
STATUTORY INSTRUMENTS

2021 No. 76

ENERGY

**The Domestic Renewable Heat Incentive
Scheme and Renewable Heat Incentive
Scheme (Amendment) Regulations 2021**

Made - - - - *at 2.00 p.m. on 25th
January 2021*
Laid before Parliament *at 4.30 p.m. on 25th
January 2021*
Coming into force in accordance with regulation 1

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

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.

In accordance with section 148A(1)(b) of the Government of Wales Act 2006(2), the Secretary of State has consulted the Welsh Ministers before making these Regulations.

PART 1

Introductory provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulations 2021.

(2) The following provisions come into force on 1st March 2021—

- (a) Part 1 (introductory provisions);
- (b) the following provisions in Part 3 (amendment of the Renewable Heat Incentive Scheme Regulations 2018)—

(1) 2008 c. 32. Section 100 is amended by section 51 of the Infrastructure Act 2015 (c. 7) and S.I. 2011/2195. Section 51 also amended section 105 of the Energy Act 2008 (parliamentary control of subordinate legislation) and inserted subsections (3A) to (3I) concerning provisions which require the affirmative resolution procedure. By virtue of section 105(3A) to (3I), these Regulations do not attract the affirmative procedure.

(2) 2006 c. 32. Section 148A was inserted by the Wales Act 2017 (c. 4), s. 55(1).

- (i) regulation 7 (amendment of the Renewable Heat Incentive Scheme Regulations 2018);
 - (ii) paragraphs (b) and (d) of regulation 8 (amendment of regulation 2);
 - (iii) regulation 9 (insertion of regulations 3A to 3D);
 - (iv) regulation 15 (amendment of regulation 33);
 - (v) regulation 16 (amendment of regulation 34);
 - (vi) regulation 27 (amendment of regulation 55A);
 - (vii) regulation 38 (insertion of Schedule 2A).
- (3) The following provisions in Part 3 (amendment of the Renewable Heat Incentive Scheme Regulations 2018) come into force on 1st April 2022—
- (a) Chapter 5 (amendment of Part 5);
 - (b) regulation 39 (insertion of Schedule 4A).
- (4) The following provisions come into force on 1st April 2021—
- (a) Part 2 (amendment of the Domestic Renewable Heat Incentive Scheme Regulations 2014);
 - (b) the remaining provisions of Part 3 (amendment of the Renewable Heat Incentive Scheme Regulations 2018).

PART 2

Amendment of the Domestic Renewable Heat Incentive Scheme Regulations 2014

Amendment of the Domestic Renewable Heat Incentive Scheme Regulations 2014

2. The Domestic Renewable Heat Incentive Scheme Regulations 2014⁽³⁾ are amended in accordance with this Part.

Amendment of regulation 2 (interpretation)

3. In regulation 2 (interpretation), for the definition of “code of practice” substitute—
- ““code of practice” means—
- (a) version N of the Home Insulation & Energy Systems Quality Assured Contractors Scheme Code of Practice published on 21st January 2021⁽⁴⁾; or
 - (b) version 6 of the Renewable Energy Consumer Code published on 28th October 2016⁽⁵⁾”.

Amendment of regulation 17 (accreditation applications)

4. In regulation 17 (accreditation applications)—
- (a) in paragraph (4), for “paragraph (6)” substitute “paragraphs (6) and (7)”;
 - (b) in paragraph (6), for “An” substitute “Subject to paragraph (7), an”;
 - (c) after paragraph (6) insert—

(3) S.I. 2014/928, amended by S.I. 2015/143, 2016/257, 2018/610, 2019/1052 and 2020/650. There are other amending instruments but none is relevant.

(4) Available on the Home Insulation and Energy Systems website (<https://www.hiesscheme.org.uk/wp-content/uploads/2021/01/HIES-Code-of-Practice-Version-N-1.pdf>).

(5) Available on the Renewable Energy Consumer Code website (<https://www.recc.org.uk/scheme/consumer-code>).

“(7) Where the first commissioning date for a plant is on or after 1st March 2019, an accreditation application must be received by the Authority before midnight at the end of 31st March 2022.”.

Amendment of regulation 22 (rejection of accreditation applications)

5. In regulation 22 (rejection of accreditation applications), at the end insert—

“(4) Where paragraph (5) applies—

- (a) the applicant may make a further accreditation application in relation to the plant mentioned in paragraph (5); and
- (b) the accreditation application must be received by the Authority before midnight at the end of 31st March 2022.

(5) This paragraph applies where—

- (a) the first commissioning date for a plant is on or after 1st March 2019; and
- (b) before 1st April 2021, the Authority rejected an accreditation application in relation to that plant on the basis that the application was not received within 12 months of the first commissioning date for the plant.”.

Amendment of Schedule 6 (expenditure for individual technologies)

6.—(1) Schedule 6 (expenditure for individual technologies) is amended as follows.

(2) In Part 1 (biomass plants), for Table 1 substitute—

“Table 1

<i>Assessment date</i>	<i>Expenditure threshold</i>	<i>Growth threshold</i>	<i>Super expenditure threshold</i>	<i>Super growth threshold</i>
31st January 2021	£45.68m	£0.77m	£50.67m	£1.05m
30th April 2021	£39.34m	£0.77m	£44.61m	£1.05m
31st July 2021	£31.87m	£0.77m	£37.42m	£1.05m
31st October 2021	£24.58m	£0.77m	£30.41m	£1.05m
Any date after 30th January 2022	£20.22m	£0.77m	£26.33m	£1.05m”

(3) In Part 2 (air source heat pumps), for Table 2 substitute—

“Table 2

<i>Assessment date</i>	<i>Expenditure threshold</i>	<i>Growth threshold</i>	<i>Super expenditure threshold</i>	<i>Super growth threshold</i>
31st January 2021	£57.49m	£3.50m	£77.59m	£5.00m
30th April 2021	£60.37m	£3.50m	£81.97m	£5.00m

