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## DRAFT STATUTORY INSTRUMENTS

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# 2018 No.

## The Renewable Heat Incentive Scheme Regulations 2018

### PART 1

#### Introductory provisions

##### Citation and commencement

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme Regulations 2018 and come into force on the day after the day on which they are made.

##### Interpretation

2.—(1) In these Regulations—

“accreditation” means accreditation of an eligible installation by the Authority<sup>(1)</sup> following an application under regulation 30;

“accredited RHI installation” means an eligible installation which has been given accreditation;

“additional biomethane” has the meaning given in regulation 77;

“additional RHI capacity” has the meaning given in regulation 76;

“air source heat pump” means a plant which generates heat by absorbing energy stored in the form of heat in the ambient air;

“anaerobic digestion” means the bacterial fermentation of biomass in the absence of oxygen;

“applicant” means a person who makes an application for accreditation, an application for registration, or an application for a tariff guarantee;

“approved sustainable fuel” means solid biomass which is listed under a scheme approved by the Secretary of State in accordance with regulation 51;

“biogas production plant” means a plant which produces biogas by anaerobic digestion, gasification or pyrolysis;

“building” means any permanent or long-lasting building or structure of whatever kind and whether fixed or moveable which, except for doors and windows, is wholly enclosed on all sides with a roof or ceiling and walls;

“certified installer” means a person who is certified by the Microgeneration Certification Scheme<sup>(2)</sup> or a scheme which is—

(a) equivalent to that scheme; and

(b) under which installers are certified to that scheme’s standards by a certification body or organisation accredited to EN 45011<sup>(3)</sup> or EN ISO/IEC 17065:2012<sup>(4)</sup>;

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(1) The “Authority” means the Gas and Electricity Markets Authority; see section 100(3) of the Energy Act 2008.

(2) Details of which are available at [www.microgenerationcertification.org](http://www.microgenerationcertification.org)

(3) The ISBN for the English language version of this standard is ISBN 0 580 29415 3. This standard was published by the British Standards Institution on 15th July 1990 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

“CHP system” means a system which generates power and is (or may be) operated for purposes including the supply to any premises (using liquid or steam) of heat produced in association with that power;

“CHPQA” means, except in regulation 27, the Combined Heat and Power Quality Assurance Standard, Issue 6, October 2016(5);

“class 2 heat meter” means a heat meter which—

- (a) complies with the relevant requirements set out in Annex I to the Measuring Instruments Directive;
- (b) complies with the specific requirements listed in Annex VI (Thermal energy meters (MI-004)) to that Directive; and
- (c) falls within accuracy class 2 as defined in Annex VI (Thermal energy meters (MI-004)) to that Directive;

“coefficient of performance” means the ratio of the amount of heating or cooling in kilowatts provided by a heat pump to the kilowatts of power consumed by the heat pump;

“combustion unit” means—

- (a) a boiler which uses solid biomass, or solid biomass contained in waste, as fuel; or
- (b) a boiler, turbine or engine which uses biogas as fuel;

“commissioned”, in relation to an eligible installation, means the completion of such procedures and tests as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of eligible installation in order to demonstrate that it is capable of operating and delivering heat to the premises or process for which it was installed;

“connected person”, in relation to an applicant or a participant, means any person connected to them within the meaning of section 1122 of the Corporation Tax Act 2010(6);

“connection agreement” means an agreement between a person who proposes to inject biomethane into a pipe-line system and the operator of the pipe-line system which provides for the design and construction of a connection whereby the biomethane may be injected into the pipe-line system;

“consumer prices index” means—

- (a) the consumer prices index calculated and published by the Office for National Statistics; or
- (b) where the index is not published for a year, any substituted index or figures published by that Office;

“current information” means information which is no more than five working days out of date;

“date of accreditation”, in relation to an accredited RHI installation, means the later of—

- (a) 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—
  - (i) the application was properly made, and
  - (ii) the plant met the eligibility criteria; and
- (b) the day on which the plant was first commissioned;

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(4) The ISBN for the English language version of this standard is ISBN 978 0 580 78472 9. This standard was published by the British Standards Institution on 31st October 2012 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).  
 (5) This standard was published by the Department for Business, Energy and Industrial Strategy and is available, including in hard copy, at [www.gov.uk/guidance/combined-heat-power-quality-assurance-programme](http://www.gov.uk/guidance/combined-heat-power-quality-assurance-programme).  
 (6) 2010 c.4.

