

# Sustainable Energy Partnership

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6 September 2007

Dear Minister

## The 'Merton Rule' - Legality of the draft Climate Change PPS

You will no doubt be aware of the great concern expressed by many organisations regarding the abandonment of the Merton Rule, in the draft PPS now being considered.

Our purpose here is not to simply repeat the concerns as we are sure that you are aware of them: rather we wish to call into question the legality at what is proposed in the draft PPS.

The existing PPS 22 on renewable energy states that 'local authorities and developers should consider the opportunity for incorporating renewable energy projects in **all** (our emphasis) new developments' and that planning authorities may "require a percentage of the energy to be used in new residential, commercial or industrial developments to come from on-site developments."

But our understanding of the wording of the new draft PPS is that planning authorities would have to focus on local development or site specific opportunities, and **avoid blanket requirements**.

The latter is clearly a weakening of the former and a very significant u-turn on the DCLG's very clear public statement of support for the Merton rule of 8 June 2006 ie "A CLG survey of local plans published today reveals many local authorities are now adopting new requirements in their plans for on-site renewable energy in new developments. The Government is now urging all local authorities to do the same and will include the request in the new planning policy guidance on climate change due out later this year."

Continued...

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Pursuant to section 82(5) of the Energy Act 2004 the Secretary of State has a duty to implement the microgeneration strategy drawn up pursuant to that section of the 2004 Act. The microgeneration strategy, at page 33, very clearly calls for a tightening of the Merton Rule – which policy the government thus has a duty to implement.

We are strongly advised therefore, that any proposed weakening of the Merton Rule in the draft PPS may well be ultra vires in view of section 82(5). We therefore seek your assurance that the relevant sections of the draft PPS will be withdrawn before publication and that the duty in section 82(5) will be discharged.

Yours sincerely



Ron Bailey, Partnership Organiser, Sustainable Energy Partnership

**The Sustainable Energy Partnership represents all the major environmental and fuel poverty NGOs and relevant sustainable energy trade associations. In the short time available this letter has been specifically approved by:**

Andrew Cooper, REA

Alex Murley, BWEA

Dave Sowden, Chief Executive, Micropower Council

Jenny Holland, Association for the Conservation of Energy

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