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Assessment date</i>	<i>Expenditure threshold</i>	<i>Growth threshold</i>	<i>Super expenditure threshold</i>	<i>Super growth threshold</i>
31st July 2021	£62.99m	£3.50m	£86.09m	£5.00m
31st October 2021	£65.41m	£3.50m	£90.01m	£5.00m
Any date after 30th January 2022	£67.71m	£3.50m	£93.81m	£5.00m”

(4) In Part 3 (ground source heat pumps), for Table 3 substitute—

“Table 3

<i>Assessment date</i>	<i>Expenditure threshold</i>	<i>Growth threshold</i>	<i>Super expenditure threshold</i>	<i>Super growth threshold</i>
31st January 2021	£40.94m	£1.68m	£56.67m	£2.55m
30th April 2021	£41.94m	£1.68m	£58.54m	£2.55m
31st July 2021	£42.70m	£1.68m	£60.17m	£2.55m
31st October 2021	£43.20m	£1.68m	£61.54m	£2.55m
Any date after 30th January 2022	£43.49m	£1.68m	£62.70m	£2.55m”

(5) In Part 4 (solar thermal plants), for Table 4 substitute—

“Table 4

<i>Assessment date</i>	<i>Expenditure threshold</i>	<i>Growth threshold</i>	<i>Super expenditure threshold</i>	<i>Super growth threshold</i>
31st January 2021	£1.86m	£0.07m	£2.79m	£0.12m
30th April 2021	£1.82m	£0.07m	£2.80m	£0.12m
31st July 2021	£1.78m	£0.07m	£2.81m	£0.12m
31st October 2021	£1.75m	£0.07m	£2.83m	£0.12m
Any date after 30th January 2022	£1.74m	£0.07m	£2.87m	£0.12m”

PART 3

Amendment of the Renewable Heat Incentive Scheme Regulations 2018

Amendment of the Renewable Heat Incentive Scheme Regulations 2018

7. The Renewable Heat Incentive Scheme Regulations 2018(6) are amended in accordance with this Part.

CHAPTER 1

Amendment of Part 1

Amendment of regulation 2 (interpretation)

8. In regulation 2 (interpretation), in paragraph (1)—
- (a) for the definition of “eligible purpose” substitute—
 - ““eligible purpose”—
 - (a) where the installation capacity of an accredited RHI installation is modified under regulation 52A by the addition of one or more ground source heat pumps, in relation to that additional ground source heat pump or pumps, means either of the following purposes—
 - (i) heating a space;
 - (ii) heating water;
 - (b) otherwise, means a purpose specified in regulation 3(2);”;
 - (b) after the definition of “EPC” insert—
 - ““extension application” has the meaning given in regulation 3B(3);”;
 - (c) in the definition of “participant”, in paragraph (b), for “who has been registered under regulation 32” substitute “whose name appears on the central register referred to in regulation 32(10)(b)”;
 - (d) after the definition of “the Scheme” insert—
 - ““Scheme closure” has the meaning given in regulation 3A(1);”.

CHAPTER 2

Amendment of Part 2

Insertion of regulations 3A to 3C

9. After regulation 3 (renewable heat incentive scheme) insert—

“Closure of the Scheme to applications

- 3A.—(1) Subject to this regulation—
- (a) the Scheme is closed to applications from midnight at the end of 31st March 2021 (“Scheme closure”); and
 - (b) the Authority must not grant an application where it would result in a tariff start date that falls on or after 1st April 2021.

(2) An applicant under regulation 3B who is granted an extension of time under that regulation may make an application for accreditation under regulation 30 on or before 31st March 2022.

(3) Paragraph (4) applies where, on or after 20th July 2020—

- (a) the Authority issues a notice under regulation 35(7) or re-issues such a notice under regulation 35(7A) or (8A); and
- (b) the notice states a date which falls after Scheme closure as the date by which, for the purposes of the tariff guarantee, the plant must be commissioned or injection of biomethane must commence.

(4) The applicant to whom the notice was issued may, on or before 31st March 2022—

- (a) make an application for accreditation under regulation 30 in respect of the plant to which the tariff guarantee relates; or
- (b) make an application for registration under regulation 32 in respect of the production of biomethane to which the tariff guarantee relates.

(5) The Authority must not grant an application for accreditation or registration mentioned in paragraph (2) or (4) where it would result in a tariff start date that falls on or after 1st April 2022.

(6) In paragraph (1), “application” means—

- (a) an application for accreditation under regulation 30 (including an application for additional RHI capacity but not including an accreditation application under regulation 55A(1));
- (b) an application for registration under regulation 32;
- (c) an application for preliminary accreditation under regulation 33;
- (d) an application for preliminary registration under regulation 34;
- (e) an application for a tariff guarantee under regulation 35;
- (f) an application under regulation 77(1) to be registered in respect of additional biomethane.

Extension applications

3B.—(1) This regulation applies where—

- (a) a person (“the owner”) has invested significant capital or significant human or material resource in the development of a plant on or before 17th August 2020 (as evidenced by documents provided in accordance with Schedule 2A) with the intention of applying for the plant to be accredited; and
- (b) the plant is not expected to be commissioned before Scheme closure.

(2) The owner may apply for an extension of time in which to make an application for accreditation under regulation 30.

(3) An application for extension of time under paragraph (2) (“extension application”) must be made—

- (a) on or after 1st March 2021; and
- (b) before Scheme closure.