“date of registration”, in relation to a producer of biomethane for injection, means the first day which falls on or after the date of receipt by the Authority of the application for registration on which the application was, in the Authority’s opinion, properly made;

“deep geothermal”, in relation to energy, means naturally occurring energy located and extracted from at least 500 metres beneath the surface of solid earth, and a “deep geothermal plant” means a plant which generates heat using such energy;

“design heat load”, in relation to ground source heat pumps that are capable of heating and cooling, means the heat flow required to achieve the planned heating requirements for that plant;

“domestic premises” means single, self-contained premises used wholly or mainly as a private residential dwelling where the fabric of the building has not been significantly adapted for non-residential use;

“eligibility criteria” has the meaning given in regulation 4;

“eligible biomethane” has the meaning given in regulation 73;

“eligible installation” means a plant which meets the eligibility criteria;

“eligible purpose” means a purpose specified in regulation 3(2);

“energy content” means the energy contained within a substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of BS 7420:1991 (Guide for the determination of calorific values of solid, liquid and gaseous fuels (including definitions))(7);

“energy crop” means—

- (a) a perennial crop planted at high density, the stems of which are harvested above ground level at intervals of less than 20 years and which is one of the following—
  - (i) *Acer pseudoplatanus* (also known as sycamore);
  - (ii) *Alnus* (also known as alder);
  - (iii) *Betula* (also known as birch);
  - (iv) *Castanea sativa* (also known as sweet chestnut);
  - (v) *Corylus avellana* (also known as hazel);
  - (vi) *Fraxinus excelsior* (also known as ash);
  - (vii) *Populus* (also known as poplar);
  - (viii) *Salix* (also known as willow);
  - (ix) *Tilia cordata* (also known as small-leaved lime); or
- (b) a perennial crop which is one of the following—
  - (i) *Arundo donax* (also known as giant reed);
  - (ii) *Bambuseae*, where the crop was planted after 31st December 1989 and is grown primarily for the purpose of being used as fuel;
  - (iii) *Miscanthus*;
  - (iv) *Panicum*;
  - (v) *Pennisetum*, other than *Pennisetum setaceum* (also known as fountain grass), *Pennisetum clandestinum* (also known as kikuyu grass) and *Pennisetum villosum* (also known as feathertop grass);

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(7) The ISBN for the English language version of this standard is ISBN 0 580 19482 5. This standard was published by the British Standards Institution on 28th June 2011 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

(vi) Phalaris;

“environmental permit” means a permit issued in accordance with the provisions of the Environmental Permitting (England and Wales) Regulations 2016<sup>(8)</sup> or the Pollution Prevention and Control (Scotland) Regulations 2012<sup>(9)</sup>;

“environmental quality assurance scheme” means a voluntary scheme which establishes environmental or social standards in relation to the production of biomass or matter from which biomass is derived;

“EPC” means an energy performance certificate within the meaning given—

- (a) in relation to a property in England and Wales, by regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012<sup>(10)</sup>;
- (b) in relation to a property in Scotland, by regulation 2(1) of the Energy Performance of Buildings (Scotland) Regulations 2008<sup>(11)</sup>;

“GWh” means gigawatt hours;

“gasification” means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: carbon, methane or oxides of carbon;

“gas transporter” means the holder of a licence granted under section 7 of the Gas Act 1986<sup>(12)</sup>;

“ground loop”, in relation to a shared ground loop system, means the equipment which absorbs energy stored in the form of heat in the ground, including heat in water in the ground, or in surface water;

“ground source heat pump” means—

- (a) in the case of a shared ground loop system, the piece of equipment installed in each premises which generates heat in those premises using the heat energy provided by the ground loop;
- (b) in all other cases, a plant which generates heat by absorbing energy stored in the form of heat in the ground, including water in the ground, or in surface water, but does not include a plant which is a deep geothermal plant;

“guaranteed tariff” has the meaning given in regulation 35<sup>(9)</sup>;

“heat loss calculation” means a calculation of heat lost which is carried out in accordance with the guidance issued by the Chartered Institute of Building Services Engineers and contained in CIBSE Guide C: Reference Data (2007 edition)<sup>(13)</sup>;

“heat meter” has the same meaning as that given to “thermal energy meter” in Annex VI (Thermal energy meters (MI-004)) to the Measuring Instruments Directive;

“initial tariff” means the tariff calculated in accordance with regulation 60;

“injection” means the introduction of gas into a pipe-line system operated by a gas transporter;

“installation capacity”—

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(8) S.I. 2016/1154, as amended by S.I. 2018/110. By virtue of regulation 73 of the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”), a permit issued under the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), which are revoked by the 2016 Regulations, is treated as issued under the 2016 Regulations.

