

**THIS DOCUMENT IS A CURRENT DRAFT AS AT 9 MARCH 2010 OF TEXT FOR THE REGULATIONS WHICH WILL UNDERPIN THE RHI SCHEME. THE TEXT WILL BE SUBJECT TO CHANGE BEFORE BEING LAID IN PARLIAMENT AS DRAFT REGULATIONS. IN THE MEANTIME, THE DEPARTMENT WILL CONSIDER COMMENTS RECEIVED BY 5 APRIL 2011 ON PRACTICAL APPLICATION.**

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SCHEDULES

SCHEDULE 1 — Information to be provided on application for accreditation or registration

SCHEDULE 2 — Provision of information in relation to use of biomass in certain circumstances

SCHEDULE 3 — Tariffs participants

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

In accordance with section 105(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), the Secretary of State has consulted the Scottish Ministers and the Scottish Ministers have given their consent to the making of these Regulations.

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<sup>(a)</sup> 2008 c. 32.

# PART 1

## Introductory provisions

### Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Regulations 2011 and come into force on [ ] 2011.

### Interpretation

2. In these Regulations—

“accreditation” means approval by the Authority of an eligible installation as an accredited RHI installation in accordance with part 4;

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

“the Act” means the Energy Act 2008;

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

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

“CHP” means combined heat and power;

“class 2 heat meter” means a heat meter which complies with the relevant requirements set out in Annex 1 of the Measuring Instruments Directive, the specific requirements and conformity assessment procedures listed in Annex MI-004 (the Annex) of the Measuring Instruments Directive and falls within accuracy class 2 as defined in the Annex;

“combined installation capacity” means the installation capacity of one or more plants;

“commissioned” means, in relation to an eligible installation, 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 it is capable of operating and delivering heat to the premises or process for which it was installed;

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

(a) (i) the date on which an application for accreditation is received by the Authority, provided the application is properly made and the Authority is satisfied that the eligibility criteria imposed by these regulations, as applicable, were met at the time of receipt, or

(ii) where the Authority is not so satisfied, first date after receipt of an application for accreditation on which the Authority is satisfied that the applicable eligibility criteria were met, and

(b) the date on which the plant was first commissioned;

“eligibility criteria” means the eligibility criteria specified in chapters 1 and 2 of part 2;

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

“eligible purpose” means one of the purposes specified in regulation 3(2);

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

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

“ineligible purposes” means a purpose which is not an eligible purpose;

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(a) 1986 c.44; section 7(1) was amended by the Utilities Act 2000 (c.27), section 76, sub-sections (1), (2) and (7) and the Energy Act 2004 (c.20), section 197(9) and schedule 23, Part I.

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

“installation” means one or more plants;

“installation capacity” means the total installed peak heat output capacity of a plant or accredited RHI installation;

“kWth” means kilowatt thermal;

“kWhth” means kilowatt hours thermal;

“MWth” means megawatt thermal;

“MWhth” means megawatt hours thermal;

“MCS” means the Microgeneration Certification Scheme **(a)** or equivalent schemes accredited under EN 45011 **(b)** which certify Microgeneration products and installers in accordance with consistent standards;

“Measuring Instruments Directive” means Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments”**(c)**;

“municipal waste” has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003 **(d)**;

“ongoing obligations” means the ongoing obligations specified in part 3;

“participant” means an owner of an accredited RHI installation or a producer of biomethane who has registered with the Authority;

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

“preliminary accreditation” in relation to a plant, means accreditation of the plant by the Authority as one which (when commissioned) will be capable of meeting the eligibility criteria;

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

“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;

“periodic support payment” is the sum payable to a participant per quarterly period in accordance with part 5;

“quarterly period” means the first, second, third or fourth quarter of any year commencing on, or on the anniversary of, a participant’s tariff start date;

“retail prices index” means—

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

“scheme” means the incentive scheme established by these regulations;

“site” means the premises to which are attached one or more accredited RHI installations or eligible installations to be determined by the Authority by reference to one or more of the following—

- (a) geographical proximity,
- (b) street address,
- (c) ordnance survey grid reference,
- (d) any other factors which the Authority in its discretion considers relevant;

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

**(b)** ISBN 0580294153. Copies can be obtained from the British Standards Institution at [www.bsigroup.com](http://www.bsigroup.com).

**(c)** OJ L135, 30.4.2004, p1.

**(d)** 2003 c.33.

“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 and must include the following components—

- (a) a flow meter,
- (b) a digital integrator or calculator able to calculate the cumulative energy in kWth which has passed a specific metering point;

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

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

“tariff lifetime” means the period for which an accredited RHI installation or a participant who is a producer of biomethane is eligible to receive periodic support payments;

“tariff start date” means the date of accreditation of an eligible installation or, in relation to a producer of biomethane, the date on which an application for registration was properly made.

### **Renewable heat incentive scheme**

3.—(1) These Regulations establish an incentive scheme to facilitate and encourage the renewable generation of heat and the production and injection of biomethane and make provision regarding its administration.

(2) Subject to paragraph (3), the Authority will pay participants periodic support payments in accordance with part 5 for heat used for any of the following eligible purposes—

- (a) space heating,
- (b) water heating,
- (c) process heating,

where the heat is used in a building or other enclosed structure.

(3) The Authority will pay participants who are producers of biomethane for injection periodic support payments calculated in accordance with part 5.

## **PART 2**

### **Eligibility and matters relating to eligibility**

#### **CHAPTER 1**

##### **Eligibility criteria for technologies**

### **Eligible installations**

4. A plant is an eligible installation if—

- (a) either regulation 5, 6, 7, 8, 9, 10 or 11 is satisfied;
- (b) the eligibility requirements set out in regulation 12 are satisfied;
- (c) it complies with the eligibility criteria in relation to metering set out in chapter 2; and
- (d) regulation 15 does not apply.

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

5. Subject to regulations 12 and 15, a plant is an eligible installation if it 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 45kWth or less, it complies with regulation 13.

**Eligible installations generating heat from solid biomass contained in municipal waste**

6. Subject to regulations 12 and 15, a plant is an eligible installation if it generates heat from solid biomass contained in municipal waste.

**Eligible installations generating heat using solar collectors**

7. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with all of the following requirements—

- (a) it generates heat using a solar collector;
- (b) it has an installation capacity of less than 200kWth;
- (c) in the case of a plant with an installation capacity of 45kWth or less, it complies with regulation 13.

**Eligible installations using heat pumps**

8. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with all of the following requirements—

- (a) it is a heat pump and generates heat using naturally occurring energy stored in the form of heat from one of the following sources—
  - (i) the ground other than geothermal,
  - (ii) surface water;
- (b) in the case of a heat pump with an installation capacity of 45kWth or less, it complies with regulation 13;
- (c) the heat pump meets a coefficient of performance of at least 2.9.

