



Copy Distribution List Below

From: Fiona Hepper

Date: 27 May 2011

1. Andrew Crawford
2. Arlene Foster MLA

COR 1023/11: AMENDMENTS TO THE DECC ENERGY BILL

Issue: Chris Huhne, Secretary of State for the Department of Energy and Climate Change (DECC), has written to you to inform you of progress with the ongoing DECC Energy Bill and advise of proposed amendments that relate to Northern Ireland.

Timing: Urgent : Proposed amendments are scheduled to be tabled between 7-21 June.

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

Presentational Issues: None.

Freedom of Information: Elements of this submission may be exempt under Section 35 of the Freedom of Information Act.

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: The amendment proposed by DECC in relation to renewable heat will provide DETI with the powers to introduce a Northern Ireland RHI in due course via subordinate legislation.

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

Statutory Equality Obligations: **Not applicable.**

Recommendation: **That you reply to Chris Huhne using the draft attached at Annex A.**

Background

Chris Huhne, Secretary of State of the Department of Energy and Climate Change (DECC), has written to you to provide you with an update on the Energy Bill and advise of amendments proposed by DECC that will apply to Northern Ireland. In his letter, Mr Huhne also congratulates you on your re-appointment as DETI Minister.

2. The legislative issues raised in the letter are areas which Energy Division officials and counterparts in DECC have been working closely over the last number of months, namely the Renewable Heat Incentive (RHI), Carbon Capture and Storage and Nuclear Security. You have previously corresponded with Chris Huhne on joint areas of interest within the current Energy Bill; your most recent correspondence of 24 March 2011 is attached at **Annex B**.

Renewable Heat Incentive Amendment to the Energy Bill

3. Chris Huhne has now confirmed that the government will introduce an amendment to the current Energy Bill which will provide Northern Ireland with enabling powers for renewable heat. You had specifically requested that DECC consider such an amendment in your correspondence of 24 March 2011. You will be aware that to enable this amendment to be considered that DETI passed a Legislative Consent Motion, following Executive approval, on 14th March 2011.
4. This amendment follows on from considerable discussion and correspondence between Energy Division officials and DECC officials. Parliamentary council has drafted a stand-alone clause that will be inserted into the Energy Bill which makes special provisions for Northern Ireland in terms of renewable heat. The powers taken are broadly in-line with those held by DECC on renewable heat in the 2008 Energy Act.
5. These powers will allow DETI to introduce a future Northern Ireland RHI via secondary legislation in the Assembly. This will ensure that an incentive scheme can be introduced in a timely manner, the alternative legislative route would have been via primary legislation in the Assembly, this can take up to 18 months and would have led to significant delay. This government amendment on RHI should therefore be welcomed, a draft response is attached an **Annex A**.

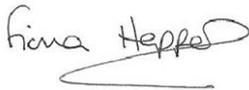
6. I will be shortly seeking your view on the way forward with a Northern Ireland RHI. It remains our intention to consult on a proposed scheme over the summer. I will therefore be seeking your comment shortly on the preferred method of incentivisation and design of a local scheme.

Carbon Capture and Storage (CCS) and Nuclear Security

5. The amendments on these two issues have also been discussed at official level and Energy Division no issue with them being tabled by the Government.
6. There are two amendments relating to CCS, the first of which is an extension to existing powers that will also compulsory acquisition of rights to transport carbon dioxide through a pipeline used for another purpose. The second government amendment will allow DECC the discussion to remove existing powers to make owners of offshore oil and gas facilities liable for the decommissioning of those facilities after they have been sold.
7. The amendment relating to nuclear security will broaden existing *vires* to allow the regulation of security at new build nuclear power stations. The purpose of this amendment is to ensure appropriate security measures are implemented to mitigate against potential security risks during construction of nuclear facilities.

Recommendation

8. I would recommend that you respond to Chris Huhne, Secretary of State for DECC, using the draft letter attached at **Annex A**.



FIONA HEPPER
(Ext 29215)

Distribution List:
cc: Alastair Ross MLA, APS
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Press Office

DRAFT LETTER

The Rt Hon Chris Huhne MP
Secretary of State
Department of Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW

Dear

ENERGY BILL

Thank you for your letter of 18 May, outlining the progress of the Energy Bill and providing information of the proposed government amendments that will apply to Northern Ireland. Thank you also for your words of congratulation on my re-appointment, I look forward to continue working with you on areas of mutual interest over the next few years.