(4) An extension application must be—

- (a) in writing in such form as the Authority requires; and

- (b) supported by sufficient evidence specified in Schedule 2A to satisfy the Authority that significant capital or significant human or material resource was invested in project development on or before 17th August 2020.
- (5) An applicant may not—
 - (a) amend an extension application; or
 - (b) make a further extension application in relation to the same plant, without first withdrawing the original application.
- (6) The Authority may grant the applicant an extension of time if satisfied that—
 - (a) the extension application is properly made; and
 - (b) the applicant has provided the evidence mentioned in paragraph (4).
- (7) The Authority may, in granting an extension application, attach such conditions as it considers to be appropriate.
- (8) Where the Authority does not grant an extension application, it must notify the applicant in writing that the extension application has been rejected, giving reasons.
- (9) For the purpose of paragraph (6)(a), an extension application is properly made if it contains the following information—
 - (a) the plant’s proposed source of energy and technology;
 - (b) the date on which the applicant expects the plant to be commissioned;
 - (c) the total heat which the applicant expects the plant to generate each year for eligible purposes;
 - (d) the expected installation capacity of the plant;
 - (e) the proposed location of the plant;
 - (f) evidence as to the proposed heat use;
 - (g) the applicant’s name and address;
 - (h) a declaration that the plant will be owned by the applicant, or jointly owned by the applicant and one or more other persons;
 - (i) such further information specified in Schedule 2 as the Authority may require.
- (10) This regulation does not apply in respect of a plant which, when commissioned, will—
 - (a) generate heat from solid biomass or solid biomass contained in waste with an installation capacity of 1MWth or above;
 - (b) be a new solid biomass CHP system;
 - (c) generate heat using geothermal sources;
 - (d) generate heat from biogas with an installation capacity of 600kWth or above;
 - (e) be a ground source heat pump with an installation capacity of 100kWth or above;
 - (f) be a shared ground loop system with an installation capacity of 100kWth or above.
- (11) In this regulation, “plant” does not include a plant which is additional RHI capacity.

Budget allocation for extension applications

- 3C.—**(1) The Secretary of State—
- (a) must determine and publish the budget allocation for extension applications (the “budget allocation”) for the 2022/2023 financial year;
 - (b) may review the budget allocation for that financial year;

- (c) may, as a result of such a review, increase the budget allocation;
 - (d) may determine and publish that part of the budget allocation which will be allocated to a particular technology or group of technologies.
- (2) For the purpose of determining the budget allocation for the 2022/2023 financial year, the Secretary of State must publish—
- (a) an estimate of inflation for that financial year; and
 - (b) load factors applicable for each relevant technology.
- (3) The Authority must consider extension applications in the order in which it receives them, and must not grant an extension application where the estimated total extension application commitment for the 2022/2023 financial year would exceed the budget allocation for that year if the extension application were granted.
- (4) Following an increase in budget allocation pursuant to paragraph (1)(c), or any decrease in the estimated total extension application commitment resulting from the withdrawal or rejection of an extension application, the Authority must proceed to consider outstanding applications in the order in which they were received.
- (5) In this regulation—
- “estimated annual payment”, for an extension application, means—

$C \times LF \times H \times T \times I$

where—

- (i) C is the expected installation capacity of a plant to which regulation 3B applies;
 - (ii) LF is the heat load factor for the plant’s technology, published by the Secretary of State under paragraph (2);
 - (iii) H is the number of hours in the 2022/2023 financial year;
 - (iv) T is the tariff which will apply if the plant becomes accredited under regulation 30; and
 - (v) I is the estimate of inflation for the 2022/2023 financial year, published by the Secretary of State under paragraph (2);
- “estimated total extension application commitment”, in relation to the 2022/2023 financial year, means the sum of the estimated annual payments for every extension application which has not been withdrawn by the applicant or rejected by the Authority;
- “the 2022/2023 financial year” means the 12 month period commencing on 1st April 2022 and ending with 31st March 2023.”.

Omission of regulations 21 and 22

10. Omit the following—

- (a) regulation 21 (metering of plants in simple systems where application for accreditation of the plant was made before 24th September 2013);
- (b) regulation 22 (metering of plants in complex systems where application for accreditation of the plant was made before 24th September 2013).

Amendment of regulation 23 (metering in respect of applications for accreditation made on or after 24th September 2013)

11. In regulation 23 (metering in respect of applications for accreditation made on or after 24th September 2013)—

- (a) in the heading, omit the words after “metering”;
- (b) in paragraph (1), omit “on or after 24th September 2013”.

CHAPTER 3

Amendment of Part 3

Amendment of regulation 30 (applications for accreditation)

12. In regulation 30 (applications for accreditation)—

(a) after paragraph (6) insert—

“(6A) The Authority may reject an application for accreditation if the Authority considers that—

- (a) the plant is materially different from the plant which was proposed in an extension application under regulation 3B;
- (b) there has been a material change in circumstances such that, had the extension application been made after the change, it would have been rejected;
- (c) the information on which the decision to grant the extension application was based was incorrect in a material particular;
- (d) the applicant failed to comply with any condition imposed under regulation 3B(7).

(6B) For the purpose of paragraph (6A)(a)—

- (a) the Authority may take into account such matters as are, in the Authority’s opinion, relevant, including—
 - (i) the location of the plant;
 - (ii) the installation capacity of the plant; and
 - (iii) the source of energy and technology or design of the plant;
- (b) a plant is materially different in a case where—
 - (i) the installation capacity is at least 10% greater or smaller than the installation capacity proposed in an extension application under regulation 3B; or
 - (ii) the installation capacity is such that a different tariff would apply.”;
- (b) in paragraph (9), after “regulations” insert “3A,”;
- (c) after paragraph (9) insert—

“(9A) Where a plant is accredited after Scheme closure following an extension application under regulation 3B, the tariff applicable at the tariff start date is the initial tariff which would have applied in accordance with regulation 60 had the tariff start date been the date on which the properly made extension application (within the meaning of regulation 3B(9)) was received by the Authority.”.

Amendment of regulation 32 (producers of biomethane)

13. In regulation 32 (producers of biomethane), in paragraph (10)—

- (a) after “regulations” insert “3A,”;
- (b) in subparagraph (e), for “such” substitute “the tariff end date and such other”.

Insertion of regulation 32A

14. After regulation 32 (producers of biomethane) insert—

“Interaction with the Renewable Transport Fuel Obligation

32A.—(1) This regulation applies in relation to a participant who is a producer of biomethane for injection.

(2) No periodic support payments may be made to the participant in respect of any proportion of biomethane injected in a quarterly period where an RTF certificate has been issued under the Renewable Transport Fuel Obligations Order 2007⁽⁷⁾ in respect of that proportion of biomethane.

