
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Renewable Heat Incentive Scheme Regulations 2018

PART 9

Enforcement

Power to temporarily withhold periodic support payments to investigate alleged non-compliance

78.—(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 for injection has been registered as a result of the provision of information which was 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.

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

- (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;
- (b) the reason why periodic support payments are being withheld;
- (c) the date from which periodic support payments will be withheld;
- (d) the next steps in the investigation; and
- (e) details of the participant's right of review.

(3) The Authority's investigation must be commenced and completed as soon as is reasonably practicable.

(4) The Authority may—

- (a) request such information from the participant as it reasonably requires to enable it to carry out its investigation;
- (b) withhold a participant's periodic support payments for a maximum period of 6 months commencing with the date specified in accordance with the notice required by paragraph (2)(c).

(5) The Authority must review its decision to withhold a participant's periodic support payments every 30 days after the date of the notice required by paragraph (2).

(6) Following a review pursuant to paragraph (5), the Authority must send a notice to the participant providing an update on—

- (a) the progress of any investigation; and
- (b) whether the Authority intends to continue to withhold periodic support payments.

(7) For the purposes of calculating the period specified in paragraph (4)(b), no account is to be taken of any period attributable to the participant's delay in providing the information requested by the Authority pursuant to paragraph (4)(a).

(8) For the purposes of paragraph (7), a participant is not to be deemed to have delayed in providing information if that participant responds within 2 weeks of a request from the Authority.

(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) details of 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 the period specified in paragraph (4)(b), the Authority must either resume payment of periodic support payments or must send the participant a notice under regulation 79, 80, 81, 82 or 83.