(9) S.S.I. 2012/360, as amended by S.S.I. 2014/267. There are other amending instruments but none is relevant.

(10) S.I. 2012/3118, as amended by S.I. 2016/284. There are other amending instruments but none is relevant.

(11) S.S.I. 2008/309, to which there are amendments not relevant to these Regulations.

(12) 1986 c.44. Section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and amended by sections 3(2) and 76 of, and paragraph 4 of Schedule 6, and paragraph 1 of Schedule 8 to, the Utilities Act 2000 (c.27), by section 149(5) of the Energy Act 2004 (c.20), and by S.I. 2011/2704.

(13) The ISBN for the English language version of this standard is ISBN 978 1903287 804. This standard was published by the Chartered Institute of Building Services Engineers in 2007 and copies, including hard copies, can be obtained at [www.cibse.org](http://www.cibse.org).

- (a) in the case of a CHP system to which regulation 12(2)(b) or 13 applies, means 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 12(2)(b) or 13 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;
- (b) in the case of a shared ground loop system, means the sum of the total installed peak heat output capacities of each of the ground source heat pumps which form part of the shared ground loop system;

- (c) for any other plant, means the total installed peak heat output capacity of the plant;

“kWh” means kilowatt hours;

“kWhth” means kilowatt hours thermal;

“kWth” means kilowatt thermal;

“large installation” means—

- (a) a plant which generates heat from biogas with an installation capacity of 600kWth or above;
- (b) a plant which generates heat using geothermal sources;
- (c) a plant which is, or forms part of, a new solid biomass CHP system;
- (d) any other plant which has an installation capacity of at least 1MWth;

“maximum additional capacity” has the meaning given in regulation 77;

“maximum initial capacity” means the maximum volume of biomethane, expressed in cubic metres per quarterly period which a participant is entitled to supply for injection under the network entry agreement applicable to the biomethane in relation to which an application for registration under regulation 32 is made;

“Measuring Instruments Directive” means [Directive 2014/32/EU](#) of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast)(**14**);

“MWth” means megawatt thermal;

“net heat input” means the rate of heat (expressed as the amount of heat over time) which is supplied to the plant by the fuel used, based on the net calorific value of that fuel;

“network entry agreement” means an agreement between a person who injects biomethane and a gas transporter under which the person who injects biomethane is entitled to inject biomethane into the pipe-line system operated by that gas transporter;

“new solid biomass CHP system” means a CHP system which meets the requirements in regulation 13;

“new-build property” means a property which is supplied with heat by a plant in respect of which an application for accreditation has been made, and which was first occupied on or after the date on which the plant was first commissioned;

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(14) OJ L 96, 29.3.2014, p149.

“NO<sub>x</sub>” means oxides of nitrogen;

“ongoing obligations” means the obligations specified in Part 4;

“original biomethane” means biomethane which is produced by a relevant producer (within the meaning given in regulation 56) and which falls within that producer’s maximum initial capacity;

“participant” means—

- (a) the owner of an accredited RHI installation or, where there is more than one such owner, the owner with authority to act on behalf of all owners in accordance with regulation 30(3); or
- (b) a producer of biomethane for injection who has been registered under regulation 32;

“periodic support payments” has the meaning given in regulation 3;

“pipe-line system” has the same meaning as in section 5(10) of the Gas Act 1986<sup>(15)</sup>;

“PM” means particulate matter;

“process” means any process other than the generation of electricity;

“properly insulated” means—

- (a) in respect of piping which is situated below the ground, insulated in accordance with—
  - (i) BS EN 253 (2009)<sup>(16)</sup>;
  - (ii) BS EN 15632:2 and 3 (2010) and 15632:4 (2009)<sup>(17)</sup>; or
  - (iii) BS EN 15698:1 (2009)<sup>(18)</sup>;
- (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<sup>(19)</sup> are not exceeded;

“properly made”, in relation to an application, means—

- (a) in the case of an application made under regulation 30, an application which provides the information required by regulation 30(2) and (3);
- (b) in the case of an application made under regulation 32, an application which provides the information required by regulation 32(2) and (4); and
- (c) in the case of an application made under regulation 35, an application which provides the information required by regulation 35(4) or (5);

“pyrolysis” means the thermal degradation of a substance in the absence of an oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

“quarterly period” means, except in regulation 89, 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;

<sup>(15)</sup> Section 5(6) to (10) was inserted by section 149(3) of the Energy Act 2004.

