This Statutory Instrument has been made in consequence of a defect in SI 2013/1033 and SI 2013/2410 and is being issued free of charge to all known recipients of those Statutory Instruments.

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. 3) 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. 3) 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 37C

3. In regulation 37C (calculation of B)—

(a) after paragraph (3) insert—

"(3A) B is 0 if—

(a) the application for accreditation was made in the period—

(**a**) 2008 c.32. Section 100 is amended by S.I. 2011/2195.
(**b**) S.I. 2011/2860 amended by S.I. 2012/1999, S.I. 2013/1033 and S.I. 2013/2410.

(i) commencing with 24th September 2013, and

(ii) ending with the day before the date on which the Renewable Heat Incentive Scheme (Amendment) (No. 3) Regulations 2013 come into force or 1st January 2014, whichever is the earlier;

(b) compliance with regulation 5(1)(d)(ii) is one of the eligibility criteria in relation to that installation;

(c) except in relation to compliance with regulation 5(1)(d)(ii), before 1st January 2014—

(i) the application was properly made, and

(ii) the eligibility criteria were met;

(d) the plant has an installation capacity of 500 kWth or less;

(e) the plant is commissioned before 1st January 2014; and

(f) the tariff start date falls on or after 1st January 2014."

(b) in paragraph (4), before "B is" insert "Except where paragraph (3A) applies,".

Amendments to regulation 37D

4. In regulation 37D (calculation of C)—

(a) in paragraph (2), for sub-paragraphs (c) to (e) substitute—

"(c) the third test is met in relation to an assessment date if, as at that assessment date, the increase in expenditure forecast applicable to the installation or participant is less than 50% of the figure specified in relation to that date in the fourth column of the table in the relevant Part of Schedule 5 ("the anticipated increase figure");

(d) the fourth test is met in relation to an assessment date if, as at that assessment date, the increase in expenditure forecast applicable to the installation or participant is at least 50% of, but less than 150% of, the anticipated increase figure;

(e) the fifth test is met in relation to an assessment date if, as at that assessment date, the increase in expenditure forecast applicable to the installation or participant is at least 150% of the anticipated increase figure."

(b) after paragraph (3) insert—

"(3A) C is 0 if—

(a) the application for accreditation was made in the period—

(i) commencing with 24th September 2013, and

(ii) ending with the day before the date on which the Renewable Heat Incentive Scheme (Amendment) (No. 3) Regulations 2013 come into force or 1st January 2014, whichever is the earlier;

(b) compliance with regulation 5(1)(d)(ii) is one of the eligibility criteria in relation to that installation;

(c) except in relation to compliance with regulation 5(1)(d)(ii), before 1st January 2014—

(i) the application was properly made, and

(ii) the eligibility criteria were met;

(d) the plant has an installation capacity of 500 kWth or less;

(e) the plant is commissioned before 1st January 2014; and

(f) the tariff start date falls on or after 1st January 2014."

(c) in paragraphs (4), (5) and (6) before "C is" insert "Except where paragraph (3A) applies,".

Amendments to Schedule A1

5. In Schedule A1 (content of RHI emission certificates)—

(a) in paragraph 4, for "ISO 17025" substitute "BS EN ISO/IEC 17025:2005";

(b) for paragraphs 7 to 9 substitute—

"**7.** Confirmation that emissions of NO_x and PM have been tested on the same occasion in accordance with the requirements specified in paragraph 8 or 9.

8. The requirements of this paragraph are that testing is carried out in accordance with the provisions relevant to emissions of PM and NO_x in either BS EN 303-5:1999(**a**) or BS EN 303-5:2012(**b**), whichever standard is current at the time of testing.

9. The requirements of this paragraph are that—

(a) testing is carried out in accordance with—

(i) BS EN 14792:2005(**c**) in respect of NO_x emissions, and

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

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

(c) the value for NO_x emissions is derived from the average of measurements made throughout the PM emission tests."

Name
Minister of State
Date Department of Energy and Climate Change

(**a**) ISBN 0 580 323560 0. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**b**) ISBN 978 0 580 71785 7. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**c**) ISBN 0 580 46990 5. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**d**) ISBN 0 580 38920 0. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**e**) ISBN 0 580 41276 8. Copies can be obtained from the British Standards Institution at www.bsigroup.com.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Great Britain, make amendments to the Renewable Heat Incentive Scheme Regulations 2011 ("the 2011 Regulations"). They correct an error in regulation 37D of the 2011 Regulations which was inserted by the Renewable Heat Incentive Scheme (Amendment) Regulations 2013(**a**) and an error in Schedule A1 to the 2011 Regulations which was inserted by the Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2013(**b**).

Regulations 3 and 4(b) amend regulations 37C and 37D of the 2011 Regulations respectively, so as to provide the circumstances in which, for the purposes of calculating the initial tariff payable under regulation 37A in respect of accredited RHI installations for which an RHI emission certificate is one of the eligibility criteria, B and C will be zero. These circumstances are where applications for accreditation in respect of plants with a capacity of 500 kWth or less are made between 24th September 2013 and the date on which these Regulations come into force or 1st January 2014, whichever is the earlier, and the tariff start date is on or after 1st January 2014 provided that, before 1st January 2014 such applications are in all other respects properly made, the eligibility criteria are met and the plant is commissioned.

Regulation 4(a) amends the tests concerning growth in forecast expenditure that are used in regulation 37D to determine whether and by how much a tariff will be reduced in a particular tariff period, so as to lower the thresholds that govern when each test is met.

Regulation 5 amends Schedule A1 so as to provide that testing of emissions of NO_x and PM must be carried out in accordance with one of the standards in paragraph 8 or alternatively in accordance with the standards and requirements set out in paragraph 9.

No impact assessment has been carried out on this instrument as no effect on the costs of business and the voluntary sector is foreseen. A full impact assessment of the effect that the Renewable Heat Incentive (Amendment) (No. 2) Regulations 2013 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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(**a**) S.I. 2013/1033.
(**b**) S.I. 2013/2410.

£4.00

UK201310285 11/2013 19585

http://www.legislation.gov.uk/id/ukdsi/2013/9780111105382

ISBN 978-0-11-110538-2

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