

From: Stewart, Susan
To: ["Alan Bissett"](#)
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [David Trethowan](#)
Subject: FW: Work Request - ACX/RHI 001
Date: 04 July 2011 14:28:00
Attachments: [NI draft RHI Regulations - working draft 27.06.11.doc](#)
[Document1.doc](#)

Alan

Many thanks for your initial version of the draft RHI Regulations.

For your information, DECC has published its draft Regulations at the following link -

<http://www.legislation.gov.uk/ukdsi/2011/9780111512753/contents>

I have some initial comments on the drafting of these Regulations which are as follows-

1. Page 1 - Overarching title should be more general i.e. Energy
2. *Coming into force* should be *Coming into operation*
3. Additional definitions - The Department
The Gas (NI) Order 1996
RHI
EN 45011
CHP
4. Page 2 - Under eligibility criteria it mentions chapters and throughout the Regulations some Parts contain *Chapters*. I have not seen this in any previous NI legislation and the Government's subordinate legislation handbook does not refer to Chapters, only Parts (Section 8.9.5). Therefore I believe the term *Chapter* is not used in NI legislation. Can you please clarify?
5. The definitions *gas transporter* and *injection* use the term *gas transporter*. I feel it would be more appropriate to use the term *gas conveyor* in line with the Gas (NI) Order 1996. I would appreciate if you could advise on this issue.
6. Class 2 heat meter mentions "Annex MI-004 (the Annex) of the Measuring Instruments Directive and falls within accuracy class 2 as defined in the Annex;"

Again I have never seen this type of bracket usage in NI legislation and have spoken with other Divisional colleagues about this. As this appears to be the only time this is mentioned, I see no harm in repeating the name as follows -

"Annex MI-004 of the Measuring Instruments Directive and falls within accuracy class 2 as defined in Annex MI-004 ;"

7. The definition for *pipe-line system* refers to the GB Gas Act however in 'Document1' attached, I found a definition for pipe-line in Article 2 of the Gas (NI) Order 1996 which may be a possible alternative.
8. in the *scheme* definition, regulations should have a capital R.
9. Page 4 - Part 2 - Remove Chapter 1
10. Page 6 - regulation 12 should be regulation 4(1)(b)
11. Page 7 - regulation 12(2) - as mentioned earlier in point 6, there is a use of brackets for the *conversion date* - this could be possibly defined in this Part of the Regulations which is the normal practice in NI legislation - also the same in regulation 14(2)(c) for the *component units*.
12. Page 7 - bottom of page - Remove Chapter 2
13. Page 9 - regulation 20 - should the term *these regulations* not have a capital R
14. Scattered throughout the Regulations, there are lists with semi-colons but on several occasions an and/or is not added to the penultimate item where it maybe should. e.g regulations 21(2), 32(6)(f) and (g), 35 and 36. There may be other examples in the Regulations. I would appreciate if you could advise on this issue.
15. Page 10 - Remove Chapter 1 and also in regulation 22
16. Page 14 - Remove Chapter 2
17. Page 15 - Remove Chapter 3
18. Page 16 - regulation 29(b) - Remove Chapter 1 and 2
19. Page 17 - regulation 32(1) - *Subject to regulation 33*
20. Page 31 + 32 - regulations 56 and 57 - replace *Secretary of State* with *the Department*
21. Page 33 - Schedule 1 para 1(a) +(d) - mentions UK - have to check if we can do this - do not want to be seen as discriminatory against the rest of Europe - EU Services Directive.
22. Page 34 - Schedule 1 para 1(s) - Remove Chapter 2
23. Page 38 - the official seal and signature text should come before the Schedules
24. Also, it may be beneficial to replace all of the figures/dates with blanks for the consultation exercise so as the Department does not appear to consultees to have already come to a decision or we should caveat the draft Regs in some way so as consultees are aware that the figures in the actual consultation paper are the Department's proposed

figures/dates.

Many thanks

Susan

Susan Stewart

Sustainable Energy
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9212 (ext: 29212)
Textphone: 028 9052 9304
Web: www.detini.gov.uk

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

From: Alan Bissett [<mailto:alan.bissett@arthurcox.com>]
Sent: 27 June 2011 16:07
To: Stewart, Susan
Cc: McCutcheon, Joanne; Hutchinson, Peter; Thompson, Sandra; David Trethowan
Subject: RE: Work Request - ACX/RHI 001

Susan

In accordance with the Work Request Form for this matter, please find attached for your review draft Northern Ireland Renewable Heat Incentive Regulations (the "**NI RHI Regulations**") that we have produced in a format that could be added as an Annex to the Consultation Document to be produced by the Department on the NI RHI. As requested, we have based the NI RHI Regulations broadly on the equivalent GB Regulations that you provided us with, being the current draft as at 9th March 2010.

Our queries and notes for the Department have been raised by way of footnotes throughout the draft document and we would also draw your attention to the following:

(i) References to certain defined terms/legislative provisions

Where required, we have amended the legislative provisions to the equivalent provisions applying in NI (for example, provisions in the Gas Act 1986 have been changed to the equivalent provisions in the Gas (Northern Ireland) Order 1996 etc.).

In some cases, there are no clear-cut equivalent legislative provisions available. Where this is the case, we have noted this in the footnotes to the draft NI RHI Regulations and have suggested an alternative provision or term (e.g. we have suggested that the term "waste collection authority" as defined in Regulation 22 should be revised to "district council" where used in the NI RHI Regulations).

(ii) Tariffs and Eligibility Requirement

We note that as the NI RHI will be tailored to suit the NI energy market, payment tariffs and eligibility requirements may not match those stated under the equivalent GB Regulations. As that is the case, you will note that we have left these provisions in square brackets with a footnote explaining that confirmation is required.

(iii) Administrative role of GEMA