

**From:** [Hamilton, Jim](#)  
**To:** [Hutchinson, Peter](#)  
**Cc:** [Gray, George](#); [Hepper, Fiona](#); [Clydesdale, Alison](#); [McCune, David](#); [Haughan, Anthony](#); [Murray, John](#); [Reynolds, David](#)  
**Subject:** RE: Possible LCM for Renewable Heat powers  
**Date:** 27 January 2011 11:27:22

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Peter,

Thank you for setting out the position on this so clearly.

My first concern would be your target Executive meeting. Aiming for 10 March would mean that the debate would have to take place in the Assembly's final week (since the Business Committee couldn't be asked to schedule it until its meeting on Tuesday 15 March following Executive agreement the previous Thursday). As David and Anthony know I am becoming increasingly concerned about the volume of work that is building up for this last Assembly week. Could you aim instead for the Executive meeting on 24 February to provide greater flexibility in scheduling the motion for debate? I don't think it is essential for you to provide the actual wording of the proposed amendments for the appropriate Executive meeting as long as your paper provides sufficient detail for Ministers to understand their effect and you are able to say that you have at least the support in principle of your Committee.

In relation to the amendments themselves, ideally these should be tabled and made in Committee at Westminster before the motion is taken in the Assembly so that Members know what it is they are agreeing to and that Parliament is content to legislate on them. This will also enable your motion to more specific. I would have thought that once you have Assembly Committee agreement in principle and providing you do not get any unexpected objections from other Ministers when you do your initial write-round (while you would not ask for comments at this time, you might nevertheless say that if any Minister has objections in principle that they should let your Minister know very quickly) that it would be reasonably safe to proceed for DECC to table the amendments and have them agreed at Westminster. If this is not possible, then at the very least the amendments should have been tabled at Westminster before the Assembly debates the Legislative Consent Motion. This may well be more of a limiting factor on the date for the Assembly debate than Executive agreement.

Jim

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**From:** Hutchinson, Peter  
**Sent:** 26 January 2011 15:29

**To:** Hamilton, Jim  
**Cc:** Gray, George; Hepper, Fiona; Clydesdale, Alison; McCune, David; Haughan, Anthony; Murray, John; Reynolds, David  
**Subject:** Possible LCM for Renewable Heat powers  
**Importance:** High

Jim,

You had previously corresponded with Alison Clydesdale in regard to a possible amendment to the DETI Energy Bill (email below) to give DETI primary powers for renewable heat that, in turn, would allow secondary powers for a Renewable Heat Incentive (RHI) to be taken in due course. At that stage it was agreed that an amendment to the Energy Bill wasn't possible and instead the most appropriate method of taking enabling powers would be via an amendment to the current DECC Energy Bill 2011. We have now discussed this option with DECC and they are content to proceed along this route, providing it is possible to get the necessary LCM through the Assembly before it is dissolved for the election.

Just by way of background, DECC already have enabling powers for renewable heat as they were taken through an amendment to the 2008 Energy Act. At the time this amendment was tabled DETI was not in a position to advise on whether these powers were necessary and therefore Northern Ireland is not included in this measure. Following research into the renewable heat market DETI has taken the policy decision to introduce a RHI in Northern Ireland, funding of £25m over the spending period has also been made available, however currently no primary powers exist for such a scheme to be introduced. DECC, having the primary powers, are currently drafting regulations that will specify the design and administration of the scheme, these will be laid in Parliament in May/June 2011.

DECC have now made the offer to include an amendment in the 2011 Energy Bill (currently in Committee Stage in the House of Lords) that would extend the enabling renewable heat powers to Northern Ireland. This will obviously require an LCM. DECC are keen for this to take place before the Assembly is dissolved as by the time the next Assembly is sitting they will be at the House of Commons stage and unlikely to be able to make any further amendments without delaying their Bill past July. The powers that DETI requires are in-line with those taken by DECC in 2008 (link below details), these powers would then allow DETI to make regulations to introduce a RHI in Northern Ireland once the scheme is designed.

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

If DETI can not take primary powers from this route then it is likely a Primary Bill will be needed in the next Assembly however this would delay the introduction of the RHI until 2013 and would result in £6m of funding being returned to DECC/HMT.

In order for this to be achieved in by 22 March we would propose the following;

- DSO and DECC lawyers to work together to agree appropriate wording for an amendment to the current Bill.

- A Ministerial Colleagues letter to issue w/c 31 January 2011 advising on the need for an LCM and timescales. At the same time a letter will issue to the ETI Committee Chair.
- An Executive paper seeking an LCM and including the agreed amendment to be circulated by 14 February to allow it to be discussed at the 10 March meeting.
- LCM debated in Assembly w/c 14 or 21 March.

Obviously this is a tall order with a very tight timescales. We have already discussed with our SpAd and he is keen for us to attempt to take this forward, we would not expect any political opposition, in fact the introduction of a RHI in Northern Ireland will be widely welcomed and has been one issue considered as part of the recent ETI Committee inquiry into renewable energy.

At this stage I would be grateful for your guidance on the way forward, advice on any potential issues that haven't been addressed and your view on whether or not this can be achieved.

I am happy to answer any questions you may have or arrange a meeting to discuss further if required.

Thanks in advance for your help,

Peter

**Peter Hutchinson**

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**From:** Hamilton, Jim  
**To:** Clydesdale, Alison  
**Cc:** Reynolds, David  
**Sent:** Thu Nov 25 15:08:34 2010  
**Subject:** FW: Correspondence with George Gray re RHI

Alison,

Having read George's advice on this I agree that amendment to the current Energy Bill is non-runner.

The only other thing you could consider is whether under MPMNI you

could rely solely on the Budget Bill for cover to the expenditure of £25m.

If you are intending to go down the UK Bill route then I think the only way to do this is by means of a Ministerial amendment. It seems to me just too risky to do this by means of a Private Member's amendment. In any case, the same consultation with the Committee, and agreement by the Executive and the Assembly would be required.

Jim