**Eligible installations generating CHP**

9.—(1) Subject to regulations 12 and 15 and to paragraph (2), a CHP system is an eligible installation if it generates heat using one of the following sources of energy—

- (a) solid biomass,
- (b) biogas produced from anaerobic digestion, gasification or pyrolysis
- (c) naturally occurring heat located at least 500 metres beneath the surface of solid earth.

(2) A CHP system is not an eligible installation if it is a qualifying CHP generating station within the meaning of article 2 of the Renewables Obligations Order 2009<sup>(a)</sup> and is accredited under that Order.

**Eligible installations using geothermal sources**

10. Subject to regulations 12 and 15, a plant is an eligible installation if it generates heat utilising naturally occurring heat located at least 500 metres beneath the surface of solid earth.

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(a) S.I. 2009/785 as amended by the Renewables Obligations (Amendment) Order (S.I. 2010/1107).

### **Eligible installations using biogas**

**11.** Subject to regulations 12 and 15, a plant is an eligible installation if it complies with the following requirements—

- (a) it generates heat using biogas produced from anaerobic digestion, gasification or pyrolysis;
- (b) it has an installation capacity of less than 200kWth;
- (c) combustion of the biogas takes place in a separate plant to the biogas plant in which it was produced.

### **Other eligibility requirements for technologies**

**12.**—(1) The eligibility requirements referred to regulations 4(1)(b) are—

- (a) installation of the plant was completed and the plant was first commissioned on or after 15 July 2009;
- (b) the plant was new at the time of installation;
- (c) the plant uses water or steam as a medium for delivering heat to the space, water or process;
- (d) heat generated by the plant is used for an eligible purpose.

(2) A plant first commissioned as a CHP system for the first time on a date (the conversion date) which is a date on or after 15 July 2009, will be deemed to be a new plant completed and first commissioned for the purposes of paragraph (1)(a) and (b), on the conversion date.

### **MCS certification for microgeneration heating equipment**

**13.** The requirements of this regulation are that the plant for which accreditation is being sought is certified under the MCS and its installer was certified under MCS at the time of installation.

### **Eligible installations comprised of more than one plant**

**14.**—(1) Subject to paragraph (2) and regulation 43(5)(b) an eligible installation may not be comprised of more than one plant.

(2) Where two or more plants—

- (a) use the same source of energy,
- (b) form part of a common heating system, and
- (c) neither plant is an accredited RHI installation;

the Authority must treat those plants (the component units) as one plant and that plant may be an eligible installation where, subject to paragraph (3), each component unit complies with regulation 4.

(3) For the purpose of regulations 7(b) and 11(b), the installation capacity of an eligible installation comprised of more than one plant is the combined installation capacity of all plants comprising that eligible installation.

### **Excluded plants**

**15.**—(1) For the purposes of regulation 4, the following plants are not eligible installations—

- (a) a plant which is generating heat solely for the use of one domestic premises;
- (b) a plant which is generating heat solely for an ineligible purpose.

(2) For the purposes of this regulation, domestic premises means a single, self contained premises used wholly or mainly as a private residential dwelling where the fabric of the building has not been adapted for non-residential use.

## CHAPTER 2

### Eligibility criteria and matters relating to metering

#### **Metering of plants in simple systems**

**16.**—(1) This regulation sets out the eligibility criteria in relation to metering for a plant where—

- (a) the plant is generating and supplying heat solely for eligible purposes and the building or other enclosed structure to which the heat is supplied is located on the same site;
- (b) no heat generated by the plant is delivered by steam; and
- (c) the plant is not a CHP system.

(2) Where this regulation applies, a class 2 meter must be installed to measure the heat in kWhth generated by the plant.

#### **Metering of complex systems**

**17.**—(1) This regulation sets out the eligibility criteria in relation to metering for a plant where regulation 16 does not apply.

(2) Subject to regulation 19, where heat generated by a plant is delivered by water, class 2 heat meters must be installed to measure the kWhth of heat generated by that plant and used for an eligible purpose.

(3) Subject to regulation 19, where heat generated by a plant is delivered by steam, the following must be installed—

- (a) steam measuring equipment to measure the steam generated by the plant and used for eligible purposes;
- (4) a class 2 heat meter to measure any condensate which returns to the plant.

(5) Where more than one plant is supplying heat to a heating system, steam measuring equipment and class 2 heat meters must be installed, as appropriate, to measure the heat output in kWhth of all plants supplying heat to that heating system.

#### **Shared meters**

**18.**—(1) Except where paragraph (2) applies, the heat generated by a plant must be metered separately.

(2) Where two or more plants—

- (a) use the same source of energy,
- (b) will be eligible to receive the same tariff,
- (c) will share the same tariff start date and tariff end date, and
- (d) it is the Authority's opinion that a single meter is capable of metering the heat generated by all of those plants;

the heat generated by those plants may be metered using one meter.

#### **Metering of CHP systems generating electricity before 15 July 2009**

**19.**—(1) In relation to CHP systems first commissioned on or after 15 July 2009 which were generating electricity from renewable sources prior to that date, any existing heat meter or steam measuring equipment installed before the commencement of these regulations may continue to be used by a participant to measure the heat generated and used provided the CHP system was registered under the CHPQA before the date of commencement of these regulations.

(2) For the purpose of this regulation, “CHPQA” means the Combined Heat and Power Quality Assurance Standard, Issue 3, January 2009, as published by the Department for Environment, Food and Rural Affairs.

### **Matters related to all heat measuring equipment**

**20.** All meters and steam measuring equipment installed in accordance with these regulations must, where applicable, be—

- (a) calibrated prior to installation;
- (b) duly marked with the CE marking and supplementary metrology markings as specified in Articles 7 and 17 of the Measuring Instruments Directive;
- (c) in relation to eligible installations generating using solar collectors, calibrated correctly for any water/ethylene glycol mixture;
- (d) in relation to the temperature and pressure components of steam measuring equipment, capable of displaying that they are operational and of specifying which steam properties they are metering;
- (e) in relation to the flow meter of steam measuring equipment, capable of displaying the current steam mass flow rate and the total mass of steam which has passed through it since it was installed;
- (f) properly installed in accordance with manufacturer's instructions.

### **Additional metering requirements for combusters of biogas**

**21.—**(1) This regulation sets out additional eligibility requirements in relation to metering where a plant is generating heat from biogas.

(2) Where this regulation applies—

- (a) a class 2 heat meter must be installed to meter any heat directed from the plant combusting the biogas to the biogas plant;
- (b) a class 2 heat meter must be installed to meter any heat to the biogas plant derived from any source other than the biogas itself.

