

*Draft Regulations laid before Parliament under section 105(2)(a) and (3) of the Energy Act 2008,
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2015 No. 0000

ENERGY

**The Renewable Heat Incentive Scheme
(Amendment) Regulations 2015**

Made - - - - 2015

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 100(1) and (2) and 104(2) of the Energy Act 2008⁽¹⁾.

In accordance with section 105(2)(a) and (3) of that Act a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with section 100(7) of that Act the Secretary of State has obtained the consent of the Scottish Ministers to the making of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Scheme (Amendment) Regulations 2015 and come into force on the day after the day on which they are made.

Amendments to the Renewable Heat Incentive Scheme Regulations 2011

2.—(1) The Renewable Heat Incentive Scheme Regulations 2011⁽²⁾ (“the 2011 Regulations”) are amended in accordance with these Regulations.

(2) A reference in regulations 3 to 29 to an amendment made to, or the substitution of, a numbered regulation is to that regulation as so numbered in the 2011 Regulations.

Amendments to regulation 2 (interpretation)

3.—(1) Regulation 2 is amended as follows.

(2) In the definition of “average load factor”—

(1) 2008 c. 32. Section 100 is amended by S.I. 2011/2195.

(2) S.I. 2011/2860, amended by S.I. 2012/1999, S.I. 2013/1033, S.I. 2013/2410, S.I. 2013/3179, S.I. 2014/928 and S.I. 2014/1413.

- (a) for “providing metering data”, in each place where it appears, substitute “in respect of which periodic support payments have been received”;
- (b) in paragraph (a)(ii) omit “and are”;
- (c) omit paragraph (aa);
- (d) in paragraph (b) omit “or paragraph (aa)”;
- (e) in paragraph (c) for “paragraphs (a) or (aa)” substitute “paragraph (a)”.
- (3) In the definition of “estimated energy from biomethane” for paragraph (a) substitute—
- “(a) FR is the estimated flow rate; and”.
- (4) In the definition of “estimated heat”, in paragraph (a)(i) for “the installation has provided metering data” substitute “a periodic support payment has been received in respect of the installation”.
- (5) In the definition of “estimated spend”—
- (a) in paragraph (b) after “relevant producer” insert “who has not received a periodic support payment”;
- (b) in paragraph (c) after “large installation” insert “in respect of which no periodic support payment has been received and”;
- (c) after paragraph (c) insert—
- “(d) a relevant producer who has received a periodic support payment, means the sum of the estimated original biomethane spend and any estimated additional biomethane spend;”.
- (6) For the definition of “flow rate” substitute—
- ““flow rate”, in relation to biomethane, means—
- $$\frac{B}{H}$$
- where—
- (a) B is the amount of eligible biomethane in kWh for which periodic support payments have been received; and
- (b) H is the total number of hours in the period commencing with the first day of the first quarterly period in which that biomethane was injected and ending on the last day of the last quarterly period in which that biomethane was injected;”.
- (7) In the definition of “initial tariff” for “regulation 37(7)(a)” substitute “regulation 37(7A)”.
- (8) For the definition of “installation capacity” substitute—
- ““installation capacity” means—
- (a) in the case of a CHP system to which regulation 9(2)(b) or 9A applies, the capacity determined by the formula—
- $$\frac{x}{y} \times P$$
- where—
- (i) x is the total installed peak heat output capacity of all the combustion units to which regulation 9(2)(b) or 9A applies which use the same source of energy;
- (ii) y is the total installed peak heat output capacity of all the combustion units forming part of the CHP system; and
- (iii) P is the total installed peak heat output capacity of the CHP system; or