(3) In this regulation, “RTF certificate” has the meaning given in section 127 of the Energy Act 2004⁽⁸⁾.”.

Amendment of regulation 33 (preliminary accreditation)

15. In regulation 33 (preliminary accreditation), in paragraph (9), after “Part” insert “before Scheme closure”.

Amendment of regulation 34 (preliminary registration of biomethane producers)

16. In regulation 34 (preliminary registration of biomethane producers), in paragraph (9), after “Part” insert “before Scheme closure”.

CHAPTER 4

Amendment of Part 4

Insertion of regulation 40A

17. After regulation 40 (biogas produced from gasification or pyrolysis) insert—

“Biogas produced from feedstock derived from fossil fuel

40A.—(1) This regulation applies to—

- (a) a participant producing biogas from anaerobic digestion in an accredited RHI installation; or
- (b) a participant producing biomethane for injection from biogas made from anaerobic digestion.

(2) The participant may use feedstock derived from fossil fuel only where the contribution of that fossil fuel to the energy content of the biogas does not exceed 10%.

(3) For the purposes of paragraph (2)—

- (a) the percentage of the energy content of biogas from the fossil fuel component of the feedstock is to be determined by the Authority for every quarterly period;

(7) [S.I. 2007/3072](#), amended by [S.I. 2011/534](#), [2011/2937](#), [2018/374](#) and [2020/1541](#). There are other amending instruments but none is relevant.

(8) 2004, c. 20.

- (b) it is for the participant to provide, in such form as the Authority may require, evidence to demonstrate to the Authority's satisfaction the percentage of the energy content of biogas from feedstock derived from fossil fuel; and
- (c) the percentage of the energy content of biogas from feedstock derived from fossil fuel is the energy content of the fossil fuel expressed as a percentage of the energy content of the biogas used in that quarterly period to generate heat or produce biomethane.

(4) Without prejudice to paragraph (3)(b), in determining the percentage of the energy content of biogas from feedstock derived from fossil fuel, the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates the contribution of feedstock derived from fossil fuel to the energy content of the biogas.

(5) Where the Authority so requests, the participant must arrange for samples of the fuel used (or to be used) in the accredited RHI installation or in the production of biomethane, or of any gas or other substance produced as the result of the use of such fuel, to be taken by a person (and analysed in a manner) specified by the Authority, and for the results of that analysis to be made available to the Authority in such form as the Authority may require.”.

Amendment of regulation 41 (participants generating heat from biogas)

18. In regulation 41 (participants generating heat from biogas) —

- (a) in paragraph (3), after “fuel” insert “(not being feedstock derived from fossil fuel)”; and
- (b) after paragraph (3) insert—

“(4) The participant may use feedstock derived from fossil fuel in the accredited RHI installation only in accordance with regulation 40A.”.

CHAPTER 5

Amendment of Part 5

Amendment of regulation 47 (interpretation)

19. In regulation 47 (interpretation)—

- (a) before the definition of “greenhouse gas criteria” insert—

““fuel quality criteria” means the criteria for woodfuel quality specified in Schedule 4A in relation to solid biomass which is wood;”;
- (b) in the definition of “sustainable solid biomass”, in paragraph (a), for “and the land criteria” substitute “, the land criteria and the fuel quality criteria”.

Amendment of regulation 49 (ongoing obligation to provide information to the Authority in relation to the use of sustainable solid biomass etc)

20. In regulation 49 (ongoing obligation to provide information to the Authority in relation to the use of sustainable solid biomass etc)—

- (a) in paragraph (4)(d) omit “or”;
- (b) after paragraph (4)(d) insert—

“(da) on or after 1st April 2022, solid biomass used met the fuel quality criteria; or”.

Amendment of regulation 51 (schemes for listing approved sustainable fuels)

- 21.** In regulation 51 (schemes for listing approved sustainable fuels), in paragraph (3)—
- (a) in sub-paragraph (b), for “criteria.” substitute “criteria;”;
 - (b) after sub-paragraph (b) insert—
 - “(c) that any fuel which is included in the list on or after 1st April 2022 meets the fuel quality criteria.”.

CHAPTER 6

Amendment of Part 6

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

- 22.** In regulation 52 (review of accreditation or registration following notification of a change in circumstances), in paragraph (1)(b), for “54,” substitute “52A, 54, 54A,”.

Insertion of regulations 52A and 52B

- 23.** After regulation 52 (review of accreditation or registration following notification of a change in circumstances) insert—

“Modification of installation capacity — shared ground loop systems

52A.—(1) This regulation applies to an accredited RHI installation which is a ground source heat pump or a shared ground loop system.

(2) The participant must notify the Authority on or before 31st March 2023 of any plan to modify the installation capacity of the accredited RHI installation by adding one or more ground source heat pumps in the circumstances set out in paragraph (3) (“plan to modify capacity”).

(3) The circumstances are—

- (a) any ground source heat pump to be added to the accredited RHI installation as part of the modification (“additional ground source heat pump”)—
 - (i) will be commissioned as part of a shared ground loop system; and
 - (ii) will meet the eligibility criteria set out in regulation 11; and
- (b) after the commissioning of any additional ground source heat pump, there will be an increase in the amount of heat in kWh generated by the accredited RHI installation for eligible purposes.

