

From: [McCoy, Laura](#)
To: [Neth_Energy](#)
Subject: FW: (DETI SUB 371/2010) Re: ETI Committee query regarding inclusion of Renewable Heat Incentive Provisions in Energy Bill.
Date: 19 August 2010 15:44:00
Attachments: [Submission.DOC](#)
[SUB 371 Minister content.pdf](#)

Copied for information in Fred/Fiona's absence.

Thanks.

Laura

Laura McCoy

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From: McLaughlin, Christine
Sent: 19 August 2010 12:24
To: Hepper, Fiona
Cc: Sterling, David; Davison, Janice; Thomson, David (DETI); Williamson, Ann; Press Office; Frazer, Fred; Haughan, Anthony; Murray, John; Clarke, Rosie; McAllister, Irene; Stewart, Susan; Aiken, Glynis; Stevenson, Valerie; Duffy, Michael
Subject: (DETI SUB 371/2010) Re: ETI Committee query regarding inclusion of Renewable Heat Incentive Provisions in Energy Bill.

I refer to submission of 11 August 2010 (DETI SUB 371/2010) re: ETI Committee query regarding inclusion of Renewable Heat Incentive Provisions in Energy Bill.

The Minister is content.

NB: Anthony Haughan will pass this briefing to the ETI Committee

Christine McLaughlin

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Department of Enterprise, Trade & Investment
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Tel: 028 9052 9222 (ext: 29222)

Textphone: 028 9052 9304

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Please consider the environment - do you really need to print this e-mail?

Copy Distribution List below

From: Fiona Hepper

Date: 11 August 2010

To: 1. Andrew Crawford
2. Arlene Foster MLA

DETI SUB 371/10: ETI COMMITTEE QUERY REGARDING INCLUSION OF RENEWABLE HEAT INCENTIVE PROVISIONS IN ENERGY BILL

- Issue:** At the ETI Committee meeting on 17 June 2010, members agreed to explore with the Department the possibility of introducing a renewable heat incentive through amendments to the Energy Bill.
- Timing:** Routine. We would intend to table a response to the ETI Committee at their first meeting after the Assembly recess (9 September 2010).
- Need for referral To the Executive:** Not at this time. However after Committee Stage, the Energy Bill will be presented to the Executive for Consideration Stages and Final Stage as part of the primary legislative process.
- Presentational Issues:** None
- Freedom of Information:** The contents of this note could be discloseable.
- Programme for Govt/ PSA Implications:** Not applicable
- Financial Implications:** The Energy Bill is not expected to lead to any increase in public expenditure or public sector staffing.
- Legislation Implications:** As it will not be possible to introduce provisions for a renewable heat incentive through the current Energy Bill, the proposed provisions may have to be introduced through a further Bill on miscellaneous energy provisions next year.
- Statutory Equality Obligations:** No equality impacts identified.
- Recommendation:** That you note this submission and approve the letter to the ETI Committee attached at **Annex A**.

Background

I wrote to you on 9 August 2010 regarding the conclusion of the Renewable Heat Study. In that submission, I advised that currently DETI has no statutory powers in relation to renewable heat. However, at its meeting on 17 June 2010, the ETI Committee discussed a briefing paper, provided by the Department, on EU Energy Policy and, as a result, members agreed to explore with the Department the possibility of introducing a renewable heat incentive (RHI) in Northern Ireland through amendments to the Energy Bill. The Energy Bill is currently at Committee Stage in the legislative process and it is hoped that it will complete this process and be made and laid by early 2011.

Renewable Heat Incentive

2. Following the Department of Energy and Climate Change (DECC) decision to incentivise renewable heat in GB, DETI has been working on a study to determine the most appropriate method of developing and supporting the local renewable heat market. This study is now complete and indications are that a targeted incentive for domestic and commercial customers, similar to the GB model, would be appropriate. However further economic analysis will be required.
3. The inclusion of provisions for RHI in primary legislation would bring Northern Ireland into line with the rest of the UK following the introduction of an amendment incorporating RHI into the 2008 Energy Bill in GB. Further secondary legislation would also be needed to implement a renewable heat incentive both in GB and in NI.

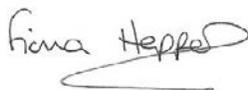
Legal Advice for inclusion of RHI in Energy Bill

4. The Department has sought legal advice from the Office of Legislative Counsel (OLC) in relation to the possibility of including new provisions regarding RHI in the Energy Bill at this late stage. OLC has advised that, as the Bill is principally about the natural gas industry with a very limited application to the electricity sector, a provision for renewable energy would be deemed outside the scope of this Bill.
5. In addition, there is a statutory duty on the Department to consult upon new policy issues. The inclusion of a new and significant provision, such as RHI, in the Energy Bill would require a policy consultation exercise to be undertaken. Furthermore, the equivalent GB legislation on the subject of RHI is substantial and drafting the required provisions for NI legislation would require additional time and resources. Therefore, even if deemed within its scope, any attempt to include provisions on RHI in the Energy Bill could considerably delay the progress of the Bill and could potentially mean that the Bill, if not enacted within this Assembly, would fall.
6. I would therefore propose an alternative of including RHI in a future energy bill containing miscellaneous provisions which could go through the Assembly legislative process following next year's elections.