## **PART 3**

### **Ongoing obligations for participants**

#### **CHAPTER 1**

#### **Ongoing obligations relating to the use solid biomass to generate heat**

### **Interpretation**

**22.** In this chapter—

“allocating authority”, and “waste disposal authority” have the same meaning as in section 24 of the Waste and Emissions Trading Act 2003;

“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 British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions) published by the British Standards Institute on 28th June 1991(a));

“landfill gas” means gas formed by the digestion of material in a landfill;

“standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the accredited RHI installation;

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(a) ISBN 0580194825. Copies can be obtained from the British Standards Institution: [www.bsi-global.com/en/](http://www.bsi-global.com/en/).

“waste collection authority” has the same meaning as in Part 2 of the Environmental Protection Act 1990;

“waste” has the same meaning as in section 75(2) of the Environmental Protection Act 1990.

### **Solid biomass contained in municipal waste as a source of energy**

**23.**—(1) This regulation applies to participants generating heat in an accredited RHI installation from solid biomass contained in municipal waste.

(2) The proportion of solid biomass contained in the municipal waste—

- (a) is to be determined by the Authority;
- (b) is the energy content of the municipal waste used by the participant as a whole in any quarterly period less the energy content of any fossil fuel from which that municipal waste is in part composed or derived expressed as a percentage of the energy content of the municipal waste as whole; and
- (c) must be a minimum of 50 per cent.

(3) A participant must demonstrate to the Authority’s satisfaction what proportion of the municipal waste used in any quarterly period is, or is derived from, fossil fuel to enable the Authority to determine the proportion of solid biomass contained in the municipal waste in accordance with paragraph (2).

(4) Participants may use fossil fuel in an accredited RHI installation for the following permitted ancillary purposes—

- (a) cleansing of other fuels from the accredited RHI installation’s combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
- (b) the heating of the accredited RHI installation’s combustion system to its normal operating temperature or the maintenance of that temperature;
- (c) the ignition of fuels of low or variable calorific value;
- (d) emission control;
- (e) in relation to accredited RHI installations which are CHP, standby generation or the testing of standby generation capacity.

(5) The energy content of the fossil fuel used during any quarterly period for the permitted ancillary purposes specified in paragraph (4) must not exceed ten per cent of the energy content of all the energy sources used by that accredited RHI installation to generate heat during that quarterly period.

(6) Without prejudice to paragraph (3), when determining the proportion of solid biomass contained in municipal waste, the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the energy content of the municipal waste is, or is derived from fossil fuel.

(7) Subject to paragraph (8), where a participant using municipal waste produces to the Authority—

- (a) data published by an allocating authority, a waste disposal authority or a waste collection authority, demonstrating that the proportion of municipal waste used by that participant which is, or is derived from fossil fuel, is unlikely to exceed 50 per cent, and
- (b) evidence that the municipal waste used has not been subject to any process before being used that is likely to have materially increased that proportion,

the Authority may accept this as sufficient evidence for the purposes of paragraph (3) of the fact that the proportion of the municipal waste used which is, or is derived from, fossil fuel is 50 per cent.

(8) Where—

- (a) municipal waste is used in an accredited RHI installation and—
  - (i) the Authority is not satisfied as to the matters identified in paragraphs (5) or (7);

- (ii) a participant is claiming that the proportion of that municipal waste which is, or is derived from fossil fuel is less than 50 per cent; or
- (iii) the Authority so requests,

the participant must arrange for samples of the municipal waste used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such municipal waste, to be taken by a person, and analysed in a manner approved by the Authority, and for the results of that analysis to be made available to the Authority.

**Solid biomass as a source of energy in accredited RHI installations with an installation capacity of 1MWth or above**

**24.**—(1) This regulation applies to participants generating heat from solid biomass in an accredited RHI installation with an installation capacity of 1 MWth or above.

(2) Participants may use solid biomass contaminated with fossil fuel, provided the proportion of fossil fuel contamination does not exceed 10 per cent.

(3) Where paragraph (2) applies, the fossil fuel must be present because—

- (a) (i) the biomass has been subject to a process, and
- (ii) the undertaking of that process has caused the fossil fuel to be present in, on or with the biomass even though that was not the object of the process;

or—

- (b) the fossil fuel is waste and was not added to the biomass with a view to its being used as a fuel.

(4) Where paragraph (2) applies —

- (a) the proportion of fossil fuel contamination is to be determined by the Authority;
- (b) it is for the participant to demonstrate to the Authority's satisfaction the proportion of fossil fuel contamination; and
- (c) the proportion of fossil fuel contamination is the energy content of the fossil fuel with which the solid biomass used in any quarterly period is contaminated expressed as a percentage of the energy content of the contaminated solid biomass as a whole.

(5) Participants may use fossil fuel in an accredited RHI installation for the following permitted ancillary purposes—

- (a) cleansing of other fuels from the accredited RHI installation's combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
- (b) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
- (c) the ignition of fuels of low or variable calorific value;
- (d) emission control;
- (e) in relation to accredited RHI installations which are CHP, standby generation or the testing of standby generation capacity.

(6) The energy content of the fossil fuel used during a quarterly period for the permitted ancillary purposes specified in paragraph (5) must not exceed ten per cent of the energy content of all the energy sources used by that accredited RHI installation to generate heat during that quarterly period.

(7) Without prejudice to sub-paragraph (4)(b), in determining the proportion of solid biomass composed of fossil fuel the Authority may have regard to any information (whether or not produced to it by the participant) if, in its option, that information indicates what proportion of the solid fuel is, or is derived from fossil fuel.

(8) Where—

- (a) solid biomass contaminated with fossil fuel is being used in an accredited RHI installation and the Authority is not satisfied as to what proportion of the fuel used by the participant is, or is derived from, fossil fuel;

- (b) the Authority is not satisfied as to the matters identified in paragraph (6); or
- (c) the Authority so requests,

the participant must arrange for samples of the fuel used (or to be used) in the accredited RHI installation, 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 approved by the Authority, and for the results of that analysis to be made available to the Authority.

(9) Participants must provide sustainability information in accordance with schedule 2.

**Solid biomass as a source of energy in accredited RHI installations with an installation capacity of between 45kWth and 1MWth**

**25.**—(1) This regulation applies to participants generating heat from solid biomass in an accredited RHI installation with an installation capacity of between 45kWth and 1MWth.

(2) Participants to whom this regulation applies must comply with paragraphs (2) and (3) of regulation 24.

(3) Where fuel comprised of solid biomass is used in an accredited RHI installation and a proportion of it is composed of fossil fuel—

- (a) a participant must keep and provide upon request written evidence including invoices, receipts and such other documentation as the Authority may specify relating to fuel use and fossil fuel used for ancillary purposes and provide this information upon request to the Authority as requested to demonstrate compliance with this regulation; and
- (b) the proportion of the fossil fuel contamination is the energy content of the fossil fuel with which the solid biomass used in any quarterly period is contaminated expressed as a percentage of the energy content of the solid biomass as a whole.

