
STATUTORY INSTRUMENTS

2018 No. 635

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

PART 3

Amendments to the Renewable Heat Incentive Scheme Regulations 2018

Amendments to the Renewable Heat Incentive Scheme Regulations 2018

8. The Renewable Heat Incentive Scheme Regulations 2018(1) are amended in accordance with this Part.

Amendments to regulation 2 (interpretation)

9. In regulation 2(1)—

(a) in the definition of “commissioned”—

(i) after “in relation to an eligible installation”, insert “or equipment used to produce biomethane for injection”,

(ii) after “that type of eligible installation”, insert “or equipment used to produce biomethane for injection”, and

(iii) after “installed”, insert “, or producing biomethane for injection”,

(b) for the definition of “date of accreditation” substitute—

““date of accreditation” means in relation to an accredited RHI installation which is—

(a) not a replacement plant, the later of—

(i) the first day which falls on or after the date of receipt by the Authority of the application for accreditation on which, in the Authority’s opinion, both—

(aa) the application was properly made, and

(bb) the plant met the eligibility criteria; and

(ii) the day on which the plant was first commissioned; or

(b) a replacement plant, the date of accreditation of the original plant;”,

(c) after the definition of “large installation” insert—

““local and national laws” means laws applying in the locality in which the site is situated, whether made at a local or national level;”,

(d) after the definition of “original biomethane” insert—

““original plant” means an accredited RHI installation which is replaced by a replacement plant;”,

(e) after the definition of “relevant tariff” insert—

““replacement plant” means a plant which is installed in place of an original plant and uses the same source of energy and technology as the original plant;”.

Amendments to regulation 3 (renewable heat incentive scheme)

10.—(1) In regulation 3(5)(b)—

- (a) in paragraph (i) for “(7) or (8)” substitute “(7), (8), (8A) or (8B)”,
- (b) in paragraph (ii), at the end insert “, except where the heat is generated by an installation to which paragraph (8B) applies”,
- (c) in paragraph (iii), at the end insert “, except where the heat is generated by an installation to which paragraph (8B) applies”.

(2) After regulation 3(8) insert—

“(8A) This paragraph applies to a replacement plant where paragraph (7) or (8) applied to the original plant.

“(8B) This paragraph applies to a replacement plant where paragraph (6) did not apply to the original plant.”.

Amendments to regulation 4 (eligible installations)

11.—(1) In regulation 4(1)(b)—

- (a) at the end of paragraph (ii) omit “and”,
- (b) for paragraph (iii) substitute—
 - “(iii) regulation 17A; and
 - (iv) Chapter 3”.

(2) In regulation 4(2) for “and 20” substitute “, 20 and 55A(5)”.

Amendment to regulation 17 (planning permission)

12. In regulation 17, for “4(b)(ii)” substitute “4(1)(b)(ii)”.

New regulation 17A (environmental permits and declaration of compliance)

13. After regulation 17 insert—

“Environmental permits and declaration of compliance

17A. The requirements referred to in regulation 4(1)(b)(iii) are that, where an application for accreditation is made on or after 1st October 2018—

- (a) any necessary environmental permits are held in relation to the plant; and
- (b) a declaration is made that the plant complies, and will continue to comply, with all local and national laws including those relating to the protection of the environment.”.

Amendments to regulation 32 (producers of biomethane)

14. In regulation 32—

(a) after paragraph (4) insert—

“(4A) Where a producer of biomethane for injection makes an application for registration on or after 20th June 2018, the Authority must not register an applicant unless—

- (a) the applicant has specified the biogas production plant to be used for the purposes of its registration; and
- (b) the equipment used to produce biomethane has been commissioned.”,

(b) after paragraph (12) insert—

“(12A) Where an application for registration is made on or after 1st October 2018, the Authority must not register an applicant unless—

- (a) any necessary environmental permits have been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected; and
- (b) a declaration is made that the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected comply, and will continue to comply, with all local and national laws including those relating to the protection of the environment.”,

(c) after paragraph (13)(c) insert—

“(d) in the case of an application for registration made on or after 20th June 2018, may refuse to register an applicant where the Authority is satisfied that the biogas production plant specified in accordance with paragraph (4A)(a) has been used for the purposes of the registration of any other participant”.

