Draft Regulations laid before Parliament under section 105(2)(a) and (3) of the Energy Act 2008, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2013 No. 0000

ENERGY

The Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 100 and 104 of the Energy Act 2008(**a**).

In accordance with section 105(2)(a) and (3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

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.

Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2013 and come into force on the day after the day on which they are made.

Amendments to the Renewable Heat Incentive Scheme Regulations 2011

2. The Renewable Heat Incentive Scheme Regulations 2011(**b**) are amended as follows.

Amendments to regulation 2 (interpretation)

3. In regulation 2 insert the following definitions in the appropriate places—

> ""environmental permit" means a permit issued in accordance with the provisions of the Environmental Permitting (England and Wales) Regulations 2010(**c**) or the Pollution Prevention and Control (Scotland) Regulations 2012(**d**);"

(**a**) 2008 c.32. Section 100 is amended by S.I. 2011/2195.
(**b**) S.I. 2011/2860 amended by S.I. 2012/1999 and S.I 2013/1033.
(**c**) S.I. 2010/675 amended by S.I. 2010/2933, 2011/881, 988 and 2043 and S.I. 2012/630 in England and S.I. 2011/2377 in Wales.
(**d**) S.S.I 2012/360.

““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)(**a**);”

““net heat input” means the 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;”

““NO_x” means oxides of nitrogen;”

““PM” means particulate matter;”

““properly insulated” means insulated so that the relevant maximum permissible heat losses set in BS 5422: 2009(**b**) are not exceeded, where—

(a) heat losses are calculated in accordance with the equations listed in and following the principles described in BS EN ISO 12241:2008(**c**), and

(b) pursuant to that standard such calculations include, in respect of underground piping, the insulating effect of the soil in which the pipe is buried;”

““RHI emission certificate” means a document which meets the requirements in regulation 5A;”

““second relevant date” means the date of coming into force of the Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2013;”

““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.”.

Amendments to regulation 3 (renewable heat incentive scheme)

4. In regulation 3, for paragraph (2) substitute—

“(2) Subject to Part 7 and regulations 24 and 24A, 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.”.

(**a**) ISBN 978 1 903287 80 4. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**b**) ISBN 978 0 580 69184 3. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**c**) ISBN 978 0 580 56728 5. Copies can be obtained from the British Standards Institution at www.bsigroup.com.

Amendments to regulation 5 (eligible installations generating heat from solid biomass)

5. For regulation 5 substitute—

"**Eligible installations generating heat from solid biomass**

5.—(1) This regulation applies if the plant complies with all of the following requirements—

(a) it generates heat from solid biomass;

(b) the heat from the solid biomass is generated using equipment specifically designed and installed to use solid biomass as its only primary fuel source;

(c) in the case of a plant with an installation capacity of 45 kWth or less, regulation 13 applies;

(d) in the case of a plant for which an application for accreditation is made on or after the second relevant date—

(i) an environmental permit subsists in relation to that plant, or

(ii) an RHI emission certificate which complies with the requirements in regulation 5A applies to that plant.

(2) Paragraph (1)(d) does not apply to plants in respect of which preliminary accreditation has been granted before the second relevant date (and such preliminary accreditation has not been withdrawn).

(3) For the purposes of this regulation, an RHI emission certificate applies to a plant (A) if the information in that certificate is based on testing—

(a) A;

(b) a plant of the same make, model and installation capacity as A; or

(c) any other plant in the same type-testing range as A.".

RHI emission certificates

6. After regulation 5 insert—

"**RHI emission certificates**

5A.—(1) An RHI emission certificate must be issued by a testing laboratory.

(2) Where the information contained in an RHI emission certificate is based on testing carried out on or after the second relevant date, the testing laboratory must be accredited to BS EN ISO/IEC 17025:2005(**a**) at the time of testing.

(3) An RHI emission certificate must contain the information set out in Schedule A1.".

Amendment to regulation 8 (eligible installations generating heat using heat pumps)

7. In regulation 8(a)(i), after "the ground" insert ", including water in the ground,".

Amendment to regulation 9 (eligible installations which are CHP systems)

8. In regulation 9(1)(a), for "regulation 5(b)" substitute "regulation 5(1)(b) and (d) and (3)".

Amendment to regulation 12 (other eligibility requirements for technologies)

9. In regulation 12(1)(c), after "process" insert "or to any of the purposes in regulation 3(2)(b)".

(**a**) ISBN 0 580 46330 3. Copies can be obtained from the British Standards Institute at www.bsigroup.com.

Amendment to regulation 13 (MCS certification for microgeneration heating equipment)

10. In regulation 13, for "its installer was certified under the MCS at the time of installation" substitute "the commissioning certificate was issued by an installer who was certified under the MCS".