RENEWABLE HEAT INCENTIVE (RHI)

I was pleased to learn of your intention to table an amendment to the Energy Bill that will extend legislative powers on renewable heat to Northern Ireland. This amendment will ensure that an incentive scheme for Northern Ireland can be introduced locally in a timely manner, therefore protecting the Northern Ireland renewable heat market from any undue disadvantage in comparison to the rest of the United Kingdom.

I believe that this amendment follows on from considerable co-operation at official-level. I welcome this co-operation and would like to put on record my thanks to your officials and to parliamentary council for the timely and efficient way the proposed clause has been drafted.

CARBON CAPTURE AND STORAGE (CCS) AND NUCLEAR SECURITY

I am content with the proposed government amendments on these issues also.

May I pass on my best wishes for the future passage of this Bill. There is a keen interest in the Executive, the Assembly and amongst the wider Northern Ireland public in the energy and environmental issues raised in the Bill and therefore I would be grateful if you could keep me informed of progress and notify me again once the Bill receives Royal Assent.

I trust that our officials will continue to work effectively together and I welcome the ongoing engagement on all matters that affect Northern Ireland, both directly and indirectly.

ARLENE FOSTER MLA

Minister of Enterprise, Trade and Investment

Annex B

From the Office of the Minister



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

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Our Ref: DETI COR 146/2011

The Rt Hon Chris Huhne MP
Secretary of State
Department of Energy and Climate Change
3 Whitehall Place
LONDON
SW1A 2AW

24 March 2011

Dear Chris

ENERGY BILL

Thank you for your letter of 10 March 2011, outlining the progress of the Energy Bill and providing an update on areas where officials have been working constructively together.

Renewable Heat Incentive

I am delighted that our officials have been able to work constructively on this issue and that good progress has been made. I wish to assure you that I fully appreciate the challenging timescales you face to ensure Royal Assent by July 2011 and I would not wish to jeopardise the passage of the Energy Bill in any way.

I have therefore already brought this matter before the Executive and the Assembly. At its meeting of 10th February the Executive was content with the proposal that your Department would consider amending the current Energy Bill to extend primary powers for renewable heat to Northern Ireland. Consequently, a Legislative Consent Motion (LCM) was tabled and passed in the Northern Ireland Assembly on Monday, 14th March, to enable your Department to legislate on behalf of Northern Ireland in this area. The timely passage of the LCM highlights the importance my Department, the Executive and the Assembly gives to this issue and demonstrates the commitment to developing the renewable heat market in Northern Ireland. Instructions to Parliamentary Council, which will assist in the drafting of the proposed amendment, have been drafted and circulated to relevant officials in your Department; I have also attached a copy of the instructions at **Appendix I** for your information.

I want to stress that an amendment that would extend the same powers held in Section 100 of the 2008 Energy Act to Northern Ireland is vital to allowing my Department to introduce a specific RHI for Northern Ireland, using separate secondary regulations, in time to utilise HMT funding and support the achievement of both DETI and UK-wide targets. In addition it will ensure that Northern Ireland's renewable heat market is not unduly disadvantaged in comparison to the rest of the United Kingdom.

I would therefore ask for your support and assistance in securing this amendment to the Energy Bill so that the development of the renewable heat market in Northern Ireland can make a substantial contribution to the UK's renewable energy targets.

In addition, I have read with interest your Department's final proposals for the RHI to be in place from June 2011 in Great Britain. My Department is currently carrying out an economic appraisal of a potential Northern Ireland RHI to advise on structure, tariff levels, eligibility etc. Obviously, my officials will consider your proposals as a parallel scheme specifically for Northern Ireland is designed and developed. I am sure that you would agree that it would be useful if officials from our respective Departments could work closely together as my Department's work progresses. Specifically, it will be important for my officials to fully understand how the GB RHI will be implemented and administered; as well as how it will be funded post 2015.

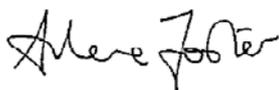
Offshore decommissioning

Thank you for your consideration of the offshore decommissioning issue. I am sorry that Northern Ireland will be the only devolved administration in the UK that will have to administer its own decommissioning scheme. My officials would be glad to engage with yours and learn from their experience in this field: they will be in touch in due course as they develop the relevant legislation.

Electricity Market Reform (EMR)

Although officials have been engaging with DECC on this issue, you may not yet be aware of the significant impact that the EMR package will have on Northern Ireland, both for conventional and renewable electricity generation. My Department has submitted a detailed response to the EMR consultation and it is my intention to write separately to Charles Hendry on this matter.

Yours sincerely



ARLENE FOSTER MLA
Minister of Enterprise, Trade and Investment



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