(4) Paragraphs (5) and (6) of regulation 24 apply in relation to fossil fuel used for ancillary purposes.

(5) Without prejudice to paragraph (3)(a), the Authority may have regard to any information (whether or not produced to it by the participant) if, in its option, that information indicates what proportion of the solid fuel is, or is derived from fossil fuel.

(6) Where—

- (a) solid biomass contaminated with fossil fuel is being used in an accredited RHI installation and the Authority is not satisfied that the proportion of fossil fuel contamination is under 10 per cent;
- (b) the Authority is not satisfied as the matters specified in paragraph (4),

the Authority may request the participant must arrange for samples of the fuel used (or to be used) in the accredited RHI installation, 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 approved by the Authority, and for the results of that analysis to be made available to the Authority.

**CHAPTER 2**

Ongoing obligations in relation for participants combusting biogas and producing biomethane

**Biogas which has been produced from gasification or pyrolysis**

**26.**—(1) This regulation applies to participants producing biogas using gasification or pyrolysis and generating heat from that biogas in an accredited RHI installation.

(2) Participants may only use solid biomass or municipal waste as feedstock.

(3) Where participants use municipal waste as feedstock, paragraphs (2) to (8) of regulation 23 apply in relation to the proportion of solid biomass contained in the municipal waste used for feedstock as for solid biomass contained in municipal waste used to generate heat and in relation to the use of fossil fuel for permitted ancillary purposes.

(4) Where participants use solid biomass as feedstock paragraphs (2) to (8) of regulation 24 apply in relation to the contamination of solid biomass used for feedstock as for solid biomass contaminated with fossil fuel and in relation to the use of fossil fuel for permitted ancillary purposes.

### **Combustion of biogas**

**27.**—(1) This regulation applies to participants generating heat from biogas in an accredited RHI installation where regulation 26 does not apply.

(2) Participants using biogas produced by anaerobic digestion may only use biogas which—

(a) was produced from one or more of the following feedstocks—

- (i) solid biomass,
  - (ii) solid waste,
  - (iii) liquid waste;
- and

(b) is not landfill gas.

(3) Participants may use fossil fuel for the permitted ancillary purposes in accordance with paragraphs (5) and (6) of regulation 24.

### **Biomethane producers**

**28.**—(1) This regulation applies to participants producing biomethane for injection.

(2) Participants producing biomethane for injection from biogas made by gasification or pyrolysis must use biogas made from one of the following feedstocks—

- (a) municipal waste which complies with the composition requirements specified under regulation 23(2)(b) and (c);
- (b) solid biomass which complies with the composition requirements specified under paragraphs (2), (3), and (4)(c) of regulation 24.

(3) Participants producing biomethane for injection from biogas made by anaerobic digestion must comply with regulation 27(2).

(4) Participants must provide measurements which satisfy the Authority of all of the following—

- (a) the gross calorific value and volume of biomethane injected;
- (b) the gross calorific value and volume of any propane contained in the biomethane;
- (c) the kWh figure of the biomethane injected together with supporting meter readings and calculations;
- (d) any heat supplied to the biogas plant which made the biogas used in any quarterly period to produce biomethane for injection.

(5) Participants must keep and provide upon request copies of contracts with third parties with whom they contract to carry out any of the final processes required to produce the biomethane and to arrange for its injection.

(6) Participants must keep for the duration of their participation in the scheme and provide upon request written evidence including invoices, receipts, contracts and such other information as the Authority may specify in relation to biogas purchased and feedstock used in the production of the biogas used to produce biomethane.

(7) Participants must provide sustainability information in accordance with schedule 2.

## CHAPTER 3

### Ongoing obligations relating to other matters

#### **Ongoing obligations relating to other matters**

**29.** Participants must comply with the following ongoing obligations, as applicable,—

- (a) participants must keep and provide upon request records of type of fuel used and fuel purchases for the duration of their participation in the scheme;
- (b) participants must keep and provide upon request written records of fossil fuel used for the permitted ancillary purposes specified in chapter 1 and 2;
- (c) participants must submit an annual declaration as requested by the Authority confirming that their accredited RHI installations are being used in accordance with the eligibility criteria and ongoing obligations;
- (d) participants must keep their accredited RHI installation maintained to the Authority's satisfaction and keep evidence of this including service and maintenance documents;
- (e) participants combusting biogas must not deliver heat by air from their accredited RHI installation to the biogas plant producing the biogas used for combustion;
- (f) participants must allow the Authority reasonable access in accordance with part 9;
- (g) participants generating heat from solid biomass must comply with one of regulation 23, 24 or 25 as specified in their statement of eligibility;
- (h) participants must notify the Authority where they have not complied with the eligibility criteria or ongoing obligations or there has been any change in circumstances which may affect their eligibility to receive the RHI;
- (i) participants must notify the Authority of any change to the plants supplying heat to a heating system of which their accredited RHI installation forms part;
- (j) participants must, if requested, provide evidence that the heat for which periodic support payments are made is used for an eligible purpose and must not deliberately generate heat for the sole purpose of increasing their periodic support payments;
- (k) such other administrative requirements that the Authority may specify in relation to the effective administration of the scheme.

#### **Ongoing obligations in relation to metering**

**30.—(1)** Participants must keep meters and steam measuring equipment used in accordance with these regulations properly maintained and regularly calibrated in accordance with manufacturer's instructions where available and retain evidence of this, including service and maintenance invoices, receipts or certificates for the duration of their participation in the scheme.

(2) The Authority may, by the date (if any) specified by it, or at such regular intervals as it may require to enable it to carry out its functions under these regulations, require participants to provide the following information—

- (a) meter readings and other data collected in accordance with these regulations from all steam measuring equipment, class 2 heat meters and other meters used in accordance with these regulations in such format as the Authority may reasonably require;
- (b) in relation to participants using steam measuring equipment, a kWh figure of heat generated and delivered by steam together with supporting data and calculations; and
- (c) the service and maintenance documentation specified in paragraph (1).

(3) Participants using heat pumps to provide both heating and cooling must ensure that their meters enable them to—

- (a) measure heat used for eligible purposes only,
- (b) discount any cooling generated by the reverse operation of the heat pump, and

must provide upon request an explanation of how their metering arrangements have enabled the figure in sub-paragraph (b) to be discounted.

(4) The data referred to in paragraph (2) may be estimated in exceptional circumstances if the Authority has agreed to an estimate being provided and to the way in which those estimates are to be calculated.

(5) Nothing in this regulation prevents the Authority from accepting further data from a participant, if the Authority considers it appropriate to do so.

