
STATUTORY INSTRUMENTS

2018 No. 610

**The Domestic Renewable Heat Incentive
Scheme (Amendment) Regulations 2018**

**Insertion of regulation 54A (power to withhold MM payments during investigation) and
regulation 54B (power to withhold MM payments in the case of non-compliance)**

23. After regulation 54 insert—

“Power to withhold MM payments during investigation

54A.—(1) Where the Authority has reasonable grounds to suspect that—

- (a) a metering and monitoring agreement no longer meets the requirements specified in Schedule 7;
- (b) a metering and monitoring agreement is no longer in force or that its terms are not being complied with;
- (c) a condition of registration of a metering and monitoring agreement has not been or is not being complied with; or
- (d) registration was given wholly or partly 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 the MM payments under that agreement pending the outcome of that investigation.

(2) Within 21 days of a decision to withhold any MM payments under paragraph (1), the Authority must send a notice to the participant who is a party to that agreement which—

- (a) specifies which of the grounds in paragraph (1)(a) to (d) apply; and
- (b) sets out the date from which MM payments will be withheld and the next steps in the investigation.

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

(4) Immediately upon conclusion of its investigation under this regulation, the Authority must inform the participant of—

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

(5) Where the Authority concludes that none of the grounds in paragraph (1)(a) to (d) are satisfied, it must resume payment of MM payments in accordance with these Regulations and pay to the participant any MM payments withheld during the course of its investigation.

(6) Within three months of sending a notice under paragraph (2), the Authority must either resume payment of MM payments or must send the participant a notice under regulation 54B, 55, 58, 59 or 60.

Power to withhold MM payments in the case of non-compliance

54B.—(1) Where the Authority is satisfied that—

- (a) a metering and monitoring agreement no longer meets the requirements specified in Schedule 7;
- (b) a metering and monitoring agreement is no longer in force or that its terms are not being complied with;
- (c) a condition of registration of a metering and monitoring agreement has not been or is not being complied with; or
- (d) registration was given wholly or partly as a result of the provision of information which was incorrect in a material particular,

it may withhold all or part of the MM payments under that agreement.

(2) Within 21 days of a decision to withhold any MM payments under paragraph (1), the Authority must send a notice to the participant who is a party to that agreement specifying—

- (a) which of the grounds in paragraph (1)(a) to (d) apply and the reasons for the Authority's decision;
- (b) the amount of MM payments that will be withheld, to the extent this is known to the Authority;
- (c) the date from which the MM payments are being withheld;
- (d) the steps, if any, that the participant must take to satisfy the Authority that the MM payments should no longer be withheld;
- (e) the date by which any steps required under sub-paragraph (d) must be completed;
- (f) the consequences of the participant failing to take any steps required under sub-paragraph (d) by that date; and
- (g) details of the participant's right of review.

(3) Where the Authority is satisfied that—

- (a) the participant has taken the steps specified in paragraph (2)(d) within the time specified; and
- (b) the grounds specified in the notice under paragraph (2)(a) no longer apply,

it must resume payment of MM payments in accordance with these Regulations.

(4) The Authority may extend the time specified in paragraph (2)(e) where it is satisfied that it is reasonable to do so.

(5) If, within three months of receipt by the participant of a notice served under paragraph (2), the Authority is satisfied that—

- (a) the participant has taken the steps specified in that notice; and
- (b) the grounds specified in the notice no longer apply,

the Authority may pay, within 28 days of being so satisfied, all MM payments withheld under this regulation.”.