- (b) for any other plant, except where otherwise specified, the total installed peak heat output capacity of the plant;”.
- (9) In the definition of “maximum initial capacity” before “volume” insert “maximum”.
- (10) For the definition of “properly insulated” substitute—
““properly insulated” means—
(a) in respect of piping which is situated below the ground, insulated in accordance with—
(i) BS EN 253 (2009)(3);
(ii) BS EN 15632:2 and 3 (2010) and 15632:4 (2009)(4); or
(iii) BS EN 15698:1 (2009)(5); or
(b) in respect of piping which is situated above the ground, insulated so that the relevant maximum permissible heat losses set out in BS 5422:2009(6) are not exceeded;”.
- (11) For the definition of “quarterly period” substitute—
““quarterly period” means, except where otherwise specified, the first, second, third or fourth quarter of any year commencing with, or with the anniversary of—
(a) in relation to an accredited RHI installation, the tariff start date for that installation;
(b) in relation to a producer of biomethane who is registered in relation to any original biomethane or additional biomethane, the tariff start date for the original biomethane;”.
- (12) In the definition of “relevant installation”, in paragraph (b)(iii) for “date on which the application was made” substitute “last date on which the Authority received information from the applicant in support of the application”.
- (13) In the definition of “relevant producer”, in paragraph (b)(iii) for “date on which the application was made” substitute “last date on which the Authority received information from the applicant in support of the application”.
- (14) In the definition of “tariff start date”—
(a) for paragraph (c) substitute—
“(c) in relation to original biomethane in respect of which a producer of biomethane is registered, the date of registration for that biomethane;”;
(b) after paragraph (c) insert—
“(d) in relation to additional biomethane in respect of which a producer of biomethane is registered, the date of registration for that biomethane;”.
- (15) For the definition of waste substitute—
““waste” has the meaning given in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste(7) and includes excreta produced by animals;”.
- (16) Insert the following definitions at the appropriate places—
““additional biomethane” has the meaning given in regulation 43A(5);”;
““eligible biomethane” has the meaning given in regulation 42(2);”;
““estimated additional biomethane spend” in relation to an assessment date and any additional biomethane registered on a particular date in respect of which a relevant producer has received a periodic support payment means—

(3) ISBN 978 0 580 75633 7.
(4) ISBN 978 0 580 70945 6.
(5) ISBN 978 0 580 58925 6.
(6) ISBN 978 0 580 69184 3.
(7) OJ L No 312, 22.11.2008, p 3.

$$A \times B \times C$$

where—

- (a) A is the flow rate for all additional biomethane registered on that particular date;
- (b) B is the number of hours in the 12 month period commencing with the assessment date;
and
- (c) C is the relevant initial tariff or subsequent tariff calculated in accordance with regulations 37 to 37D;”;

““estimated original biomethane spend” in relation to an assessment date and any original biomethane in respect of which a relevant producer has received a periodic support payment means—

$$A \times B \times C$$

where—

- (a) A is the flow rate for all original biomethane;
- (b) B is the number of hours in the 12 month period commencing with the assessment date;
and
- (c) C is the relevant initial tariff or subsequent tariff calculated in accordance with regulations 37 to 37D;”;

““fourth relevant date” means the date of coming into force of the Renewable Heat Incentive Scheme (Amendment) Regulations 2015;”;

““maximum additional capacity” has the meaning given in regulation 43A(5);”;

““original biomethane” means biomethane which is produced by a relevant producer and which falls within that producer’s maximum initial capacity;”.

Amendment to regulation 5 (eligible installations generating heat from solid biomass)

- 4. In regulation 5 omit paragraph (1)(b).

Amendments to regulation 9 (eligible installations which are CHP systems)

- 5. In regulation 9—
 - (a) in paragraph (2)(b), for “in combination with each other” substitute “alone or in any combination”;
 - (b) omit paragraph (3)(a);
 - (c) after paragraph (5) insert—
 - “(6) In the case of CHP systems which generate heat and power from biogas, references in this regulation to “combustion unit” include the biogas production plant which produces the biogas which is used in the combustion unit.”.

Amendment to regulation 9A (eligible installations which are new solid biomass CHP systems)

- 6. In regulation 9A omit paragraph (3)(d).

Amendments to regulation 12 (other eligibility requirements for technologies)

- 7. In regulation 12—
 - (a) for paragraph (1)(b) substitute—

- “(b) except where regulation 9(2)(b) or 9A applies, the plant was new at the time of installation;”;
- (b) for paragraph (2) substitute—
- “(2) In the case of a CHP system—
- (a) the requirements of paragraphs (1)(a)(i) and (b) are deemed to be satisfied where a plant was previously generating electricity only, using biogas, and was first commissioned as a CHP system on or after 4th December 2013; and
- (b) the requirements of paragraphs (1)(a)(ii) and (b) are deemed to be satisfied where the plant was previously generating electricity only, using solid biomass, solid biomass contained in waste, or biogas, and was first commissioned as a CHP system on or after 15th July 2009.”.