### **Ongoing obligations in relation to the provision of information**

**31.**—(1) A participant must provide to the Authority any information which the Authority believes the participant may hold and which in the Authority's opinion, it requires in order to discharge its functions under these regulations.

(2) Information requested by the Authority must be provided within 7 days or such other date as the Authority may specify.

(3) Information provided to the Authority must be accurate to the best of a participant's knowledge and belief.

## **PART 4**

### **Accreditation and registration**

#### **Applications for accreditation**

**32.**—(1) Subject to 33, the Authority must accredit an eligible installation in accordance with this part.

(2) All applications for accreditation must be made to the Authority and must be supported by—

- (a) the information specified in Schedule 1;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant's knowledge and belief;
- (c) a declaration that the applicant is the owner, or one of the owners, of the eligible installation for which accreditation is being sought.

(3) Where an eligible installation is owned by more than one person the Authority—

- (a) may require that an application submitted under this regulation is made by only one of those owners; and
- (b) must be satisfied that the applicant has the authority from all of her owners to be the participant for the purposes of the scheme.

(4) Before accrediting an eligible installation, the Authority may require a site inspection to be undertaken in order to satisfy itself that a plant should be accredited.

(5) The Authority may, in granting a accreditation, attach such conditions as it considers to be appropriate.

(6) Where an application for accreditation has been properly made and the Authority is satisfied that the plant is an eligible installation the Authority must—

- (a) accredit the eligible installation;
- (b) notify the applicant in writing that the application has been successful;
- (c) determine the site of the accredited RHI installation;
- (d) enter on a central register details of the accredited RHI installation, the site on which it is located, the date of accreditation and the applicant's name;
- (e) notify the applicant of any conditions attached to the accreditation;

- (f) in relation to an applicant who is or will be generating heat from biomass, specify whether the applicant must comply with regulation 23, 24 or 25;
- (g) send a statement of eligibility including the following information—
  - (i) the date of accreditation;
  - (ii) the applicable tariff rate;
  - (iii) the process and timing for providing meter readings;
  - (iv) details of the frequency and timetable for payments;
  - (v) the tariff lifetime and tariff end date.

(7) Where the Authority does not accredit a plant it must notify the applicant in writing that the application for accreditation has been rejected giving reasons.

(8) Once a specification made in accordance with paragraph (6)(f) has been notified to a participant, it cannot be changed except in the case of error or on the provision of new information.

### **Exceptions to accreditation applicable to all eligible installations**

**33.**—(1) The Authority must not accredit an eligible installation unless the applicant has given notice that—

- (a) no grant from public funds has been made in respect of any of the costs of purchasing or installing the eligible installation; or
- (b) such a grant was made in respect of a non-eligible installation completed and first commissioned between 15 July 2009 and the date on which these regulations come into force, and has been repaid to the person or authority which made it.

(2) In this regulation, “grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority.

(3) The Authority must not accredit an eligible installation if it has not been commissioned.

(4) The Authority may refuse to accredit an eligible installation if its owner has indicated that one or more of the eligibility obligations will not be complied with.

### **Changes in ownership**

**34.**—(1) This regulation applies where a participant who owns an accredited RHI installation transfers ownership of that accredited RHI installation to another person.

(2) A participant must notify the Authority as soon as possible in the event of a change in ownership of an accredited RHI installation.

(3) No periodic support payment may be made to the new owner of an accredited RHI installation until that owner has notified the Authority of the change in ownership and the steps set out in paragraph (4) have been completed.

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

- (a) may require the new owner to provide such of the information specified in schedule 1 as the Authority considers necessary for the proper administration of the scheme;
- (b) may review the accreditation of the accredited RHI installation to ensure that it continues to meet the eligibility criteria and should remain an accredited RHI installation.

(5) Where the Authority has received the information required under sub-paragraph (4)(a) and is satisfied as to the matters specified in sub-paragraph (4)(b) it must—

- (a) update the central register; and
- (b) send the new owner a statement of eligibility setting out the information specified in regulation 32(6)(g).

(6) If no notification is made in accordance with paragraph (3), within 12 months of the transfer of ownership of the accredited RHI installation the accreditation RHI installation in question will cease

to be accredited and no further periodic support payments will be paid in respect of the heat it generates.

(7) The periods specified in paragraph (6) may be extended by the Authority where there are extenuating circumstances.

(8) Following the successful completion of the steps required under paragraph (4) and (5), the new owner of an accredited RHI installation will receive periodic support payments calculated from the date of completion of those steps for the remainder of the tariff lifetime of that accredited RHI installation.

### **Producers of biomethane**

**35.**—(1) A producer of biomethane must register with the Authority in order to become a participant.

(2) Applications for registration must be supported by—

- (a) the information specified in schedule 1;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant's knowledge and belief;
- (c) details of the process by which the applicant proposes to produce biomethane and arrange for its injection.

(3) The Authority may, in registering an applicant, attach such conditions as it considers appropriate.

(4) Where the application for registration is properly made the Authority must—

- (a) notify the applicant in writing that registration has been successfully completed and the applicant is a participant;
- (b) enter on a central register the date of registration and the applicant's name;
- (c) notify the applicant of any conditions attached to their registration as a participant;
- (d) send the applicant a statement of eligibility including the information specified in regulation 32(6)(g) as applicable.

(5) The Authority may refuse to register an applicant if the applicant has indicated that one or more of the eligibility obligations will not be complied with.

### **Preliminary accreditation**

**36.**—(1) This regulation applies to the granting and withdrawing of preliminary accreditation of a plant by the Authority.

(2) This regulation does not apply to plants which will generate heat using solar collectors or a heat pump.

(3) The Authority may, upon the application by a person who proposes to construct or operate an eligible installation which has not yet been commissioned, grant preliminary accreditation in respect of that eligible installation provided—

- (a) planning permission under the Town and Country Planning Act 1990(a) has been granted; or
- (b) such planning permission is not required and appropriate evidence of this is provided to the Authority.

(4) The Authority must not grant preliminary accreditation to any plant under this regulation if, in its opinion, that plant is unlikely to generate heat for which periodic support payments may be paid.

(5) An application for preliminary accreditation must be supported by such of the information specified in schedule 1 as the Authority considers necessary.

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(a) 1990 c.8.

(6) The Authority may attach such conditions as it considers appropriate in granting preliminary accreditation under this regulation.

(7) Where a plant has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for accreditation is made under part 4, the Authority must grant that application unless it is satisfied that—

- (a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;
- (b) any condition attached to the preliminary accreditation has not been complied with;
- (c) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Authority known the true position when the application for preliminary accreditation was made, it would have been refused; or
- (d) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused.

