actual design and implementation arrangements of a RHI for Northern Ireland will be prescribed by secondary legislation, to be agreed and passed in the Assembly. The taking of primary powers, in this way, will allow the timely introduction of these regulations in the new mandate.

Consultation

17. The target of achieving an energy mix of 10% renewable heat by 2020 was included on the wider consultation on the draft Strategic Energy Framework in July 2009. There was positive response in terms of the renewable heat target and plans to develop the market similar to the plans in Great Britain.

18. DETI intend to carry out a full public consultation on the design and implementation of a RHI for Northern Ireland once the scheme is developed and agreed. The public consultation is likely to begin in June 2011.

Financial implications

19. Her Majesty's Treasury (HMT) has allocated £25m for the spending review period for a Northern Ireland RHI, should one be introduced. The funding is split over the budget period with £2m in year one, £4m in year two, £7m in year three and £12m in the final year. This is a significant level of funding and will have a positive impact on this emerging industry.
20. If the introduction of a RHI in Northern Ireland is delayed, because of the lack of the necessary powers or other issues, there is a danger that this funding would not be utilised. The amendment in the Energy Bill will assist in the timely introduction of a RHI scheme.

Conclusion

21. DETI is committed to developing a diverse, sustainable and secure heat market in Northern Ireland. The development of the renewable heat market will support this goal as well as creating new opportunities for 'green jobs' and assisting in reducing overall carbon emissions. The design and implementation of a Northern Ireland RHI will support the development of the renewable heat market and the achievement of the Executive-endorsed 10% for 2020.
22. It is the view of the Minister of Enterprise, Trade and Investment, as supported by the Northern Ireland Executive, that by amending the current Energy Bill to extend renewable heating powers to Northern Ireland that a RHI could be introduced locally in a timely manner to ensure funding is utilised and to prevent the local industry being unduly disadvantaged.
23. In order to support the local renewable heat market and to assist in increasing the uptake of renewable heating technologies, the Minister of Enterprise, Trade and Investment commends this Legislative Consent Motion to the Assembly.

**Department of Enterprise, Trade and Investment
March 2011**

Appendix I

Section 100 of the 2008 Energy Act (RHI powers)

PDF attached separately.