Amendment to regulation 34 (preliminary registration of biomethane producers)

15. In regulation 34(9) after “32(4)” insert “, (4A),”.

Amendments to regulation 43 (ongoing obligations: general)

16. In regulation 43—

(a) after paragraph (x) insert—

“(xa) where regulation 32(12A) applied to their application for registration, participants must ensure that any necessary environmental permits and local and national laws including those relating to the protection of the environment continue to be complied with in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, and the biomethane is injected;”,

(b) after paragraph (y) insert—

“(z) they must notify the Authority within 28 days of the installation of a replacement plant; and

(z1) they must ensure that any necessary environmental permits, and local and national laws including those relating to the protection of the environment, continue to be complied with by the plant”.

Amendments to regulation 45 (ongoing obligations in relation to metering)

17. In regulation 45—

- (a) at the beginning of paragraph (4) insert “Subject to paragraph (4A),”,
- (b) after paragraph (4) insert—

“(4A) On or after 1st October 2018, estimated data may only be used in accordance with paragraph (4)—

- (a) in a maximum of eight quarterly periods in relation to each installation; and
- (b) where it would not lead to periodic support payments already made being revised.”

Amendment to regulation 52 (review of accreditation or registration following notification of a change in circumstances)

18. In regulation 52(1)(b) for “54 and 55” substitute “54, 55 and 55A”.

New regulation 55A (replacement plants)

19. After regulation 55 insert—

“Replacement plants

55A.—(1) Where a replacement plant is installed—

- (a) an accreditation application for that plant may be made by the owner of the replacement plant if that person is a participant in relation to the original plant; and
- (b) no periodic support payments are payable for the period commencing with the date on which the original plant ceased to provide heat and ending with the day before the date on which the Authority received the accreditation application for the replacement plant.

(2) Where a replacement plant has a greater capacity than the original plant, no periodic support payments may be made in respect of any capacity above that of the original plant.

(3) The tariff to be used for the purpose of calculating periodic support payments for a replacement plant is the tariff which would have applied to the original plant, had it not been replaced.

(4) Where a replacement plant has a lower capacity than the original plant and regulation 63 applies, initial heat (within the meaning given in regulation 63(3), (4) or (5)) is to be calculated using the installation capacity of the replacement plant.

(5) A replacement plant meets the criteria for being an eligible installation if it meets the eligibility criteria applicable as at the date of accreditation of the original plant except that, in the case of a replacement plant which is an installation generating heat from solid biomass, regulation 5 must apply to the replacement plant itself.”

Amendment to regulation 59 (calculation and payment of periodic support payments to participants)

20. In regulation 59(1), for “55” substitute “55A”.

Amendment to regulation 89 (reporting obligations)

21. At the beginning of regulation 89(1)(a)(ii), insert “except in the case of a replacement plant,”.

Amendments to Schedule 2 (information required for accreditation or registration)

22. In paragraph 1(2) of Schedule 2—

- (a) in paragraph (i), at the beginning insert “in the case of a plant which is not a replacement plant,”,
- (b) after paragraph (i) insert—
 - “(ia) in the case of a replacement plant, evidence that any equipment that did not form part of the original plant was new at the time of installation”,
- (c) in paragraph (j) after “eligible installation” insert “which is not a replacement plant”,
- (d) after paragraph (cc) insert—
 - “(dd) evidence which demonstrates to the satisfaction of the Authority that—
 - (i) any necessary environmental permit has been granted; or
 - (ii) an environmental permit is not required.”.”

Amendment to Schedule 4 (land criteria)

23. In paragraph 2 of Schedule 4, omit the definition of “local and national laws”.