(8) Where any of the circumstances mentioned in paragraph (8) apply in relation to a preliminary accreditation which the Authority has granted and having regard to those circumstances the Authority considers appropriate to do so, the Authority may—

- (a) withdraw the preliminary accreditation;
- (b) amend the conditions attached to the preliminary accreditation;
- (c) attach conditions to the preliminary accreditation.

(9) The circumstances referred to in paragraph (7) are as follows—

- (a) in the Authority's view there has been a material change in circumstances since the preliminary accreditation was granted;
- (b) any condition attached to the preliminary accreditation has not been complied with;
- (c) the Authority has reason to believe that the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular;
- (d) there has been change in the applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused.

(10) The Authority must send the applicant a notice setting out—

- (a) its decision on an application for preliminary accreditation of a plant;
- (b) any conditions attached to the preliminary accreditation;
- (c) any withdrawal of preliminary accreditation.

(11) The notice sent pursuant to paragraph (9) must specify the date on which the grant or withdrawal of preliminary accreditation is to take effect and, where applicable, the date on which any conditions attached to the preliminary accreditation are to take effect.

(12) In paragraph (2), the reference to the person who proposes to construct an eligible installation includes a person who arranges for the construction of the eligible installation.

## PART 5

### Periodic support payments

#### **Payment of periodic payments to participants**

**37.**—(1) Subject to part 7 the Authority will pay participants periodic support payments calculated in accordance with this part.

(2) Periodic support payments will accrue from the tariff start date and will be paid for the tariff life time ending on the tariff end date.

(3) Periodic support payments will be calculated by the Authority for each quarterly period and paid four times a year.

(4) Subject to paragraph (5), the tariff for each accredited RHI installation or for a participant who is a producer of biomethane will be fixed for the tariff life time and will be—

(a) in relation to accredited RHI installations, the applicable tariff as at the date of accreditation for the eligible technology of the accredited RHI installation based on the combined installation capacity of that accredited RHI installation and all installations—

(i) for which an application for accreditation has been made;

(ii) which use the same source of energy as the accredited RHI installation; and

(iii) which form part of the heating system of which the accredited RHI installation forms part, or

(b) in relation to participants who are producers of biomethane, the biomethane and biogas combustion tariff as at the date of registration.

(5) The tariffs for the period ending 31 March 2012 will be the tariffs set out in table 1 of schedule 3. For each subsequent year commencing on 1 April and ending on 31 March, the Authority will use the tariff rates set out in the table which will be published each year by the Authority and will comprise the figures in table 1 of schedule 3 adjusted by the percentage increase or decrease in the retail price index for the previous calendar year.

(6) (a) This paragraph applies to accredited RHI installations receiving the small commercial biomass tariff or the medium commercial biomass tariff in table 1 of schedule 3.

(b) Where this paragraph applies, a participant will receive the tier 1 tariff specified in table 1 of schedule 3 for initial heat generated by the accredited RHI installation in any 12 month period commencing on, or on the anniversary of, the date of accreditation and the tier 2 tariff for all further heat generated in that same 12 month period.

(c) For the purposes of this paragraph, “initial heat” means the heat in kWh generated by an accredited RHI installation running at its installation capacity for 1,314 hours.

### **Periodic payments for simple systems**

**38.**—(1) — Subject to part 6, this regulation applies to participants who own an accredited RHI installation which—

(a) is generating and supplying heat solely for eligible purposes;

(b) does not generate and deliver heat by steam; and

(c) is not a CHP system.

(2) Participants will be paid a periodic support payment in respect of each quarterly period calculated in accordance with one of the following equations, 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 A is the tariff fixed by the Authority for the accredited RHI installation on the date of accreditation;

B is the heat generated by the accredited RHI installation in kWh during the relevant quarterly period; and

C is the heat in kWh directed from the accredited RHI installation or delivered by any other source to the biogas plant which produced the biogas combusted in the relevant quarterly period.

### **Periodic payments for complex systems**

**39.**—(1) This regulation applies to participants who own an accredited RHI installation which does not fall within regulation 38.

(2) Participants will be paid a period support payment for each quarterly period in respect of the accredited RHI installation calculated in accordance with one of the following equations, as applicable—

(a)  $A \times B \times C/E$ ; or

(b) where the accredited RHI installation is generating heat from the combustion of biogas,

$A \times B \times (C - D)/E$ ,

where A is the tariff fixed by the Authority for the accredited RHI installation on the date of accreditation;

B is the total number of kW<sub>th</sub> used by the heating system of which the accredited RHI installation forms part during the relevant quarterly period for eligible purposes;

C is the heat generated by the accredited RHI installation in kW<sub>th</sub> during the relevant quarterly period;

D is the heat in kW<sub>th</sub> directed from the accredited RHI installation or delivered from any other source to the biogas plant which produced the biogas combusted in the relevant quarterly period; and

E is the heat in kW<sub>th</sub> generated by all plants supplying heat to the same heating system of which the accredited RHI installation forms part in the relevant quarterly period.

### **Fossil fuel contamination of solid biomass and fossil fuel used for permitted ancillary purposes**

**40.**—(1) This regulation applies to participants generating heat from one of the following—

(a) solid biomass contained in municipal waste;

(b) solid biomass in an accredited RHI installation with an installation capacity of 1MW<sub>th</sub> and above.

(2) Where the solid biomass used by a participant is contaminated with fossil fuel or the participant has used fossil fuel for permitted ancillary purposes, the periodic support payment calculated in accordance with regulations 38 or 39 will be reduced pro rata to reflect the proportion of fossil fuel contamination and proportion of fossil fuel used for permitted ancillary purposes during the relevant quarterly period which resulted in the generation of heat.

### **Fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis**

**41.**—(1) This regulation applies to participants producing and combusting biogas produced from gasification or pyrolysis.

(2) Where a participant uses feedstock contaminated with fossil fuel the periodic support payment calculated in accordance with regulation 38 or 39 will be reduced pro rata to reflect the proportion of fossil fuel contamination in the feedstock used by the participant in the relevant quarterly period.

### **Periodic support payments to producers of biomethane**

**42.**—(1) Participants producing biomethane for injection will be paid a period support payment each quarterly period calculated in accordance with the following equation—

$A \times (B - (C + D)) \times E$ ,

where A is the biomethane injection tariff;

B is the kWh of biomethane injected in any quarterly period;

C is the kWh of propane contained in B;

D is the kWh of heat supplied to the biogas plant which produced the biogas from which the biomethane was made, from any heat source other than heat generated from the combustion of that biogas; and

E applies only in relation to biomethane made using biogas produced from gasification or pyrolysis, and is the proportion of biomass contained in the feedstock used in the relevant quarterly period to produce the biogas.

## PART 6

### Additional RHI capacity

#### **Treatment of additional RHI capacity**

**43.**—(1) This regulation applies where a participant installs additional RHI capacity.

(2) In this regulation “additional RHI capacity” means an increase in the capacity of an accredited RHI installation (“the original accredited RHI installation”) by the addition of another plant using the same source of energy and supplying heat to the same heating system of which the accredited RHI installation forms part.