7. We will be appearing before the ETI Committee on 9 September 2010 to present further evidence on the Energy Bill and we would propose to suggest this alternative as the best way forward in response to their query on RHI. A letter of response has also been drafted and is attached at **Annex A**.

Recommendation

8. You are asked to approve the proposal for taking the RHI forward (if necessary, following the outcome of the economic appraisal) in a new miscellaneous energy bill within the new Assembly next year. You are also asked to approve the draft response to the ETI Committee attached at **Annex A**. We would intend to table this letter for consideration at the first meeting of the ETI Committee after the Assembly recess (9 September 2010).



FIONA HEPPER
Head of Energy Division
Ext. 29215

Attachments:

Annex A – Letter to the ETI Committee

cc David Sterling
David Thomson
Ann Williamson
Fred Frazer
David McCune
Irene McAllister
Susan Stewart
Glynis Aiken
David McCune

Mr Jim McManus
ETI Committee Clerk
Northern Ireland Assembly
Parliament Buildings
Stormont
BELFAST
BT4 3SW

August 2010

Dear Mr McManus

ETI COMMITTEE QUERY FOR INCLUSION OF RENEWABLE HEAT INCENTIVE PROVISIONS INTO ENERGY BILL

On 17 June 2010, the ETI Committee discussed a briefing paper, provided by DETI, on EU Energy Policy and, as a result, members agreed to explore with the Department the possibility of introducing a renewable heat incentive (RHI) in Northern Ireland through amendments to the Energy Bill.

Following the Department of Energy and Climate Change (DECC) decision to incentivise renewable heat in GB, DETI has been working on a study to determine the most appropriate method of developing and supporting the local renewable heat market. This study is now complete and indications are that a targeted incentive for domestic and commercial customers, similar to the GB model, could be appropriate. However further economic analysis will be required.

Inclusion of provisions for RHI in primary legislation would bring Northern Ireland into line with the rest of the UK following the introduction of an amendment incorporating RHI into the 2008 Energy Bill in GB. Further secondary legislation will also be needed in both GB and NI to implement a renewable heat incentive.

The Department has investigated the possibility of introducing RHI through amendments to the Energy Bill with the Office of Legislative Counsel (OLC). As the Bill is principally about the natural gas industry, with a very limited application to the electricity sector, a provision for renewable energy is deemed to be outside the scope of this Bill.

Furthermore, even if deemed within the scope of the current Bill, it should be noted that there is a statutory duty on the Department to consult upon new policy issues. The inclusion of a new and significant provision, such as RHI, in the Energy Bill would require a policy consultation exercise to be undertaken. In addition, the equivalent GB legislation on the subject of RHI is substantial and drafting the required provisions for NI legislation would require additional time and resources. Therefore, any attempt to include provisions on RHI in the Energy Bill could considerably delay the progress of the Bill and could potentially mean that the Bill, if not enacted within this Assembly, would fall.

It will therefore be necessary for a separate piece of primary legislation to be introduced in order to provide enabling powers for a renewable heat incentive, along with other miscellaneous provisions, which could go through the Assembly legislative process next year.

I would be grateful if you would bring this matter to the attention of Enterprise, Trade and Investment Committee.

Yours sincerely

FIONA HEPPER
HEAD OF ENERGY DIVISION

Minister. Grateful for your clearance
to the ETI Committee Clerk.

DFE-380550

Energy



William Jeff
11/8/10

Copy Distribution List below

From: Fiona Hepper

Date: 11 August 2010

To: 1. Andrew Crawford
2. Arlene Foster MLA

A 16/8
A 19/8 content

DETI SUB 371/10: ETI COMMITTEE QUERY REGARDING INCLUSION OF RENEWABLE HEAT INCENTIVE PROVISIONS IN ENERGY BILL

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Timing: Routine. We would intend to table a response to the ETI Committee at their first meeting after the Assembly recess (9 September 2010).

Need for referral To the Executive: Not at this time. However after Committee Stage, the Energy Bill will be presented to the Executive for Consideration Stages and Final Stage as part of the primary legislative process.

Presentational Issues: None

Freedom of Information: The contents of this note could be discloseable.

Programme for Govt/ PSA Implications: Not applicable

Financial Implications: The Energy Bill is not expected to lead to any increase in public expenditure or public sector staffing.

Legislation Implications: As it will not be possible to introduce provisions for a renewable heat incentive through the current Energy Bill, the proposed provisions may have to be introduced through a further Bill on miscellaneous energy provisions next year.

Statutory Equality Obligations: No equality impacts identified.

Recommendation: That you note this submission and approve the letter to the ETI Committee attached at **Annex A**.

Background

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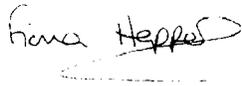
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FIONA HEPPER
Head of Energy Division
Ext. 29215

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Annex A – Letter to the ETI Committee

cc David Sterling
David Thomson
Ann Williamson
Fred Frazer
David McCune
Irene McAllister
Susan Stewart
Glynis Aiken
David McCune

Annex A

Mr Jim McManus
ETI Committee Clerk
Northern Ireland Assembly
Parliament Buildings
Stormont
BELFAST
BT4 3SW

August 2010

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HEAD OF ENERGY DIVISION