Amendments to regulation 16 (metering of plants in simple systems)

11. In regulation 16—

(a) in paragraph (1), for "This regulation applies" substitute "Subject to paragraph (3), this regulation applies";

(b) after paragraph (2) insert—

"(3) This regulation does not apply to any plant in respect of which an application for accreditation is made on or after the second relevant date.".

Amendments to regulation 17 (metering of plants in complex systems)

12. In regulation 17—

(a) in paragraph (1) for "This regulation applies" substitute "Subject to paragraph (4), this regulation applies";

(b) after paragraph (3) insert—

"(4) This regulation does not apply to any plant in respect of which an application for accreditation is made on or after the second relevant date.".

Metering in respect of new applications for accreditation

13. After regulation 17 insert—

"**Metering in respect of new applications for accreditation**

17A.—(1) This regulation applies to any plant in respect of which an application for accreditation is made on or after the second relevant date.

(2) Subject to paragraph (3) and regulation 19—

(a) where heat generated by the plant is delivered by liquid—

(i) one class 2 heat meter, and

(ii) such other class 2 heat meters as may be necessary,

must be installed so as to enable the kWhth of heat generated by that plant which is used for eligible purposes to be determined;

(b) where heat generated by the plant is delivered by steam—

(i) such steam measuring equipment as may be necessary, and

(ii) such class 2 heat meters to measure any condensate returning to the plant as may be necessary,

must be installed so as to enable the kWhth of heat generated by that plant which is used for eligible purposes to be determined.

(3) For the purposes of determining the heat generated by a plant which is used for eligible purposes it is not necessary to measure heat loss—

(a) which may be disregarded in accordance with regulation 42A(2), or

(b) for which a heat loss calculation may be provided in accordance with regulation 42A(4) or (5).".

Amendment to regulation 20 (matters relating to all heat meters and steam measuring equipment)

14.—(1) In regulation 20(1)—

(a) after sub-paragraph (b), omit "and";

(b) after sub-paragraph (c) insert—

"; and

(d) be positioned to provide accurate measurements.".

(2) In regulation 20(2)—

(a) after sub-paragraph (c), omit "and";

(b) after sub-paragraph (d) insert—

"; and

(e) positioned to provide accurate measurements.".

Changes in location of accredited RHI installations

15. After regulation 24 insert—

"**Changes in location of accredited RHI installations**

24A.—(1) This regulation applies where an accredited RHI installation is moved to a new location during its tariff lifetime.

(2) No periodic support payment may be made in respect of the accredited RHI installation after the date on which it is moved to a new location until—

(a) the owner has notified the Authority of the change in location; and

(b) the Authority has concluded that the accredited RHI installation should continue to be accredited.

(3) On receipt of a notification under paragraph (2) the Authority—

(a) may require the owner to provide such of the information specified in Schedule 1 as the Authority considers necessary for the proper administration of the scheme; and

(b) must review the accreditation of the accredited RHI installation to determine whether it continues to meet the eligibility criteria in the new location (except the requirement in regulation 12(1)(b)) and accordingly whether it should continue to be accredited.

(4) Where the Authority concludes that the accredited RHI installation should continue to be accredited it must update the central register referred to in regulation 22(6)(c) if appropriate.

(5) Where the Authority concludes that the accredited RHI installation should continue to be accredited, periodic support payments calculated from the date of that decision and for the remainder of the tariff lifetime of that accredited RHI installation shall be payable.".

Amendment to regulation 26 (preliminary accreditation)

16. In regulation 26, after paragraph (11) insert—

"(12) In this regulation, "change in applicable legislation" does not include the introduction of the requirement in regulation 5(1)(d) by the Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2013.".

Amendment to regulation 34 (ongoing obligations: general)

17. After regulation 34(p) insert—

"(pa) where a heat loss calculation is used they must notify the Authority within 28 days where there are any changes in circumstances which may affect the basis of that calculation;

(pb) they must notify the Authority within 28 days where the accredited RHI installation is moved to a new location;".

Ongoing obligations: emissions from biomass

18. After regulation 34 insert—

"**Ongoing obligations: emissions from biomass**

34A. Participants generating heat from solid biomass in an accredited RHI installation in respect of which an RHI emission certificate is required must—

(a) use fuel of a type specified in the RHI emission certificate;

(b) use fuel with a moisture content which is no greater than the maximum moisture content specified in the RHI emission certificate; and

(c) operate the accredited RHI installation in accordance with the manufacturer's instructions for that plant in relation to the control of emissions of PM and NO_x.".

Amendment to regulation 35 (ongoing obligations in relation to metering)

19. In regulation 35(1)—

(a) after sub-paragraph (b), omit "and";

(b) after sub-paragraph (c) insert—

", and

(d) located in accordance with any conditions attached to their accreditation,".