(3) A participant must inform the Authority within 28 days of additional RHI capacity being first commissioned.

(4) Paragraph (5) applies where the additional RHI capacity is first commissioned within 12 months of the date on which the original accredited RHI installation was first commissioned.

(5) Where this paragraph applies—

- (a) the Authority may review the accreditation of any accredited RHI installation located on the same site as the additional RHI capacity;
- (b) upon an application for accreditation of the additional RHI capacity, the Authority must—
  - (i) treat the additional RHI capacity as if it were part of the original accredited RHI installation, and
  - (ii) decide whether or not to accredit the additional capacity and original accredited RHI installation as one eligible installation in accordance with part 4;
- (c) subject to paragraph (d), where the Authority refuses accreditation under sub-paragraph (b)(ii), the original accredited RHI installation must remain accredited;
- (d) if a review undertaken in accordance with paragraph (a) results in a finding that one of the eligibility criteria or ongoing obligations is no longer being met, the Authority may take appropriate action under part 7;
- (e) where the Authority grants accreditation in accordance with paragraph (b), from the date of accreditation of the additional RHI capacity a participant’s periodic support payments will be calculated using the tariff as at the date of accreditation of the original accredited RHI installation for that eligible technology based on the combined installation capacity of the additional RHI capacity and the original accredited RHI installation and will terminate on the tariff end date of the original accredited RHI installation.

(6) Paragraph (7) applies where the additional RHI capacity is first commissioned more than 12 months after the accredited RHI installation was first commissioned.

(7) Where this paragraph applies, the Authority may review the accreditation of any accredited RHI installation located on the same site as the additional RHI capacity.

(8) All additional RHI capacity must be metered separately.

## PART 7

### Enforcement

#### **Compliance Notices**

**44.**—(1) Where the Authority has reasonable grounds to believe that a participant has failed or may be failing to comply with an eligibility criterion or ongoing obligation it may serve the participant with a compliance notice.

(2) The compliance notice must specify—

- (a) the eligibility criterion or eligibility obligation with which the participant has failed or may be failing to comply;
- (b) the manner of the alleged failure;
- (c) whether any action must be taken to remedy the failure;
- (d) the period within which any action must be taken; and
- (e) the consequences of failing to take any actions stipulated in paragraph 2(c) including potential sanctions.

#### **Power to temporarily withhold periodic support payments to investigate alleged non-compliance**

**45.**—(1) The Authority may temporarily withhold all or part of a participant's periodic support payments where the Authority has reasonable grounds to suspect that the participant is failing to comply with an eligibility criterion or ongoing obligation and requires time to investigate the suspected non-compliance.

(2) Within 21 days of a decision to withhold periodic support payments, the Authority must send a notice to the participant specifying—

- (a) the eligibility criterion or ongoing obligation with which the Authority suspects the participant is failing to comply;
- (b) the reason why periodic support payments are being withheld;
- (c) the date from which periodic support payments will be withheld;
- (d) the next steps in the investigation; and
- (e) details of the participant's right to appeal including any relevant time-limits.

(3) Any investigation must be commenced and completed as soon as is reasonably practicable.

(4) The Authority may withhold a participant's periodic support payments for a maximum period of 6 months commencing from the date of the notice specified in paragraph (2).

(5) The Authority must review its decision to withhold a participant's periodic support payments every 30 days commencing 30 days after the date of the notice specified in paragraph (2).

(6) Following a review pursuant to paragraph (5), the Authority must send a notice to the participant providing an update on—

- (a) the progress of any investigation to date; and
- (b) whether the Authority intends to continue to withhold periodic support payments.

(7) For the purposes of calculating the time-limit specified in paragraph (4), no account will be taken of any period attributable to the participant's delay in providing any information reasonably requested by the Authority.

(8) For the purposes of paragraph (7), a participant will not be deemed to have delayed in providing information if that participant responds within 2 weeks of a request from the Authority.

(9) On conclusion of the investigation or after 6 months, whichever is the earlier, the Authority must notify the participant of the outcome of the investigation, if applicable, and either—

- (a) impose one or more of the other sanctions set out in this Part; or

- (b) repay any periodic support payments temporarily withheld under this regulation within 21 days.
- (10) This regulation does not affect a participant's tariff end date.

#### **Power to temporarily withhold periodic support payments to ensure compliance**

**46.**—(1) The Authority may temporarily withhold all or part of a participant's periodic support payments where it is satisfied that the participant is failing to comply with an eligibility criterion or ongoing obligation.

(2) Within 21 days of a decision to withhold periodic support payments, the Authority must send a notice to the participant specifying—

- (a) the eligibility criterion or ongoing obligation with which the Authority believes the participant is failing to comply;
- (b) the reason why periodic support payments are being withheld;
- (c) the date from which periodic support payments will be withheld;
- (d) the steps that the participant must take to satisfy the Authority that the relevant eligibility criterion or ongoing obligation is being met;
- (e) the consequences of the participant failing to comply with the steps specified in sub-paragraph (d) including potential sanctions; and
- (f) details of the participant's right to appeal including any relevant time-limits.

(3) The Authority may withhold a participant's periodic support payments for a maximum period of 6 months following service of the notice specified in paragraph (2).

(4) For the purposes of calculating the time-limit specified in paragraph (3), no account will be taken of any period attributable to the participant's delay in providing any information reasonably requested by the Authority.

(5) For the purposes of paragraph (4), a participant will not be deemed to have delayed in providing information if that participant responds within 2 weeks of a request from the Authority.

(6) On expiry of the time-limit specified in paragraph (3) the Authority must either—

- (a) impose one or more of the other sanctions set out in this Part; or
- (b) repay any periodic support payments temporarily withheld under this regulation within 21 days.

(7) This regulation does not affect a participant's tariff end date.

#### **Power to suspend periodic support payments where ongoing failure to comply**

**47.**—(1) Where the Authority is satisfied that a participant is failing to comply with an eligibility criterion or ongoing obligation it may suspend the participant's periodic support payments.

(2) Within 21 days of a decision to suspend periodic support payments the Authority must send a notice to the participant specifying—

- (a) the eligibility criterion or ongoing obligation with which the participant is failing to comply;
- (b) the reason why periodic support payments are being suspended;
- (c) the date from which the suspension is effective;
- (d) the steps that the participant must take to satisfy the Authority that the relevant eligibility criterion or ongoing obligation is being met;
- (e) the consequences of the participant failing to comply with the steps required pursuant to sub-paragraph (d) including potential sanctions; and
- (f) details of the participant's right to appeal including any relevant time-limits.