Amendments to regulation 13 (certification for installation of Microgeneration heating equipment)

8.—(1) Regulation 13 is amended as follows.

(2) In paragraph (1)(a) and (b)(ii) for “the relevant installation standard” substitute “a relevant installation standard”.

(3) In paragraph (2)(a) for paragraphs (ii) and (iii) substitute—

“(ii) where the plant is a ground source heat pump or air source heat pump—

- (aa) version 4.1 of the document entitled “Microgeneration Installation Standard: MIS 3005 requirements for contractors undertaking the supply, design, installation, set to work, commissioning and handover of microgeneration heat pump systems” published on 21st November 2014⁽⁸⁾; or
- (bb) version 4.0 of the document entitled “Microgeneration Installation Standard: MIS 3005 requirements for contractors undertaking the supply, design, installation, set to work, commissioning and handover of microgeneration heat pump systems” published on 16th December 2013⁽⁹⁾,

provided it is in force on the plant’s first commissioning date; or

(iii) where the plant generates heat using a solar collector—

- (aa) version 4.1 of the document entitled “Microgeneration Installation Standard: MIS 3001 requirements for contractors undertaking the supply, design, installation, set to work, commissioning and handover of solar heating microgeneration systems” published on 21st November 2014⁽¹⁰⁾; or
- (bb) version 4.0 of the document entitled “Microgeneration Installation Standard: MIS 3001 requirements for contractors undertaking the supply, design, installation, set to work, commissioning and handover of solar heating microgeneration systems” published on 16th December 2013⁽¹¹⁾,

provided it is in force on the plant’s first commissioning date; or”.

Amendment to regulation 14 (plants comprised of more than one plant)

9. In regulation 14(1) omit “(5)(b)”.

⁽⁸⁾ Published on www.microgenerationcertification.org.

⁽⁹⁾ Published on www.microgenerationcertification.org.

⁽¹⁰⁾ Published on www.microgenerationcertification.org.

⁽¹¹⁾ Published on www.microgenerationcertification.org.

Amendment to regulation 20 (matters relating to all heat meters and steam measuring equipment)

10. In regulation 20, after paragraph (2) insert—

“(3) The requirements in paragraphs (1)(c) and (2)(d) are deemed to be met where the Authority is satisfied that, were the plant to be accredited, the participant would not as a consequence of the failure to install in accordance with the manufacturer’s instructions, be entitled to receive periodic support payments which were materially different from those which would have been payable had the manufacturer’s instructions been complied with.”.

Amendments to regulation 22 (applications for accreditation)

11. In regulation 22(2)—

(a) after sub-paragraph (c) omit “and”;

(b) at the end insert—

“and

(e) any other declarations which the Authority may require.”.

Amendments to regulation 23 (treatment of grants from public funds)

12. In regulation 23—

(a) in paragraph (1)—

(i) after “paragraphs (2) to (5)” insert “and (7A)”;

(ii) after “producer of biomethane” insert “in respect of any original biomethane or additional biomethane”;

(b) in paragraph (2) before “biomethane” insert “any original”;

(c) after paragraph (7) insert—

“(7A) Where an application for registration in respect of additional biomethane is made under regulation 43A(1)—

(a) a reference to a grant in paragraph (1) does not include a grant in respect of equipment used to produce that additional biomethane if the equipment is also used to produce original biomethane and a grant funding deduction is already being made in respect of the grant; and

(b) paragraphs (2) to (5) do not apply in respect of the application.”.

Amendments to regulation 34 (ongoing obligations: general)

13. In regulation 34—

(a) for paragraph (o) substitute—

“(o) they must, if requested—

(i) provide evidence that the heat for which periodic support payments are made is used for an eligible purpose, or

(ii) where there is heat delivered to a biogas combustion plant, provide evidence to enable the Authority to determine whether the proportion of heat delivered has been correctly calculated;”;

(b) for paragraph (s) substitute—

- “(s) where heat is generated in a combustion unit which forms part of a CHP system and in respect of which periodic support payments are made, participants must—
 - (i) (except for solid biomass contaminated with fossil fuel), use only one source of energy in that combustion unit; and
 - (ii) keep and provide upon request to the Authority records of the fuel used in every combustion unit which forms part of that CHP system;”.