<sup>(16)</sup> The ISBN for the English language version of this standard is ISBN 978 20 580 84650 2. This standard was published by the British Standards Institution on 31st January 2009 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

<sup>(17)</sup> The ISBN for the English language versions of these standards are ISBN 978 0 580 83312 0, ISBN 978 0 580 83313 7, and ISBN 978 0 580 58239 4. The first two of these standards were published on 28th February 2010 and the latter on 28th February 2009 by the British Standards Institution and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

<sup>(18)</sup> The ISBN for the English language version of this standard is ISBN 978 0 580 58925 6. This standard was published by the British Standards Institution on 31st January 2009 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

<sup>(19)</sup> The ISBN for the English language version of this standard is ISBN 978 0 580 69184 3. This standard was published by the British Standards Institution on 31st December 2008 and copies, including hard copies, can be obtained at [www.bsigroup.com](http://www.bsigroup.com).

- (b) in relation to a producer of biomethane for injection who is registered in relation to any original biomethane or additional biomethane, the tariff start date for the original biomethane;

“relevant tariff” means the tariff applicable to the source of energy and technology and installation capacity of an accredited RHI installation, or to the production of biomethane;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Office for National Statistics; or
- (b) where the index is not published for a year, any substituted index or figures published by that Office;

“RHI emission certificate” means a document which meets the requirements in regulation 6;

“the Scheme” has the meaning given in regulation 3(1);

“seasonal performance factor”, in relation to an air source heat pump or a ground source heat pump, means the ratio of its heat output to electricity input expressed as an average over a year;

“shared ground loop system” means a system in which a ground loop provides heat energy through a hydraulic connection to two or more ground source heat pumps installed in separate or the same premises, provided that not more than one ground source heat pump is installed in a single domestic premises;

“solar collector” means a liquid filled flat plate or evacuated tube solar collector;

“steam measuring equipment” means all the equipment needed to measure to the Authority’s satisfaction the mass flow rate and energy of steam, including at least the following components—

- (a) a flow meter;
- (b) a pressure sensor;
- (c) a temperature sensor; and
- (d) a digital integrator or calculator able to determine the cumulative energy in megawatt hours thermal which has passed a specific point;

“subsequent tariff” means the tariff calculated in accordance with regulation 62;

“tariff” means the payment rate per kWh in respect of an accredited RHI installation and per kWh in respect of biomethane injection;

“tariff end date” means the last day of the tariff lifetime;

“tariff guarantee” means a guarantee granted in accordance with regulation 35(7);

“tariff lifetime”—

- (a) in relation to an accredited RHI installation, means the period for which periodic support payments are payable for that installation; or
- (b) in relation to a participant who is a producer of biomethane for injection, means the period for which that person is eligible to receive periodic support payments;

“tariff period” means a three month period commencing with 1st January, 1st April, 1st July or 1st October in any year;

“tariff start date”—

- (a) in relation to an accredited RHI installation, means the date of accreditation of that installation;
- (b) in relation to original biomethane in respect of which a producer of biomethane is registered, means the date of registration for that biomethane;



- (c) in relation to additional biomethane in respect of which a producer of biomethane is registered, means the date of registration for that additional biomethane;

“testing laboratory” means an organisation which carries out the testing of emissions from a plant either at permanent laboratory premises or away from those premises;

“type-testing range” means a range of plants which have the same construction and design so that the testing of one or more plants in that range gives results capable of applying to all plants in the range, provided that—

- (a) where the installation capacity of the smallest of the plants in the range is less than or equal to 500 kWth, the ratio of the installation capacity of the smallest plant to that of the largest plant in the type-testing range for which tests are carried out is no more than 1:2; or
- (b) where the installation capacity of the smallest of the plants is greater than 500 kWth, then the difference in installation capacity between the smallest and largest of the plants within the type-testing range for which tests are carried out is no more than 500 kWth;

“waste” has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste of 19 November 2008<sup>(20)</sup> and includes excreta produced by animals;

“working day” means any day other than—

- (a) a Saturday, Sunday, Good Friday, or Christmas Day; or
- (b) a day which is a bank holiday in England, Wales or Scotland under the Banking and Financial Dealings Act 1971<sup>(21)</sup>.

