
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, revoke and replace the Renewable Heat Incentive Scheme Regulations 2011 (the “2011 Regulations”), which established a renewable heat incentive scheme (“the Scheme”). These Regulations re-enact the 2011 Regulations with amendments. The premise of the Scheme remains the same: owners of plants which generate heat from specified renewable sources and meet specified criteria may receive payments at prescribed tariffs for the heat used for eligible purposes. Payments may also be made to biomethane producers who produce biomethane for injection. The Regulations confer functions on the Gas and Electricity Markets Authority (“the Authority”) in connection with the administration of the Scheme.

In addition to minor and drafting amendments, these Regulations make the following changes of substance: heating a swimming pool other than one which used for commercial or municipal purposes, drying digestate or woodfuel, and drying, cleaning or processing certain waste, will no longer be eligible heat uses; provision is made for shared ground loop systems, in particular that payments will be based on deemed heat generation (as opposed to metered heat generation) where ground source heat pumps which form part of such systems are installed in domestic premises; any necessary planning permission will be required as part of the eligibility criteria; owners of specified technologies will be eligible to apply for a tariff guarantee, subject to a budget allocation for tariff guarantees set by the Secretary of State; tariffs will be increased for heat generated by biogas installations and biomethane producers; and payments to owners of installations generating heat from biogas and to biomethane producers will be reduced where less than 50% of the biogas produced derives from waste or residue.

Regulation 3 confers on the Authority the function of making payments to participants in the Scheme and specifies the eligible purposes for which heat will receive payment.

Chapter 1 of Part 2 (regulation 4) defines criteria (“eligibility criteria”) that must be satisfied for a plant to be eligible to participate in the Scheme.

Chapter 2 of Part 2 (regulations 5 to 20) specifies the eligibility criteria other than those in relation to metering.

Chapter 3 of Part 2 (regulations 21 to 29) specifies the eligibility criteria in relation to metering, setting out the types of meters which may be used, the requirements with which they must comply and what must be measured.

Part 3 (regulations 30 to 34) sets out the procedures for accreditation, registration, and preliminary accreditation and registration. Regulation 30 confers on the Authority the function of accrediting eligible installations (which upon accreditation are known as accredited RHI installations), specifying the process by which applicants apply to the Authority for accreditation and the circumstances in which an application for accreditation can be refused, including where a plant has not been commissioned or where an applicant has indicated that applicable ongoing obligations will not be complied with.

Regulation 31 specifies the circumstances in which the Authority may or may not accredit a plant or register a biomethane producer where the participant has received a grant from public funds.

Regulation 32 confers on the Authority the function of registering producers of biomethane who are producing biomethane for injection. It specifies the process by which applicants apply to the Authority for registration and specifies the circumstances in which an application for registration

can be refused, including where injection of biomethane has not commenced or where an applicant has indicated that applicable ongoing obligations will not be complied with.

Regulation 33 sets out the process by which a person may apply for and the Authority may grant preliminary accreditation in respect of a plant and regulation 34 makes equivalent provision for the preliminary registration of biomethane producers.

Regulation 35 sets out the circumstances in which a person may apply for, and the Authority may grant, a tariff guarantee, subject to the budget allocation for tariff guarantees set by the Secretary of State.

Chapter 1 of Part 4 (regulations 36 to 39) sets out ongoing obligations with which participants generating heat from biomass must comply.

Regulation 37 applies to participants generating heat from solid biomass contained in waste. It specifies the minimum proportion of solid biomass which must be contained in the waste used, sets out how the proportion of solid biomass is determined and specifies the permitted uses and proportions of fossil fuel in accredited RHI installations.

Regulations 38 and 39 apply to participants generating heat from solid biomass, not being solid biomass contained in waste. They specify the permitted levels of and reasons for fossil fuel contamination, set out how the proportion of fossil fuel contamination is determined and specify the permitted uses of fossil fuel in accredited RHI installations.

Chapter 2 of Part 4 (regulations 40 to 42) sets out ongoing obligations for participants who are generating heat from biogas and producing biomethane for injection.

Regulation 40 applies to participants producing biogas using gasification or pyrolysis and generating heat from that biogas. It stipulates composition requirements for the feedstock used by participants and specifies the permitted uses of fossil fuel in accredited RHI installations.

Regulation 41 applies to participants generating heat from biogas to whom regulation 40 does not apply. It stipulates feedstock requirements for participants using biogas produced from anaerobic digestion and specifies permitted uses of fossil fuel in accredited RHI installations.

Regulation 42 applies to biomethane producers who produce biomethane for injection. It specifies composition requirements for feedstocks used to produce the biogas from which the biomethane is made and sets out the ongoing obligations relating to administration with which participants must comply. It also imposes a sustainability reporting requirement.