Amendment to regulation 36 (ongoing obligations in relation to the provision of information)

14. In regulation 36, for paragraph (2) substitute—

- “(2) A participant must retain a copy of—
 - (a) any information relied on when making any application for accreditation or registration or, if the participant did not make that application, given to the participant by the person who made the application; and
 - (b) any other evidence which verifies that the accreditation or registration meets the eligibility criteria and that the participant is continuing to comply with the ongoing obligations;”.

Amendments to regulation 37 (payment of periodic support payments to participants)

15.—(1) Regulation 37 is amended as follows.

(2) In paragraph (4) for “a participant who is a producer of biomethane” substitute “biomethane produced by a participant”.

(3) In paragraph (7)—

- (a) for “a participant who is a producer of biomethane” substitute “biomethane produced by a participant”;
- (b) in sub-paragraph (a) for “is the tariff specified in paragraph (8), (9) or (10) (“the initial tariff”)” substitute “is the initial tariff”.

(4) After paragraph (7) insert—

- “(7A) In paragraph (7) “initial tariff” means—
 - (a) in relation to an accredited RHI installation, subject to regulation 43(4) to (6), the tariff specified in paragraph (8), (9) or (10);
 - (b) in relation to biomethane produced by a participant, the tariff specified in paragraph (8), (10A) or (10B) in respect of that biomethane.”.

(5) In paragraph (8)—

- (a) for “paragraph (7)(a)” substitute “paragraph (7A)”;
- (b) in sub-paragraph (d) for “paragraphs (9) and (10)” substitute “paragraphs (9), (10), (10A) and (10B)”.

(6) After paragraph (10) insert—

“(10A) The initial tariff for biomethane produced by a participant with a tariff start date on or after the fourth relevant date but earlier than 1st April 2015 is the tariff set out in Schedule 3C.

“(10B) The initial tariff for biomethane produced by a participant with a tariff start date on or after 1st April 2015 but earlier than 1st July 2015 is the tariff set out in Schedule 3C,

adjusted by the percentage increase or decrease in the retail prices index for the year ending on 31st December 2014.”.

(7) In paragraph (11) for “participant” insert “biomethane produced by the participant”.

(8) After paragraph (19) insert—

“(20) For the purposes of paragraphs (10A) and (10B), a reference to the tariff set out in Schedule 3C is—

- (a) in relation to initial biomethane, a reference to the relevant tier 1 tariff specified in Schedule 3C;
- (b) in relation to secondary biomethane, a reference to the relevant tier 2 tariff so specified;
- (c) in relation to tertiary biomethane, a reference to the relevant tier 3 tariff so specified.

(21) In paragraph (20) (and for the purposes of paragraph (11) when determining the subsequent tariff applicable to biomethane produced by a participant with a tariff start date on or after the fourth relevant date)—

- (a) “initial biomethane” means the amount of eligible biomethane measured in megawatt hours which is injected in the 12 month period commencing with, or with the anniversary of, the tariff start date for the original biomethane (“the relevant period”) up to 40,000 megawatt hours;
- (b) “secondary biomethane” means the amount of eligible biomethane measured in megawatt hours injected in the relevant period, in excess of initial biomethane, up to an additional 40,000 megawatt hours;
- (c) “tertiary biomethane” means the amount of eligible biomethane measured in megawatt hours injected in the relevant period in excess of secondary biomethane.”.

Amendment to regulation 37A (calculation of initial tariffs on or after the relevant date)

16. In regulation 37A(1) for “Subject to regulation 37(9) and (10)” substitute “Except as provided by regulation 37(9), (10), (10A) and (10B)”.

Amendments to regulation 37C (calculation of B)

17. In regulation 37C(2)(b)—

- (a) for “participant who produces biomethane for injection” substitute “biomethane (if the participant produces biomethane for injection)”;
- (b) after “applicable to the installation” insert “or biomethane”.