(2) Except in regulations 35 and 74, where these Regulations provide for a figure to be rounded, that figure must be rounded to the nearest hundredth of a penny, with any two hundredth of a penny being rounded upwards.

### Renewable heat incentive scheme

**3.—(1)** These Regulations make provision for the continuation of the incentive scheme to facilitate and encourage the renewable generation of heat (“the Scheme”) established by the Renewable Heat Incentive Scheme Regulations 2011<sup>(22)</sup> (which are revoked by regulation 92).

(2) Subject to paragraph (4) and Parts 6 and 9, the Authority must make, to participants who are owners of accredited RHI installations, payments (referred to in these Regulations as “periodic support payments”) for generating heat that is—

- (a) used in a building for any of the following purposes—
- (i) heating a space;
  - (ii) heating water;
  - (iii) carrying out a process; or
- (b) used otherwise than in a building for either of the following purposes carried out on a commercial basis—
- (i) cleaning;
  - (ii) drying.

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<sup>(20)</sup> OJ No L 312, 22.11.2008, p3.

<sup>(21)</sup> 1971 c.80.

<sup>(22)</sup> S.I. 2011/2860, as amended by S.I. 2013/1033, 2013/2410, 2013/3179, 2014/1413, 2015/197, 2015/477, 2016/718, 2016/1197, 2017/727 and 2017/857.



(3) Subject to Part 9, the Authority must make periodic support payments to participants who are producers of biomethane for injection.

(4) The Authority must not make periodic support payments for the generation of heat by an accredited RHI installation which the Authority considers is used for an excluded heat use.

(5) For the purposes of paragraph (4), the following are excluded heat uses—

(a) drying digestate, where the heat is generated by an accredited RHI installation with a tariff start date—

(i) on or after the date on which these Regulations come into force; or

(ii) on or after 14th December 2016 but before the date on which these Regulations come into force, provided that the participant has elected to be subject to this regulation by notice to the Authority no later than one month after the date on which these Regulations come into force;

(b) where paragraph (6) applies—

(i) drying woodfuel, except where the heat is generated by an installation to which paragraph (7) or (8) applies;

(ii) drying, cleaning, or processing waste;

(iii) heating water in a swimming pool, other than one which is used for a municipal or commercial purpose.

(6) This paragraph applies where—

(a) the application for accreditation, including an application for additional RHI capacity, is received by the Authority; or

(b) the participant otherwise begins to use heat generated by the installation for a use in paragraph (5)(b),

on or after the date on which these Regulations come into force;

(7) This paragraph applies to an installation where the Authority is satisfied that—

(a) the installation replaces a fossil fuel heat source which has been used to dry woodfuel in two out of the three preceding years;

(b) the installation will meet a heat demand for commercial woodfuel drying that has existed previously in any two of the preceding three years; and

(c) the capacity or heat output, or both, of the installation is not more than 10% above that of the fossil fuel heat source it replaces.

(8) This paragraph applies to an installation where—

(a) the Authority is satisfied that the development of the installation commenced before 29th January 2018; and

(b) the application for accreditation was, in the Authority's opinion, properly made no later than 6 months after the date on which these Regulations come into force.

(9) For the purposes of paragraph (5)(b)(i) the Authority may request evidence from the applicant to demonstrate that the wood which is being, or is intended to be, dried is not woodfuel.

(10) For the purposes of paragraph (8)(a) the Authority may request evidence from the applicant, including in particular—

(a) that—

(i) any necessary planning permission has been granted; or

(ii) planning permission is not required;

(b) of construction costs of the installation;

(c) that any necessary equipment has been ordered or received and paid for.

(11) For the purposes of paragraph (5)—

“digestate” means any substance, except biogas, which is generated from a biogas production plant producing biogas by anaerobic digestion;

“woodfuel” means any wood which is intended to be burned, including in particular—

- (a) woodchip;
- (b) logs;
- (c) pellets;
- (d) briquettes; and
- (e) waste wood including sawdust,

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