(2) In regulation 35(2)(a), for "and other heat meters" substitute ", and any other meters".

Amendment to regulation 38 (periodic support payments for accredited RHI installations in simple systems)

20. In regulation 38—

(a) in paragraph (1), for "This regulation applies" substitute "Subject to paragraph (3), this regulation applies";

(b) after paragraph (2) insert—

"(3) This regulation does not apply to an accredited RHI installation in respect of which an application for accreditation is made on or after the second relevant date.".

Amendment to regulation 39 (periodic support payments for accredited RHI installations in complex systems)

21. In regulation 39—

(a) in paragraph (1) for "This regulation applies" substitute "Subject to paragraph (3), this regulation applies";

(b) after paragraph (2) insert—

"(3) This regulation does not apply to an accredited RHI installation in respect of which an application for accreditation is made on or after the second relevant date.".

Periodic support payments for new accredited RHI installations

22. After regulation 39 insert—

"**Periodic support payments for new accredited RHI installations**

39A.—(1) This regulation applies to participants who own an accredited RHI installation for which an application for accreditation was made on or after the second relevant date.

(2) Subject to regulations 40 and 41, participants shall be paid a periodic support payment for the installation in respect of each quarterly period calculated in accordance with one of the following formulae, as applicable—

(a) $A \times B$; or

(b) where the accredited RHI installation is generating heat from the combustion of biogas, $A \times (B - C)$,

where—

(i) A is the tariff for the installation determined in accordance with regulations 37 to 37D;

(ii) B is the kWhth of heat generated by that plant which is used for eligible purposes, determined in accordance with regulations 17A and 42A; and

(iii) C is the heat in kWhth directed from the installation or delivered from any other source to the biogas production plant which produced the biogas combusted in the relevant quarterly period (other than heat contained in feedstock to produce biogas by anaerobic digestion) or, where there is no such heat, zero.".

Calculation of heat loss in certain circumstances

23. After regulation 42 insert—

"**Calculation of heat loss in certain circumstances**

42A.—(1) This regulation applies to participants who own an accredited RHI installation for which an application for accreditation was made on or after the second relevant date.

(2) Where the Authority is satisfied that relevant piping complies with the requirements in paragraph (3)(a), (b) or (c), the heat lost through that piping may be disregarded when determining the kWhth of heat generated by the plant which is used for eligible purposes.

(3) The requirements in this paragraph are that—

(a) each length of piping which is 10 metres or less and situated outside a building is properly insulated;

(b) each length of piping which is greater than 10 metres and situated outside a building is—

(i) properly insulated, and

(ii) the average annual heat lost from all such piping based on a heat loss calculation is less than 3% of the projected annual heat output of the plant; or

(c) the piping is situated inside a building.

(4) Where relevant piping which is properly insulated is—

(a) situated outside a building;

(b) each length of such piping is greater than 10 metres; and

(c) the average annual heat lost from all such piping is more than 3% of the projected annual heat output of the plant,

a heat loss calculation may be used to establish the heat lost from such piping when determining the kWhth of heat generated by the plant which is used for eligible purposes.

(5) A heat loss calculation may be used to establish heat lost when determining the heat generated by the plant which is used for eligible purposes where in the opinion of the Authority—

(a) physical constraints, reasons of safety or environmental conditions mean that it is not reasonably practicable to install a class 2 heat meter or steam measuring equipment;

(b) a class 2 heat meter or steam measuring equipment would provide less accurate results than a heat loss calculation;

(c) the cost of installing a class 2 heat meter or steam measuring equipment would be disproportionate when compared with the total installation cost of the plant; or

(d) the administrative cost to the Authority of processing information from a class 2 heat meter or steam measuring equipment would be disproportionate when compared with the amount of heat which may be measured.

(6) Where in addition to heat supplied by the plant—

(a) heat generated solely by gas or electricity is supplied to the same heating system of which the plant forms part; and

(b) one or more meters are installed which measure the total amount of gas or electricity used to generate that heat,

the quantity of that gas or electricity expressed in kWh may be converted into kWhth provided such a calculation is based on an assumption that 100% of the fuel is converted into heat.

(7) In this regulation, "relevant piping" means piping which conveys heat for, or returns heat following its use for, a purpose for which heat is supplied by the heating system of which the plant forms part.".

Amendment to regulation 43 (additional capacity)

24. In regulation 43, after paragraph (8) insert—

"(9) Where an application for accreditation of additional capacity is made on or after the second relevant date, the eligibility requirements in regulations 5(1)(d) and 17A will apply to that additional capacity.".