Amendments to regulation 37D (calculation of C)

18. In regulation 37D(2)—

- (a) in sub-paragraph (b)—
 - (i) for “participant who produces biomethane for injection” substitute “biomethane (if the participant produces biomethane for injection)”;
 - (ii) after “applicable to the installation” insert “or biomethane”;
- (b) in sub-paragraph (c)—
 - (i) for “participant” substitute “biomethane”;

- (ii) after “the table applicable to the installation” insert “or biomethane”;
- (c) in sub-paragraphs (d) and (e) for “participant” substitute “biomethane”.

Amendments to regulation 37E (expenditure forecast statement and tariff change notice)

19. In regulation 37E(5)—

- (a) in sub-paragraph (a) for “a producer of biomethane for injection having a start date” substitute “biomethane produced by a producer of biomethane having a tariff start date”;
- (b) in sub-paragraph (b) for “producer” substitute “biomethane”.

Amendment to regulations 38, 39 and 39A

20. In regulations 38(2), 39(2) and 39A(2)(b) for the definition of C substitute—

“C is—

- (a) the heat in kWhth delivered in the relevant quarterly period to the biogas production plant which produced the biogas which is combusted (other than heat contained in any feedstock used to produce that biogas); or
- (b) such proportion (as may be chosen by the participant and agreed by the Authority) of that heat, provided that the proportion is no less than—

$$\frac{x}{y}$$

where—

- (i) x is the heat produced by that biogas which is used for eligible purposes, and
- (ii) y is the energy content of all the biogas produced by that biogas production plant.”.

Amendments to regulation 39B

21. In regulation 39B—

- (a) for paragraph (1) substitute—

“(1) This regulation applies where the total installed peak heat output capacity of all the combustion units in respect of which the CHP system has been accredited is less than the total installed peak heat output capacity of all combustion units forming part of that CHP system.”;

- (b) in paragraph (2)—

- (i) for sub-paragraph (b) substitute—

“(b) B is the kWhth of heat generated by the installation from solid biomass (including solid biomass contained in waste) in any combustion unit in respect of which the CHP system has been accredited, calculated in accordance with paragraph (3) and which is used for eligible purposes;” and

- (ii) for sub-paragraph (d) substitute—

“(d) D is the kWhth of heat generated by the installation from biogas in any combustion unit in respect of which the CHP system has been accredited, calculated in accordance with paragraph (4) and which is used for eligible purposes.”;

(iii) for sub-paragraph (e) substitute—

“(e) E is—

- (i) the heat in kWhth delivered in the relevant quarterly period to the biogas production plant which produced the biogas combusted in a combustion unit to which regulation 9(2)(b) or 9A applies (other than heat contained in any feedstock used to produce that biogas); or
- (ii) such proportion (as may be chosen by the participant and agreed by the Authority) of that heat provided that the proportion is no less than—

$$\frac{x}{y}$$

where—

- (a) x is the heat produced by that biogas in a combustion unit to which regulation 9(2)(b) or 9A applies and which is used for eligible purposes, and
- (b) y is the energy content of all the biogas produced by that biogas production plant.”.

Substitution of regulation 42 (periodic support payments to producers of biomethane)

22. For regulation 42 substitute—

“Periodic support payments to producers of biomethane

42.—(1) Subject to regulation 23(2) and paragraph (3), participants producing biomethane for injection shall be paid a periodic support payment in respect of each quarterly period calculated in accordance with the following formula—

$$A \times B$$

where—

- (a) A is the amount of eligible biomethane in kWh which is injected in that quarterly period; and
- (b) B is the tariff applicable to the eligible biomethane determined in accordance with regulations 37 to 37D.

(2) In this regulation, “eligible biomethane” means the part (in kWh) of all biomethane injected in a quarterly period determined in accordance with the following formula—

$$(C - (D + E + F)) \times G$$

where—

- (a) C is the lower of—
 - (i) the amount of all biomethane in kWh injected in that quarterly period; or
 - (ii) the sum of the kWh equivalent of the maximum initial capacity specified under regulation 25 and any maximum additional capacity specified under regulation 43A;
- (b) D is the amount of propane in kWh contained in C;
- (c) E is—

- (i) the heat in kWhth delivered in the relevant quarterly period to the biogas production plant which produced the biogas from which the biomethane is made (other than heat contained in any feedstock used to produce that biogas); or
- (ii) such proportion (as may be chosen by the participant and agreed by the Authority) of that heat provided that the proportion is no less than—

$$\frac{x}{y}$$

where—

- (aa) x is the energy content of the biogas contained in the biomethane produced by that biogas, and
- (bb) y is the energy content of all the biogas produced by that biogas production plant;
- (d) F is the kWhth of heat supplied to the biomethane production process in that quarterly period from any heat source other than heat generated from the combustion of biogas by the plant which supplies that process; and
- (e) G applies only in relation to biomethane made using biogas produced from gasification or pyrolysis, and is the proportion of biomass contained in the feedstock used in that quarterly period to produce that biogas.