(4) A notification under paragraph (2) must be made in writing to the Authority and must—

- (a) provide details of the plan to modify capacity, including—
 - (i) whether the participant plans to modify the installation capacity under this regulation once only, or twice;
 - (ii) the total intended installation capacity of the accredited RHI installation following the modification or modifications detailed in the plan (“total intended installation capacity”);
 - (iii) the date on which the participant expects each additional ground source heat pump to be commissioned (“expected commissioning date”); and

- (iv) the amount of heat in kWhth which the participant expects each additional ground source heat pump to generate each year for eligible purposes; and
- (b) be supported by—
 - (i) details of the process by which the participant proposes to modify the installation capacity of the accredited RHI installation;
 - (ii) such of the information specified in Schedule 2 as the Authority may require;
 - (iii) a declaration that the information provided by the participant is accurate to the best of the participant’s knowledge and belief; and
 - (iv) a declaration that the participant will be the owner, or one of the owners, of each additional ground source heat pump.
- (5) On receipt of a notification under paragraph (2), the Authority may request the participant to provide within a period of no less than four weeks starting with the date of the request—
 - (a) further information specified in Schedule 2;
 - (b) evidence of any heat loss calculation used in determining the increase in the amount of heat in kWhth to be generated by the accredited RHI installation for eligible purposes;
 - (c) evidence to demonstrate to the Authority’s satisfaction that the shared ground loop system is an appropriate size for the total intended installation capacity.
- (6) On reviewing a plan to modify capacity, the Authority must send the participant a written notice—
 - (a) approving or rejecting the plan;
 - (b) if the plan is rejected, giving reasons; and
 - (c) if the plan is approved, specifying—
 - (i) that the Authority is satisfied as to the matters mentioned in paragraph (7); and
 - (ii) the tariff which will apply to the accredited RHI installation in relation to the total intended installation capacity.
- (7) The Authority must not approve a plan to modify capacity unless satisfied that—
 - (a) the circumstances in paragraph (3) apply;
 - (b) the evidence and information required by paragraphs (4) and (5) have been provided;
 - (c) the accredited RHI installation will continue to meet the eligibility criteria and should accordingly continue to be accredited;
 - (d) regulation 52B(4) does not apply;
 - (e) where regulation 53(1)(a) or (b) applies, the metering requirements in regulation 24 will be met;
 - (f) the notification under paragraph (2) was made on or before 31st March 2023.
- (8) A participant must notify the Authority within 28 days after modifying the installation capacity of an accredited RHI installation in accordance with a plan approved under this regulation.

(9) A participant may not modify the installation capacity of an accredited RHI installation under this regulation more than twice during the tariff lifetime for that installation.

(10) A notification under paragraph (8) in relation to a modification must contain—

- (a) the commissioning date or expected commissioning date for each ground source heat pump added as part of the modification;
- (b) the installation capacity of the accredited RHI installation following the modification (“new installation capacity”);
- (c) evidence that the new installation capacity does not exceed the total intended installation capacity; and
- (d) evidence of any heat loss calculation used in determining the increase in the amount of heat in kWhth generated by the accredited RHI installation for eligible purposes.

(11) On receipt of a notification under paragraph (8), the Authority may request the participant to provide, within a period of no less than four weeks starting with the date of the request, additional information in order to be satisfied as to the matters specified in paragraph (12)(a) to (c).

(12) Paragraphs (13) and (14) apply if the Authority is satisfied that, following a modification—

- (a) the accredited RHI installation continues to meet the eligibility criteria;
- (b) the new installation capacity does not exceed the total intended installation capacity; and
- (c) there has not been a material change in circumstances such that, had the plan to modify capacity been notified under paragraph (2) after the change, it would have been rejected.

(13) The Authority must update the central register referred to in regulation 30(9)(c) if appropriate.

(14) Periodic support payments taking account of the amount of heat in kWhth generated for eligible purposes by the ground source heat pump or pumps added as part of the modification, calculated from the date in paragraph (15), are payable in accordance with these Regulations.

(15) The date is the commissioning date for the last ground source heat pump added as part of the modification.

(16) The tariff which will apply to the accredited RHI installation from the first quarterly period following the date in paragraph (15) is—

- (a) if as a result of the modification there is no change in the tariff category (as defined in regulation 56), the relevant tariff set out in Schedule 6 determined as at the tariff start date for that installation;
- (b) if as a result of the modification there is a change in the tariff category, the relevant tariff set out in Schedule 6.

(17) In calculating the initial tariff or subsequent tariff, “initial heat” in regulation 63(6) must be determined taking into account the installed peak heat output capacity of the ground source heat pump or pumps added as part of the modification.

(18) The addition of any ground source heat pump or pumps to an accredited RHI installation in accordance with a plan approved under this regulation does not alter the tariff end date or the tariff lifetime for that installation.

Budget allocation for modification of installation capacity — shared ground loop systems

52B.—(1) The Secretary of State may—

- (a) determine and publish a budget allocation for modifying installation capacity under regulation 52A (“budget allocation”) for any of the financial years 2021/2022, 2022/2023 and 2023/2024;
- (b) review the budget allocation for a current or future financial year; and
- (c) as a result of such a review, increase the budget allocation for that year.

(2) For the purpose of determining the budget allocation for a financial year, the Secretary of State must publish—

- (a) an estimate of inflation for the financial year; and
- (b) load factors applicable for each relevant technology.

(3) The Authority must consider plans to modify capacity in the order in which it receives notification of them under regulation 52A(2).

(4) Where the Secretary of State publishes a budget allocation for a financial year, the Authority must not approve a plan to modify capacity where the estimated total modified capacity commitment for a financial year would exceed the budget allocation for that year if the plan were approved.

(5) Following an increase in budget allocation pursuant to paragraph (1)(c), or any decrease in the estimated total modified capacity commitment resulting from the withdrawal or rejection of a plan to modify capacity, the Authority must proceed to consider outstanding plans in the order in which it receives notification of them under regulation 52A(2).

(6) In this regulation—

“estimated annual payment”, in relation to a plan to modify the installation capacity of a plant under regulation 52A, means—

$C \times LF \times H \times T \times I$

where—

- (i) C is the expected installation capacity of the plant following the modification;
- (ii) LF is the heat load factor for the plant’s technology, published by the Secretary of State under paragraph (2);
- (iii) H is the number of hours in a financial year;
- (iv) T is the tariff which will apply under regulation 52A(16); and
- (v) I is the estimate of inflation for a financial year, published by the Secretary of State under paragraph (2);

“estimated total modified capacity commitment”, in relation to a financial year, means the sum of the estimated annual payments for every plan to modify capacity which has not been withdrawn by the applicant or rejected by the Authority;

“financial year” means a 12 month period commencing on 1st April and ending with the following 31st March;

“plan to modify capacity” has the meaning given in regulation 52A(2).”.

