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**From:** Marcus Porter  
**Sent:** 2012-08-09T18:09:12Z  
**Importance:** Normal  
**Subject:** RE: More Guidance Queries....  
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Michelle

See my suggested amendments in turquoise and (bold print and also turquoise) my comments.

This does demonstrate quite well that this whole exercise in relation to the NI guidance is quite a complex one, requiring a fair amount of thought at some points. It certainly vindicates in my opinion the decision to have separate NI guidance. I made the point to DETI this morning that the exercise requires adequate time to be devoted to it if it is to be done properly and that it appeared it could well be unduly rushed, given their timescales, but there was no hint from them that they might be prepared to consider delaying go live to ensure we get the guidance (and everything else) right.

Marcus

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**From:** Michelle Murdoch  
**Sent:** 09 August 2012 16:54  
**To:** Marcus Porter  
**Subject:** More Guidance Queries....

Hi Marcus,

Found a few more for you! Just so I don't confuse you...some of this is lifted from the Guidance notes and so has changes already - ie Red words = take out. Green words = add in.

- 1) Equivalent to Part L of the Building Regulations 2010 and Capital Allowance Act 2001 (vol1 1. 6.9) Yes. This exemplifies what I say below in para 2. The Building Regs don't apply to NI. The 2001 Act does but I would still welcome DETI's comments.
- 2) (Vol. 1. 4.45) Schedule 5 of the Local Government Finance Act equivalent? Yes the act doesn't extend to NI so DETI need to check this and let us know what the equivalent reference should be for the NI guidance and should also cast a careful eye over this whole Section concerning council tax as the position may be different in NI. Indeed this prompts me to say that I believe they should be asked to give their view on *any* instances within the guidance where the text is dealing with legislation, procedures or systems as to which we believe the position is or may be different in NI. In such cases we do not have familiarity with the corresponding local legislation etc. and so must rely heavily on DETI to ensure that the guidance is in appropriate terms.
- 3) Why is reg 37 'District Council' rather than in the GB version 'Waste authority' an issue? Actually it's instead of "allocating authority" and I think you must mean reg 27 rather than 37. As to it being an issue, are you referring to my comment in the draft NI Regs on the DECC equivalent of reg 27? I assume so. If so the answer is that that was simply a drafting point. The Interpretation Act is an Act which sets out detailed rules regarding how legislation, including Regulations in some cases, should be interpreted. Reg 2(2) of the draft NI Regs makes clear that the Act will apply to the draft Regs. Thus terms defined in the Act (which presumably include "district council") will have the same meaning where used in the Regs as they have in the Act. So if the Act tells us what "district council" means where the term is used in Part 4 of the Regs then do we really need a definition in reg 27? Seems superfluous.
- 4) Ofgem's and Deti's Key Functions (How does the below sound?)
  - 1.8 - The Regulations detail [Ofgem's ] DETI's key functions with respect to the NIRHI. **Ofgem is administering the scheme on behalf of DETI as made possible under section 114 of the Energy Act 2011.** Deleted words unnecessary here because (a) they will already be told in equivalent of GB 1.7 that we're administering (see below) and (b) I don't think we need bother them with reference to the EA. [The use of 'Ofgem', 'us' them'', 'theirour' and 'theywe' are used interchangeably in this Guidance when referring to the exercise by Ofgem on our behalf ofour powers and those of our functionsthose functions under the NIRHI that we have agreed with Ofgem they will exercise] For administration, monitoring and compliance purposes, 'Ofgem', 'us', 'our'

and 'we' are used interchangeably in this Guidance. For enforcement purposes the latter are interchangeable with ~~DEF~~. Deleted words too complicated in my view. Para 1.7 first sentence equivalent should read something like "The Government has agreed with Ofgem that, except in the case of certain enforcement functions, Ofgem will administer the NI RHI on our behalf."

Will have you your copies tomorrow. Am nervous!

Kind Regards

Michelle

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