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Dear Tony

2014 Budget announcement on EIS and potential impact in Northern Ireland

I am writing to ask you to raise an issue with HM Treasury which may have an unintended differential and detrimental impact on Northern Ireland.

It concerns the 2014 Budget announcement in relation to the planned changes to the operation of the Enterprise Investment Scheme (EIS) with regard to renewable energy projects, as below.

2.79 Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs): changes to scheme rules – *The government will:*

- *exclude companies benefiting from Renewables Obligation Certificates and/or the Renewable Heat Incentive scheme with effect from Royal Assent of Finance Bill 2014. This will also apply to SEIS (Finance Bill 2014)*

We became aware of the issue when Stephen Agnew MLA asked the same Assembly Question of both our Departments. In handling the responses (copy of the DETI Minister's response attached at Annex A), Energy Division officials spoke to you and it was agreed that we would write to DFP setting out the background to this issue to enable discussion with Treasury.

Background

EIS was launched in 1994 to help smaller high-risk trading companies raise finance by offering tax reliefs to investors. The recent 2014 Budget announcement referenced plans to make changes to the EIS, including the exclusion of companies benefiting from Renewable Obligation Certificates (ROCs) and/or the Renewable Heat Incentive (RHI) with effect from the Royal Assent of the Finance Bill 2014 which is likely to be in July 2014.

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We understand that the change is due to Treasury concerns about the growing use of contrived structures to allow investment in low-risk activities that already benefit from income guarantees via government support, which would run counter to the aim of the EIS.

Energy policy and legislation are devolved to the NI Assembly but in many cases mirror or operate in tandem with the rest of the UK. The exclusion announced by Treasury with regard to the Renewable Heat Incentive will operate UK wide but it is in relation to the Renewables Obligation that we feel there may be an issue.

Renewables Obligation

The Renewables Obligation is currently the main support mechanism across the UK to encourage increasing levels of renewable electricity and the Northern Ireland Renewables Obligation (NIRO) operating alongside its GB equivalents.

Whilst the NIRO supports all eligible renewable electricity projects in Northern Ireland regardless of size, in GB, support is split between the RO for large scale (above 5 megawatts (MW) capacity) and a small scale Feed-In Tariff (FIT) (up to 5MW). We will be introducing a small scale FIT in NI in 2017 at which time the NIRO will close to new applicants under UK-wide Electricity Market Reform arrangements.

Issues for Northern Ireland

The exclusion announced with regard to the operation of the EIS does not appear to include GB renewable projects benefitting from the FIT for projects up to 5MW but would exclude similar small scale projects in Northern Ireland, as we do not currently have a small scale FIT. As there was no discussion with DETI in advance of the Budget announcement, the basis for Treasury's proposal or whether Northern Ireland's different position was taken into account is not known.

Although we have no information on how widely or otherwise the EIS has been used in either private sector or community renewable energy projects here to date, this could change and we would not want Northern Ireland projects to be unintentionally disadvantaged. There has been considerable activity across the rest of the UK in relation to the development of community energy e.g. the recent publication by the Department of Energy and Climate Change of its Community Energy Strategy, including the identification of such investment / financial support. Following the publication in October 2013 of a study commissioned by DETI, DOE and DARD, we are about to start cross departmental work to develop Northern Ireland's first Community Energy Action Plan.

One company which has successfully used the EIS to encourage investment in its community energy project is Drumlin Wind Energy Co-operative, whose second share offer closes at the end of April 2014. Its first share offer closed in July 2013 having raised £2.7M for four 250kW turbines and it hopes to raise a further £1.2M for two additional turbines in this second share offer. It notes on its website that potential investors could still be eligible for the 30% tax relief, as EIS certificates could be issued in May 2014 before the Royal Assent of the Finance Bill.
http://www.drumlin.coop/offer.asp?id=SHR2

We have now received an approach from Drumlin Energy seeking DETI support, copy of the email of 4 April attached at Annex B. We have replied that we are liaising with DFP who will raise the issue with Treasury on our behalf.

I understand that the Budget Report notes that Treasury expects that the EIS changes will form part of a wider consultation and evidence gathering exercise over summer 2014. However, it would be beneficial if the position could be clarified as soon as possible to give certainty to developers.

Let me know if you need any more information.

Yours sincerely

JOHN MILLS
Head of Energy