Amendment to regulation 47 (revocation of accreditation or registration)

25. In regulation 47—

(a) after paragraph (1) insert—

"(1A) Where the Authority is satisfied, in relation to an accredited RHI installation which generates heat from solid biomass, that—

(a) an RHI emission certificate is required in relation to that plant, and

(b) that the plant has been accredited as a result of the provision of information in the RHI certificate which is incorrect in a material particular,

the Authority may revoke that accreditation.";

(b) in paragraph (2)(a) after "so to comply" insert "or of the information which is incorrect in a material particular".

Amendment to regulation 48 (overpayment notices and offsetting)

26. In regulation 48(1), after "ongoing obligation" insert "or in circumstances where regulation 47 (1A) applies,".

Contents of RHI emission certificates

27. Before Schedule 1 insert—

"SCHEDULE A1

Regulation 5A(3)

Content of RHI emission certificates

1. The name and address of the testing laboratory by which tests have been carried out.

2. The name and signature of the person authorised by the testing laboratory to issue the certificate.

3. The date of issue of the certificate together with a certificate reference number.

4. Where the testing laboratory is accredited to ISO 17025—

(a) the date of that accreditation; and

(b) the accreditation number.

5. The name, model, manufacturer and installation capacity of the plant tested.

6. The date of the testing.

7. In respect of plants with an installation capacity of 500 kWth or less, where BS EN 303-5: 1999(**a**) or BS EN 303-5: 2012(**b**) applies to that plant, confirmation that the test was carried out in accordance with whichever standard is current at the time of testing.

8. In respect of plants with an installation capacity of 500 kWth or less to which neither of the standards in paragraph 7 applies, and all plants with an installation capacity exceeding 500 kWth, confirmation that—

(a) the emissions of PM represent the average of at least three measurements of emissions of PM, each of at least 30 minutes duration; and

(b) that the value for NO_x emissions is derived from the mean of measurements made throughout the PM emission tests.

9. Confirmation that testing was carried out in accordance with—

(a) BS EN 14792:2005(**c**) in respect of NO_x; and

(b) BS EN 13284-1:2002(**d**) or BS ISO 9096:2003(**e**) in respect of PM.

10. Confirmation that the test was carried out at no less than 85% of the installation capacity of the plant.

11. Confirmation that when tested as specified in with paragraphs 7 to 10—

(a) emissions of PM from the plant did not exceed 30 grams of PM per gigajoule net heat input; and

(b) emissions of NO_x did not exceed 150 grams of NO_x per gigajoule net heat input.

12. The actual emissions of PM and NO_x measured when the plant was tested as specified in paragraphs 7 to 10.

13. A list of—

(a) the types of fuel used during the testing; and

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(b) the types of fuel which can be used so as to ensure that the emission limits referred to in paragraph 11 are not exceeded.

14. The moisture content of the fuel used during testing and the maximum moisture content which can be used so as to ensure that the emission limits referred to in paragraph 11 are not exceeded.

15. A statement indicating whether or not the plant tested was a manually stoked natural draught plant.

16. A list of plants, other than the plant tested, in the type-testing range of plants to which the certificate applies, if any.".

Amendment to Schedule 1 (information required for accreditation and registration)

28. In paragraph 1(2) of Schedule 1—

(a) in paragraph (v)(v)(bb), after "17" insert "or 17A";

(b) after paragraph (w) insert—

"(x) in relation to plant generating heat from solid biomass, either—

(i) evidence which demonstrates to the satisfaction of the Authority that an RHI emission certificate has been issued in relation to that plant; or

(ii) evidence which demonstrates to the satisfaction of the Authority that an environmental permit subsists in relation to that plant.".

Name
Minister of State
Department of Energy and Climate Change

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Great Britain, amend the Renewable Heat Incentive Scheme Regulations 2011 ("the 2011 Regulations") to introduce new requirements relating to emissions from plant generating heat from solid biomass, to introduce new metering provisions, and to make various incidental and miscellaneous amendments.

Regulation 4 extends the scheme to cleaning and drying carried on otherwise than in a building.

Regulation 5 introduces a requirement for plants generating heat from solid biomass to have an applicable RHI emission certificate. Similar requirements are imposed on CHP plants by regulation 8.

Regulation 6 introduces requirements for RHI emission certificates.

Regulation 13 introduces new metering requirements for new accreditations.

Regulation 15 introduces a new provision allowing accredited RHI installations to be moved to a new location.

Regulation 17 amends the ongoing obligations in relation to emissions from biomass.

Regulation 22 introduces new provisions for the calculation of periodic support payments for plants to which the new metering requirements apply.

Regulation 23 introduces new provisions relating to disregarding heat loss, or the calculation of heat loss in certain circumstances.

Regulations 25 and 26 amend the 2011 Regulations in relation to enforcement.

Regulation 27 introduces a new Schedule A1 which sets out requirements for RHI emission certificates.

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 of Energy and Climate Change at 3 Whitehall Place, London, SW1A 2AW and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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