Amendment of regulation 54 (changes in ownership)

24. In regulation 54 (changes in ownership), in the heading, after “ownership” insert “of accredited RHI installations”.

Insertion of regulation 54A

25. After regulation 54 (changes in ownership) insert—

“Change of producer of biomethane for injection

54A.—(1) This regulation applies where—

- (a) a person begins to use equipment to produce biomethane for injection (“new producer”); and
- (b) a registered producer of biomethane for injection (“the original producer”) is receiving periodic support payments for the production of biomethane for injection using that same equipment.

(2) No periodic support payment may be made to the new producer until—

- (a) the new producer has notified the Authority of the change;
- (b) the steps required by paragraph (4) have been completed; and
- (c) periodic payments to the original producer for the production of biomethane for injection using the same equipment have stopped.

(3) On receipt of a notification under paragraph (2)(a), the Authority may require the new producer to provide information which the Authority considers necessary for the proper administration of the Scheme.

(4) If the Authority is satisfied that the ongoing obligations will continue to be complied with by the new producer and that the eligibility criteria will continue to be met, the Authority must (subject to regulations 31 and 81(4))—

- (a) update the central register referred to in regulation 32(10)(b) by substituting the name of the new producer; and
- (b) send the new producer a statement of eligibility including the following information—
 - (i) the date of registration of the original producer;
 - (ii) the date on which the new producer is added to the register;
 - (iii) the tariff which applies;
 - (iv) the process and timing for providing meter readings, if applicable;
 - (v) details of the frequency and timetable for periodic support payments; and
 - (vi) the tariff lifetime and tariff end date.

(5) The Authority may refuse to register a new producer where it considers that one or more of the applicable ongoing obligations will not be complied with.

(6) The new registered producer must be paid periodic support payments (calculated from the date of receipt of a notification under paragraph (2)(a) until the tariff end date in accordance with these Regulations) if injection of biomethane produced by the new registered producer has commenced.

(7) This paragraph applies where, within the period of 12 months beginning with a change of producer, the Authority becomes aware that a new producer is using equipment to produce biomethane for injection and a registered producer of biomethane for injection

is receiving periodic support payments for the production of biomethane for injection using that same equipment, and—

- (a) no notification is made under paragraph (2)(a); or
- (b) any information required under paragraph (3) is not provided to the Authority.

(8) If paragraph (7) applies, at the end of the period of 12 months specified in that paragraph—

- (a) the original producer will cease to be registered; and
- (b) no further periodic support payments may be made in respect of any biomethane produced using that equipment.

(9) The period specified in paragraph (7) may be extended by the Authority where the Authority considers it is just and equitable to do so.”.

Amendment of regulation 55A (replacement plants)

26. In regulation 55A (replacement plants), after paragraph (1) insert—

“(1A) An accreditation application under paragraph (1) may be made after Scheme closure.”.

CHAPTER 7

Amendment of Part 7

Omission of regulations 64 and 65

27. Omit the following—

- (a) regulation 64 (periodic support payments for accredited RHI installations in simple systems in respect of which an application for accreditation was made before 24th September 2013);
- (b) regulation 65 (periodic support payments accredited RHI installations for complex systems in respect of which an application for accreditation was made before 24th September 2013).

Amendment of regulation 66 (periodic support payments for accredited RHI installations in respect of which an application for accreditation is made on or after 24th September 2013)

28. In regulation 66 (periodic support payments for accredited RHI installations in respect of which an application for accreditation is made on or after 24th September 2013)—

- (a) in the heading, omit the words after “installations”;
- (b) in paragraph (1), omit the words after “installation”;
- (c) in paragraph (2) after “72” insert “, 72A”.

Amendment of regulation 70 (periodic support payments for shared ground loop systems)

29. In regulation 70 (periodic support payments for shared ground loop systems), in paragraph (6), in the definition of “applicable period”, in paragraph (a), before sub-paragraph (i) insert—

“(ai) the date on which the installation capacity of a shared ground loop system is modified under regulation 52A;”.

Amendment of regulation 71 (fossil fuel contamination of solid biomass and fossil fuel used for permitted ancillary purposes)

30. In regulation 71 (fossil fuel contamination of solid biomass and fossil fuel used for permitted ancillary purposes), in paragraphs (2) and (3) omit “64 to”.

Amendment of regulation 72 (fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis)

31. In regulation 72 (fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis), in paragraph (2) omit “64 to”.

Insertion of regulation 72A

32. After regulation 72 (fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis) insert—

“Adjustment to periodic support payments for use of feedstock derived from fossil fuel in the production of biogas by anaerobic digestion and the production of biomethane

72A.—(1) This regulation applies to—

- (a) a participant producing biogas from anaerobic digestion in an accredited RHI installation; or
- (b) a participant producing biomethane for injection from biogas made from anaerobic digestion.

(2) Where, in accordance with regulation 40A, a participant uses feedstock derived from fossil fuel, the periodic support payment calculated in accordance with regulation 66 or 73 must be reduced pro rata to reflect the percentage of the energy content of biogas from the fossil fuel component of the feedstock used by the participant in the relevant quarterly period.”.

Amendment of regulation 73 (periodic support payments to producers of biomethane)

33. In regulation 73 (periodic support payments to producers of biomethane)—

- (a) in paragraph (1), after “31(2)” insert “, 32A”;
- (b) in paragraph (2)—
 - (i) in the definition of “eligible biomethane”, after “all biomethane” insert “or the notified proportion of biomethane”;
 - (ii) in the formula for determining eligible biomethane, in paragraph (a)(i), for “of all biomethane in kWh” substitute “(in kWh) of all biomethane or the notified proportion of biomethane”;
- (c) after paragraph (2) insert—

“(2A) In paragraph (2), “notified proportion of biomethane” means the proportion of biomethane which the participant specifies in a notice to the Authority as the proportion of the total amount of biomethane (in kWh) injected in a quarterly period which is to be taken into account when determining the amount of eligible biomethane for that quarterly period.