Chapter 3 of Part 4 (regulations 43 to 46) sets out the ongoing obligations for participants which are not specific to those participants generating heat from biomass or biogas or producing biomethane for injection.

Regulation 43 specifies general ongoing obligations relating to administrative and other matters with which participants must comply.

Regulation 44 specifies the ongoing obligations for participants generating heat from solid biomass where an RHI emission certificate is required.

Regulation 45 specifies the ongoing obligations in relation to metering. It imposes requirements on participants in relation to their heat meters and steam measuring equipment; requires participants to provide data when requested by the Authority; and specifies the metering arrangements for participants using heat pumps for both heating and cooling. This regulation also permits the data to be estimated in exceptional circumstances.

Regulation 46 specifies ongoing obligations in relation to the provision of information by the participant to the Authority.

Part 5 (regulations 47 to 51) imposes requirements in relation to solid biomass or biogas used to generate heat and on biomethane which is injected. These provisions require compliance with lifecycle greenhouse gas emission limits and restrict the place from which solid biomass or feedstock for biogas or biomethane can be sourced.

Regulation 48 specifies an ongoing obligation to use sustainable solid biomass or biogas or to produce sustainable biomethane.

Regulation 49 requires participants to provide declarations and information to the Authority relating to sustainable solid biomass, biogas and biomethane.

Regulation 50 requires participants to whom regulation 49 applies to provide annual sustainability audit reports, subject to certain exceptions.

Regulation 51 gives power for the Secretary of State to approve schemes for the listing of approved sustainable fuels for the purposes of these Regulations, and to deem certain fuels compliant with the requirements in regulation 48.

Part 6 (regulations 52 to 55) specifies the powers of the Authority, including suspending payments, where it is made aware of a change in circumstances affecting an accredited RHI installation, including where there has been a transfer in ownership or a change in location of an RHI installation, or a change in circumstances in respect of a shared ground loop system such that the heat generated by a ground source heat pump forming part of that system is required to be metered.

Part 7 (regulations 56 to 75) confers on the Authority the function of calculating and paying periodic support payments to participants. These regulations specify the method by which tariffs are assigned; confer a function on the Authority to calculate and publish a table of tariffs each year, adjusted in line with the consumer prices index; and specify the method by which periodic support payments are calculated.

Part 8 (regulations 76 and 77) specifies how a plant using the same source of energy and technology as an accredited RHI installation and supplying heat to the same heating system (known as additional RHI capacity) and how a biomethane producer who produces biomethane which is additional to the capacity specified in the initial application (known as additional biomethane) are to be treated under the Scheme.

Part 9 (regulations 78 to 85) sets out the provisions in relation to enforcement.

Regulations 78 to 82 confer on the Authority a range of powers to temporarily or permanently withhold a participant's periodic support payments (regulations 78 to 80), to revoke a participant's accreditation or registration in certain circumstances (regulation 81), or to correct a tariff being paid to a participant (regulation 82).

Regulation 83 confers a power on the Authority to recover or offset overpayments.

Regulation 84 confers on the Authority a power to revoke any sanction imposed under this Part and specifies the circumstances and manner in which the Authority may exercise this power.

Regulation 85 confers on the Authority or its authorised agent the power to inspect an accredited RHI installation and equipment used to produce biomethane and its associated infrastructure and specifies the manner and circumstances in which this power may be exercised and the consequences of refusal.

Part 10 (regulations 86 to 91) confers various administrative functions on the Authority.

Regulation 86 confers a right of review on any prospective, current or former participant affected by a decision made by the Authority under these Regulations, sets out the process by which a person may request a review of such decisions and specifies the Authority's powers on review.

Under regulation 87 the Authority must publish procedural guidance in connection with the administration of the Scheme.

Regulation 88 makes provision for the circumstances in which information or declarations are to be provided by applicants or participants to the Authority.

Regulation 89 requires the Authority to provide information to the Secretary of State including annual, quarterly and monthly reports and to publish certain information on its website.

Regulation 90 requires the Authority to provide certain additional information as the Secretary of State may request.

Regulation 91 describes the form of notices under these Regulations.

Part 11 (regulation 92) revokes the Renewable Heat Incentive Scheme Regulations 2011, and makes saving provisions in relation to that revocation.

A full impact assessment of the effect that 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 the instrument on www.legislation.gov.uk.

Documents published on www.microgenerationcertification.org are also available from Gemserv Limited at 8 Fenchurch Place, London, EC3M 4AJ.

Copies of British Standards referred to in these Regulations can be obtained from www.bsigroup.com and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL (telephone number 0345 086 9001).