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From: Marcus Porter
Sent: 2012-05-21T16:10:52Z
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Subject: RE: RHI Northern Ireland: Feasibility Study Review Meeting
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Keith

You say that DETI intend to “mirror” the GB scheme but it’s not clear to me what that means.

Does it mean that they will simply copy the GB Regs *as they are at present*?

If so, will they then be amending the Regs in January and July next year, given that DECC intend to amend theirs at those times, probably quite substantially, and that the amendments may well include a fair number of “improvements” to the existing GB Regs.

If so, will they want to keep pace with DECC in relation to the amendments or as nearly as possible?

If the answer to all three of those questions is “yes” then they need to be aware that, given the amount of work that will be involved in getting the main Regs through, including agreeing on the arrangements to be entered into under section 114 of the Energy Act 2011, preparation of guidance, consulting (for three months) and technical standards notifications (which entails at least 3 months delay and an uncertain outcome) the amendments are likely to follow very hard on the heels of the main Regs.

If that’s right then it must surely be open to question whether that would be a sensible use of resources and presentationally acceptable. Also DETI should bear in mind that, at least for an initial period, and whether or not they manage to keep pace with DECC, they will knowingly be reproducing legislation in relation to which there is considerable scope for improvement: For as long as that remains the case, the same kinds of knotty legal issues that have arisen in relation to the GB Regs may arise in relation to the NI ones also, with all the attendant legal risks.

For the above reasons, I re-iterate the view I expressed to you last week to the effect that it would seem preferable for DETI either to wait until DECC have enacted their amendments before proceeding or, if it were considered that that would entail too lengthy a delay, to proceed more or less in tandem with them.

So far as we are concerned, in one sense I would agree that it “helps” us, in the short term at least, if DECC’s current Regs are simply reproduced as they are, but you should bear in mind also that the intention is that we should administer the Regs, as we currently do on behalf of DECC, and that much of the legal and reputational risk arising from the administration of Regulations which are initially not all that they could be is likely to fall to us – i.e we are likely to be on the receiving end of any JRs and to have to commit considerable resources to defending any such, even if ultimately DETI meet the financial cost. In short, taking the easy course now may well lead to problems later.

Finally, we need to know whether DETI will wish to reproduce amendments to the GB Regs relating to cost control that are due to come into force *this* July and which will of course be in force here before the DETI SI is in force.

Marcus

From: Keith Avis

Sent: 21 May 2012 14:56

To: Andrew Amato; Luis Castro; Felicity Beverley; Ruth Lancaster; Richard Kayan; Marcus Porter; Catherine McArthur; Adam Tackley

Subject: RHI Northern Ireland: Feasibility Study Review Meeting

All

To give us some focus for our RHI Feasibility Study (attached) review meeting tomorrow at 14:30, the issues that I propose to cover are as at the agenda below. I appreciate that there is a lot to go through, but I think that some of this can be covered quite quickly. By way of a quick update, DETI have confirmed that they intend to mirror the GB scheme apart from setting different tariffs. I think that this helps us. However, as a next step we need to agree an Agency Services Agreement with them, so I will be looking to arrange a meeting with DETI – possibly taking place next week, so that we can move forward with that process. As a result, this meeting will be key to establishing our priorities and position more generally as we approach DETI.

Agenda

Intro, focus for the meeting

Update on discussions with DETI

- Linking to GB Scheme
- NI RHI Regs
- Agency Services Agreement

Timeline for Delivery (inc. accommodating Olympics)

Key scheme features – brief check on marrying with GB scheme on:

- Accreditation
- Central Register
- Contract Management
- CRM software

- Periodic Information Capture
- Payments processing
- Fraud Prevention
- Audit and assurance
- Enforcement
- Reporting

IT options – Impact of DECC's decision to mirror GB scheme

Guidance – process for development (add to existing guidance develop separate guidance)

Resourcing – progress on development team resourcing, issues for operational resourcing

Costs

Resume of priorities to take to DETI meeting

Next Steps

AoB

If there is anything that I have missed that you specifically wish to cover in the meeting do let me know.

Rgds

Keith

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