(2B) The notified proportion of biomethane must be taken into account in determining values C to G in the formula in paragraph (2).

(2C) A participant must notify the Authority of the total amount of biomethane (in kWh) injected in a quarterly period.”.

Amendment of regulation 77 (additional capacity for biomethane production)

34. In regulation 77 (additional capacity for biomethane production), in paragraph (4), for “32(10)(d)” substitute “32(10)(e)”.

CHAPTER 8

Amendment of Part 10

Amendment of regulation 86 (right of review)

35. In regulation 86 (right of review), at the end insert—

“(7) Paragraph (8) applies where—

- (a) the Authority rejects an application for accreditation or registration; and
- (b) on a review under this regulation, the Authority revokes its decision to reject the application.

(8) Subject to regulation 3A(5), the tariff start date is the date that would have been the tariff start date had the Authority not rejected the application.”.

Amendment of regulation 89 (reporting obligations)

36. In regulation 89 (reporting obligations)—

- (a) in paragraph (3), omit “quarterly and”;
- (b) omit paragraph (5);
- (c) in paragraph (6)(a), omit “quarterly and”.

CHAPTER 9

Amendment of Schedules

Amendment of Schedule 2 (information required for accreditation or registration)

37. In Schedule 2 (information required for accreditation or registration)—

- (a) in the heading, after “for” insert “modification of installation capacity, extension applications,”;
- (b) in the Schedule reference—
 - (i) after “Regulations” insert “3B”;
 - (ii) after “34” insert “, 52A”;
- (c) in paragraph 1(2)(z)(v)(bb), omit “22 or”.

Insertion of Schedule 2A

38. After Schedule 2 (information required for accreditation or registration)—

“Schedule 2A

Regulation 3B

Evidence to support extension application

Evidence requirements

1.—(1) This Schedule specifies the evidence that an applicant must provide to the Authority to support an extension application.

(2) One item of primary evidence will be considered sufficient evidence to satisfy the Authority that significant capital or significant human or material resource has been invested in project development.

(3) Where primary evidence cannot be provided to support an extension application, the following secondary evidence will be considered sufficient—

- (a) two items of Category A evidence; or
- (b) one item of Category A evidence and one item of Category B evidence.

(4) Two items of Category B evidence will not be considered sufficient.

(5) All evidence must be dated on or before 17th August 2020.

(6) Evidence which must be both signed and dated must be signed and dated on or before 17th August 2020.

Primary evidence

2. For the purposes of paragraph 1(2), the items of primary evidence are—

- (a) signed and dated contract held between two parties for the construction of the plant;
- (b) dated evidence of funding secured for the plant, such as a signed loan, funding agreement or similar;
- (c) dated evidence that signed heat supply agreements are in place with heat consumers on a heat network;
- (d) signed and dated fuel supply contract for the plant;
- (e) dated acceptance of an offer to connect with the local network operator;
- (f) dated invoices for construction works relating to the plant;
- (g) dated invoices for the purchase and installation of equipment relating to the plant;
- (h) dated invoices for the commissioning of pre-build development work relating to the plant;
- (i) dated grant of, or application for, planning permission from the relevant planning authority;
- (j) dated evidence from the relevant planning authority that planning permission is not required.

Secondary evidence (Category A)

3. For the purposes of paragraph 1(3)(a), the items of Category A evidence are—

- (a) dated correspondence to the relevant planning authority seeking confirmation that the plant does not require planning permission;
- (b) a dated enquiry to the local network operator about the grid connection of the plant;
- (c) detailed, dated evidence (which can be from within the applicant’s organisation) that the applicant has allocated funding for the development of the plant;

- (d) dated evidence that an estimated cost of works has been provided to the applicant.

Secondary evidence (Category B)

- 4. For the purposes of paragraph 1(3)(b), the items of Category B evidence are—
 - (a) dated feasibility studies;
 - (b) detailed, dated architectural drawings of the site showing the location of the plant;
 - (c) detailed dated system schematics or technical drawings of the plant;
 - (d) dated evidence of a room-by-room heat loss assessment;
 - (e) dated evidence of intended heat use.

Estimated cost of works

5.—(1) For the purpose of paragraph 3(d), an estimated cost of works must contain the information required by this paragraph.

(2) The information does not need to be contained in a single document but may be contained in multiple documents.

- (3) An estimated cost of works must contain—
 - (a) the legal identity and address of the person providing the estimated cost of works;
 - (b) the project name; and
 - (c) the proposed location of the plant.

(4) In addition, an estimated cost of works must contain at least 7 of the following pieces of information—

- (a) the source of energy, technology and proposed installation capacity (in kWth) of the plant;
- (b) key contract terms;
- (c) itemised list of goods to be supplied and itemised list of costs for these goods;
- (d) itemised list of services (including survey, design and installation) and itemised list of costs for these services;
- (e) a statement of the items and services that are not included;
- (f) a statement of the site conditions or special circumstances which may result in extra chargeable work;
- (g) timetable for supplying goods and carrying out work at the site;
- (h) business terms, including the payment method and timetable, and how long the quote will be valid for;
- (i) completion dates for the plant;
- (j) performance estimate in line with product standards;
- (k) explanation of VAT specific to the plant;
- (l) carbon intensity comparisons specific to the plant;
- (m) illustrations of expected rates of return specific to the plant;
- (n) warranty statements.”.

Insertion of Schedule 4A

- 39. After Schedule 4 (land criteria) insert—

“SCHEDULE 4A

Regulation 47

Solid biomass which is wood: Criteria for woodfuel quality

1. This Schedule applies to solid biomass (excluding solid biomass contained in waste) which—

- (a) is woodfuel; and
- (b) is used to generate heat in an accredited RHI installation.

2. All wood pellets must meet the ENplus A1 standard⁽⁹⁾ or an equivalent standard.

3. All other woodfuel must meet fuel quality standard EN 15234-1: 2011⁽¹⁰⁾, ISO 9001: 2015⁽¹¹⁾ or EN ISO 17225-4: 2014⁽¹²⁾ or an equivalent standard.