(3) Where a participant is registered in respect of additional biomethane which forms part of the eligible biomethane injected in the quarterly period referred to in paragraph (1) and the tariff for the additional biomethane differs from the tariff for any other biomethane in respect of which the participant is registered, the periodic support payment for the participant for that quarterly period is the sum of—

- (a) the amount of eligible biomethane in kWh which is original biomethane multiplied by the tariff applicable to that biomethane calculated in accordance with regulations 37 to 37D; and
- (b) the amount of any eligible biomethane in kWh which is additional biomethane multiplied by the tariff applicable to that biomethane calculated in accordance with regulations 37 to 37D.”.

Amendments to regulation 44 (power to temporarily withhold periodic support payments to investigate alleged non-compliance)

23. In regulation 44—

- (a) for paragraph (1) substitute—

“(1) Where the Authority has reasonable grounds to suspect—

- (a) that a participant has failed or is failing to comply with an ongoing obligation; or
- (b) that an accredited RHI installation has been given accreditation or a producer of biomethane has been registered as a result of the provision of information which is incorrect in a material particular,

and the Authority requires time to investigate, it may withhold all or part of that participant’s periodic support payments pending the outcome of that investigation.”;

- (b) for paragraph (2)(a) substitute—

“(a) the respect in which the Authority suspects the participant has failed or is failing to comply with an ongoing obligation, or a description of the information

which the Authority suspects to be incorrect and upon which the accreditation or registration was based.”;

(c) for paragraphs (9) and (10) substitute—

“(9) Subject to paragraph (11), immediately upon conclusion of its investigation under this regulation, the Authority must send the participant a notice specifying—

- (a) the outcome of the investigation;
- (b) the action the Authority proposes to take under this Part; and
- (c) the participant’s right of review.

(10) Subject to paragraph (11), where the Authority concludes that there has been no breach of an ongoing obligation or no provision of incorrect information, it must resume payment of periodic support payments and pay to the participant any periodic support payments withheld during the course of its investigation.

(11) Within 6 months of the date specified further to paragraph (2)(c), the Authority must either resume payment of periodic support payments or must send the participant a notice under regulation 45, 46, 47 or 48.”.

Substitution of regulation 45 (power to suspend periodic support payments where ongoing failure to comply)

24. For regulation 45 substitute—

“Power to withhold periodic support payments: further provisions

45.—(1) Where the Authority is satisfied—

- (a) that a participant is failing to comply with an ongoing obligation; or
- (b) that an accredited RHI installation has been given accreditation or a producer of biomethane has been registered as a result of the provision of information which is incorrect in a material particular,

it may withhold all or part of that participant’s periodic support payments.

(2) Within 21 days of a decision to withhold periodic support payments the Authority must send a notice to the participant specifying—

- (a) where there is a failure to comply with an ongoing obligation, the respect in which the Authority is satisfied that the participant is failing to comply;
- (b) where the accredited RHI installation was given accreditation, or the participant registered as a producer of biomethane, as a result of the provision of incorrect information, details of the respect in which the information is incorrect;
- (c) the amount of periodic support payments that the Authority intends to withhold in respect of each quarterly period;
- (d) the date from which periodic support payments will be withheld;
- (e) where applicable, the steps that the participant must take to satisfy the Authority that it is complying with the ongoing obligation;
- (f) where applicable, the steps that the participant must take to satisfy the Authority that, notwithstanding the provision of incorrect information, the accredited RHI installation should continue to be accredited, or the participant should continue to be registered;
- (g) the date by which the steps referred to in sub-paragraph (e) or (f) must be completed;

- (h) the consequences of the participant failing to take the steps referred to in sub-paragraph (e) or (f) by the date specified; and
 - (i) details of the participant's right of review.
- (3) The Authority may extend the time specified in paragraph (2)(g) where it is satisfied that it is reasonable to do so.
- (4) Where the Authority is satisfied that the participant has taken the steps specified in paragraph (2)(e) or (f), as applicable, within the time specified, it must resume payment of the periodic support payments.
- (5) If, within 6 months of receipt by the participant of a notice sent under paragraph (2), the Authority is satisfied that the participant has taken the steps specified in that notice, the Authority may pay, within 28 days of being so satisfied, all periodic support payments withheld under this regulation.”.

Substitution of regulation 47 (revocation of accreditation or registration)

25. For regulation 47 substitute—

“Revocation of accreditation or registration

- 47.—(1) Where the Authority is satisfied—
- (a) that there has been a material or repeated failure by a participant to comply with an ongoing obligation (except where sub-paragraph (c) applies);
 - (b) an accredited RHI installation has been accredited or a producer of biomethane has been registered as a result of the provision of information which is incorrect in a material particular; or
 - (c) there has been a failure to comply with a notice under regulation 45(2);
- it may take any of the actions in paragraph (2).
- (2) The actions in this paragraph are that the Authority may—
- (a) revoke accreditation for the accredited RHI installation in respect of which paragraph (1) applies;
 - (b) revoke accreditation for any other accredited RHI installation owned by that participant; or
 - (c) in relation to a participant who is a producer of biomethane, revoke that participant's registration.
- (3) Before revoking an accreditation or registration under this regulation, the Authority must send a notice to the participant specifying—
- (a) the reason for the intended revocation including details of the respect in which the participant has failed to comply or the information is incorrect;
 - (b) an explanation of the effect of the revocation; and
 - (c) details of the participant's right of review.
- (4) Where accreditation of an accredited RHI installation, or a participant's registration as a producer of biomethane, has been revoked, the Authority may refuse to accredit any eligible installations owned by the same person or refuse to register that person as a producer of biomethane for injection at any future date.”.

Substitution of regulation 48 (overpayment notices and offsetting)

26. For regulation 48 substitute—

“Overpayment notices and offsetting

48.—(1) Where the Authority is satisfied that a participant or former participant has received periodic support payments which—

- (a) exceed that participant’s entitlement;
- (b) were paid whilst there was a failure by that person to comply with an ongoing obligation, or following such a failure; or
- (c) were paid as a result of the provision of information which was incorrect in a material particular,

it may take one of the actions set out in paragraph (2).

(2) The actions in this paragraph are that the Authority may—

- (a) require a participant or former participant who has received periodic support payments to which paragraph (1) applies, to repay a specified sum in relation to some or all of those payments; or
- (b) offset a specified sum in relation to some or all of those payments against future periodic support payments.

(3) Before taking either of the actions set out in paragraph (2), the Authority must send the participant or former participant a notice specifying—

- (a) the sum it is seeking to recover;
- (b) the basis on which that sum is calculated;
- (c) whether the specified sum must be repaid or will be offset;
- (d) where applicable, the date by which the sum must be repaid;
- (e) where applicable, the amount which will be offset in each quarterly period and the time it will take for the sum to be recovered;
- (f) details of the participant’s or former participant’s right of review.

(4) Where a participant or former participant who is required to repay a specified sum under this regulation fails to make payment in full by the date specified under paragraph (3) (d), the Authority may recover any outstanding sum as a civil debt.”.

Provision of information to the Authority etc

27. After regulation 52 insert—

“Provision of information to the Authority etc

52A.—(1) Where under these Regulations the Authority requests information or a declaration from an applicant or a participant, or an applicant or participant is required to provide information or a declaration to the Authority—

- (a) that information or declaration must be provided within such time and in such manner and form as the Authority may reasonably request and must be accurate to the best of the applicant’s or participant’s knowledge and belief, and
- (b) the costs of providing the information are to be borne by that applicant or participant.

(2) When exercising any functions under these Regulations the Authority may treat any declaration given by an applicant in support of an application under these Regulations or by a participant as conclusive evidence of the matters to which that declaration relates, unless the Authority has reason to believe that any such declaration is not accurate.”.