4. All woodfuel must be certified by the Woodsure Certification Scheme⁽¹³⁾ or an equivalent certification scheme as meeting the standard in paragraph 2 or 3.

5. The certification scheme must provide assurance of the supply chain of the woodfuel.

6. In this Schedule, “woodfuel” means—

- (a) woodchip;
- (b) logs;
- (c) wood pellets; and
- (d) wood briquettes,

regardless of whether the wood will undergo any other process before burning.”

Callanan
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial
Strategy

At 2.00 p.m. on 25th January 2021

⁽⁹⁾ Accessible through the ENplus website (<https://www.enplus-pellets.eu/en-in/>).

⁽¹⁰⁾ Available at <https://standards.iteh.ai/catalog/standards/cen/18307fb9-4548-40e6-8352-b7f0c462768e/en-15234-1-2011> .

⁽¹¹⁾ Available at <https://www.iso.org/standard/62085.html>.

⁽¹²⁾ Available at <https://standards.iteh.ai/catalog/standards/cen/aca5637-0946-4570-8613-eac7a6be6b27/en-iso-17225-1-2014> .

⁽¹³⁾ Accessible through the Woodsure website (<https://woodsuresure.co.uk/about-woodsuresure/>).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Domestic Renewable Heat Incentive Scheme Regulations 2014 (S.I. 2014/928) (“the 2014 Regulations”) and the Renewable Heat Incentive Scheme Regulations 2018 (S.I. 2018/611) (“the 2018 Regulations”). The 2014 Regulations and 2018 Regulations provide for schemes 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 heat used for eligible purposes. The 2018 Regulations continue the Non-Domestic Renewable Heat Incentive scheme established by the Renewable Heat Incentive Scheme Regulations 2011 (S.I. 2011/2860).

Part 1 provides for different coming into force dates. Provisions for closure of the Non-Domestic Renewable Heat Incentive scheme (“Scheme closure”) and extension applications come into force on 1st March 2021. Amendments to Part 5 of the 2018 Regulations in relation to biomass come into force on 1st April 2022. Amendments to the 2014 Regulations and all other amendments to the 2018 Regulations come into force on 1st April 2021.

Part 2 amends the 2014 Regulations. Regulation 3 provides for a new code of practice which applies to investors from 1st April 2021. Regulation 4 extends the time for making an accreditation application where a plant has a first commissioning date on or after 1st March 2019. Regulation 5 enables a further accreditation application to be made where the original application was rejected before 1st April 2021 because it was not received within 12 months of the first commissioning date. Regulation 6 substitutes tables used to calculate the initial tariff for the Domestic Renewable Heat Incentive Scheme.

Chapters 1 to 9 of Part 3 amend the 2018 Regulations. Chapter 1 amends definitions.

In Chapter 2, regulation 9 provides for Scheme closure, extension applications and a budget cap for extension applications for the 2022/2023 financial year. Regulation 10 removes provisions not required after Scheme closure.

Chapter 3 makes amendments consequential on Scheme closure and extension applications. Regulation 14 inserts regulation 32A which prevents payments being made under both the Non-Domestic Renewable Heat Incentive scheme and the Renewable Transport Fuel Obligation for the same proportion of biomethane.

Chapter 4 makes amendments in relation to biogas.

Chapter 5 provides for the fuel quality criteria.

In Chapter 6, regulation 23 enables periodic support payments to be made in respect of increased installation capacity of shared ground loop systems and provides for budget caps for this measure until the financial year 2023/2024. Regulation 25 enables the registration of an existing producer of biomethane for injection to be transferred to a new producer.

Chapter 7 makes consequential provision in relation to periodic support payments. Regulation 32 provides for the reduction of payments where a participant producing biogas from anaerobic digestion uses feedstock derived from fossil fuel. Regulation 33 provides that the calculation of periodic support payments to a producer of biomethane for injection is subject to the restriction on payments contained in regulation 32A (interaction with the Renewable Transport Fuel Obligation). Regulation 33 enables a participant to notify a proportion of biomethane, and for periodic support payments to be calculated on the basis of that proportion.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In Chapter 8, regulation 35 makes clear that the restriction on tariff start dates in regulation 3A(5) applies where an application for accreditation or registration is rejected but subsequently accepted following a review under regulation 86 of the 2018 Regulations. Regulation 36 removes the obligation for quarterly reports.

Chapter 9 extends the information requirements of Schedule 2 to extension applications and applications to modify the installation capacity of shared ground loop systems, inserts Schedule 2A which requires specific evidence for extension applications and inserts Schedule 4A which provides standards for woodfuel quality.

Version N of the Home Insulation & Energy Systems Quality Assured Contractors Scheme Code of Practice published on 21st January 2021, mentioned in regulation 3, can be accessed on the Home Insulation and Energy Systems website (<https://www.hiesscheme.org.uk/wp-content/uploads/2021/01/HIES-Code-of-Practice-Version-N-1.pdf>), and hard copies can be obtained from or inspected at Centurion House, Leyland Business Park, Centurion Way, Leyland, PR25 3GR.

Version 6 of the Renewable Energy Consumer Code published on 28th October 2016, also mentioned in regulation 3, can be accessed on the Renewable Energy Consumer Code website (<https://www.recc.org.uk/scheme/consumer-code>), and hard copies can be obtained from or inspected at Renewable Energy Consumer Code, Brettenham House, 2-19 Lancaster Place, London WC2E 7EN.

Hard copies of the Woodsure Certification Scheme, the ENplus A1 standard, and the fuel quality standards EN 15234-1: 2011, ISO 9001: 2015 and EN ISO 17225-4: 2014, mentioned in Schedule 4A can be obtained from or inspected at Newtown Trading Estate, Severn House Unit 5, Green Ln, Tewkesbury GL20 8HD.

A full impact assessment of the effect that Part 3 of this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside this instrument. This impact assessment was also published on www.legislation.gov.uk alongside the Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulations 2020 (S.I. 2020/650). A full impact assessment has not been produced for Part 2 of this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.