Amendment to Schedule 1

28. In sub-paragraphs (2)(n)(ii) and (5)(a) and (b) of paragraph 1 of Schedule 1, after “designed” insert “and installed”.

New biomethane tariffs

29. After Schedule 3B insert—

“SCHEDULE 3C

Regulation 37

New biomethane tariffs

<i>Tariff name</i>	<i>Tariff (pence/kWh injected)</i>
New biomethane	Tier 1: 7.5
	Tier 2: 4.4
	Tier 3: 3.4”

[NAME]

Minister of State

Department of Energy and Climate Change

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, amend the Renewable Heat Incentive Scheme Regulations 2011 (“the principal regulations”). The principal regulations established a scheme under which owners of plants which generate heat from specified renewable sources and meet specified criteria, and producers of biomethane for injection, may receive payments at prescribed tariffs for the heat used for eligible purposes.

Regulation 3 amends a number of the definitions in the principal regulations. In particular, changes are made to the definitions used by the Secretary of State when preparing expenditure forecast statements under regulation 37E of the principal regulations. The changes include clarification of the methodology for forecasting spend in relation to certain biomethane producers and a change to the point at which a plant or biomethane producer ceases to be a relevant plant or relevant producer for forecasting purposes.

Regulations 4, 6, 9, 11, 14, 17 and 28 make minor amendments to the principal regulations.

Regulation 5 amends regulation 9 of the principal regulations to provide that a CHP system may be an eligible installation where it uses only one form of energy or more than one form of energy provided that the combustion unit in which that energy is used complies with certain requirements.

Regulation 7 amends regulation 12 of the principal regulations to correct a previous error relating to CHP systems which previously generated electricity only.

Regulation 8 amends regulation 13 of the principal regulations to update the technical standard governing the installation of plants with an installation capacity of up to 45 kWth which are heat pumps or generate heat using a solar collector.

Regulation 10 amends regulation 20 of the principal regulations to provide for circumstances where an installation of a heat meter or steam measuring equipment has not been made in accordance with the manufacturer’s instructions.

Regulation 12 amends regulation 23 in the principal regulations to provide that any public grant in respect of equipment used to produce additional biomethane in respect of which a participant seeks registration must be repaid before registration is given.

Regulation 13 amends regulation 34 of the principal regulations to make provision about evidence and to require only one source of energy to be used in a combustion unit forming part of a CHP system.

Regulation 15 amends regulation 37 in the principal regulations to provide for the new tiered tariff for the production of biomethane for injection set out in Schedule 3C. That regulation and regulations 18 to 21 also amend regulations 37 to 37E in the principal regulations to clarify the tariffs applicable to biomethane producers where registration is sought in respect of additional biomethane.

Regulation 20 amends regulations 38, 39 and 39A of the principal regulations to allow a proportion of the heat delivered to a biogas production plant to be deducted.

Regulation 21 amends regulation 39B of the principal regulations to allow calculation of periodic support payments where the installation capacity of combustion units in relation to which a CHP system has been accredited does not form the whole installation capacity of all the combustion units in that system.

Regulation 22 amends regulation 42 in the principal regulations to clarify the methodology for calculating periodic support payments for biomethane producers who are registered in respect of additional biomethane.

Regulations 23 to 26 amend the enforcement provisions in the principal regulations. Regulations 44 and 45 and 47 are amended so as to allow periodic support payments to be withheld or recovered and accreditation or registration to be revoked in cases where the accreditation or registration was obtained as a result of the provision of incorrect information. Regulation 48 also extends the ability to recover payments to former participants.

Regulation 27 inserts a new regulation 52A relating to the provision of information to the Authority.

Regulation 29 inserts Schedule 3C in the principal regulations, which specifies a new tiered tariff for the production of biomethane for injection.

A draft of these Regulations was notified to the European Commission in accordance with Directive [98/34/EC](#) of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p.37) as amended by Directive [98/48/EC](#) (OJ L 217, 5.8.1998, p.18).

Documents published on www.microgenerationcertification.org are also available from Gemserv Limited at 10 Fenchurch Street, London, EC3M 3BE.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department of Energy and Climate Change at 3 Whitehall Place, London, SW1A 2AW and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.