(3) Within 21 days of being satisfied that the eligibility criterion or ongoing obligation are being met the Authority must remove the suspension.

(4) The maximum period for which the Authority may suspend a participant's periodic support payments is 1 year. After this time the Authority must either—

- (a) impose any other sanction specified in this Part; or
- (b) remove the suspension with 14 days.

(5) A participant may not recover any periodic support payments suspended in accordance with this regulation.

(6) This regulation does not affect a participant's tariff end date.

### **Power to stop participants' periodic support payments**

**48.**—(1) Where the Authority is satisfied that there has been a material or repeated failure by a participant to comply with an eligibility criterion or ongoing obligation during any quarterly period, the Authority may decide not to pay all or part of the periodic support payments in respect of that quarterly period.

(2) Within 21 days of a decision not to pay periodic support payments, the Authority must send a notice to the participant specifying—

- (a) the eligibility criterion or ongoing obligation with which the participant has failed to comply;
- (b) the reason why periodic support payments are being stopped;
- (c) the date from which the periodic support payments are to be stopped; and
- (d) details of the participant's right to appeal including any relevant time-limits.

(3) This regulation does not affect a participant's tariff end date.

### **Power to reduce periodic support payments**

**49.**—(1) Where the Authority is satisfied that there is or has been a material or repeated failure to comply with an eligibility criterion or ongoing obligation in any quarterly period it may reduce a participant's next periodic support payment.

(2) The Authority may determine the level of the reduction (taking into consideration all factors which it considers relevant) up to a maximum reduction of 10 per cent of the next periodic support payment.

(3) The reduction in a participant's periodic support payment must be commensurate with the seriousness of the breach.

(4) Within 21 days of a decision to reduce a participant's periodic support payment, the Authority must send a notice to the participant specifying—

- (a) the reason for the reduction including the eligibility criterion or ongoing obligation with which the participant has failed or may be failing to comply;
- (b) the level of the reduction;
- (c) the period which the reduction covers;
- (d) details of any evidence supporting the Authority's decision; and
- (e) details of the participant's right to appeal including any relevant time-limits.

### **Overpayment notices and offsetting**

**50.**—(1) Where the Authority has reasonable grounds to believe that a participant has received a periodic support payment which exceeds that participant's correct entitlement or whilst failing to comply with an eligibility criterion or ongoing obligation it may take the following action—

- (a) require the participant to repay the periodic support payment;

- (b) offset the periodic support payments against future periodic support payments.
- (2) Within 21 days of a decision to offset or require the participant to repay periodic support payments the Authority must send the participant a notice specifying—
  - (a) the periodic support payment which the Authority believes have been overpaid and the sum which it is seeking to recover from the participant;
  - (b) whether the sum specified in sub-paragraph (a) will be recovered in accordance with paragraph (1)(a) or 1(b);
  - (c) the period within which the sum specified in sub-paragraph (a) must be repaid;
  - (d) the consequences of failing to make any repayments requested including potential sanctions; and
  - (e) details of the participant’s right to appeal any sum claimed including any relevant time-limits.

**Excluding a participant from the scheme**

**51.**—(1) Where the Authority is satisfied that there has been a material or repeated failure by a participant to comply with an eligibility criterion or ongoing obligation it may take one or more of the following actions—

- (a) exclude the participant from the scheme and stop all periodic support payments in respect of a specific accredited RHI installation;
- (b) exclude the participant’s other accredited RHI installations.

(2) Within 21 days of a decision to exclude the Authority must send a notice to the participant specifying—

- (a) the reason for the exclusion including the eligibility criterion or ongoing obligation with which the participant has failed to comply;
- (b) an explanation of the effect of the exclusion;
- (c) details of any evidence supporting the Authority’s findings; and
- (d) details of the participant’s right to appeal including any relevant time limits.

(3) Where a participant has been excluded from the scheme, the Authority may prohibit that participant from reapplying to join the scheme in relation to any future eligible installation.

(4) A prohibition under paragraph (3) may be removed where the Authority believes that it is just and equitable in the particular circumstances of the case to do so.

**PART 8**

**Withdrawal of sanctions**

**Withdrawal of Part 7 sanctions**

**52.**—(1) The Authority may at any time revoke a sanction imposed in accordance with Part 7 if it is satisfied that—

- (a) there was an error involved in the original imposition of the sanction; or
- (b) it is just and equitable in the particular circumstances of the case to do so.

(2) Within 21 days of a decision to revoke a sanction, the Authority must send a notice to the participant specifying—

- (a) the sanction which has been withdrawn;
- (b) the reason for the revocation;

- (c) what action if any the Authority proposes to take in relation to any loss incurred by the participant as a result of the imposition of the sanction including the time within which any action will be taken; and
  - (d) details of someone within the Authority whom the participant may contact if they are not satisfied with the proposals made by the Authority under sub-paragraph (c).
- (3) If a participant is not content with the proposals made by the Authority in under paragraph (2)(c) it must notify the Authority within one month of receipt of a notice sent in accordance with paragraph (2).

## PART 9

### Inspection

#### **Power to inspect accredited RHI installations**

**53.**—(1) The Authority may request entry at any reasonable hour to inspect an accredited RHI installation and its associated infrastructure to undertake any one or more of the following—

- (a) verify that the RHI accredited installation satisfies the eligibility criteria and ongoing obligations;
- (b) verify meter readings;
- (c) take samples and remove them from the premises for analysis;
- (d) take photographs, measurements or video or audio recordings;
- (e) ensure that there is no other contravention of these regulations.

(2) The Authority may impose one or more of the sanctions set out in Part 7 in the event that an occupier unreasonably refuses—

- (a) a request made under paragraph (1); or
- (b) to comply with directions of the Authority once entry to the premises is granted.

(3) Within 21 days of a request made under paragraph (1) being unreasonably refused the Authority must send a notice to the participant specifying—

- (a) the reason why the Authority believes the refusal to be unreasonable;
- (b) the consequences of the refusal and of failing to take any other action required under paragraph (2)(b), as applicable, including potential sanctions; and
- (c) details of the participant's right to appeal including any relevant time-limits.

(4) For the purposes of paragraph (2), an occupier means—

- (a) a participant;
- (b) a participant's agent; or
- (c) any other person authorised by a participant to operate or control an accredited RHI installation.

## PART 10

### Appeals

#### **Right of appeal**

**54.**—(1) [A decision will be taken on the internal appeal process ahead of the introduction of the RHI which may require an addition to the draft regulations.]

## PART 10

### Administrative Functions of the Authority and notices

#### Publication of guidance and tariffs

**55.**—(1) The Authority must publish procedural guidance to participants and prospective participants in connection with the administration of the scheme.

(2) The Authority must publish on or before 1 April each year a tariff table for the period commencing 1 April of that year to 31 March of the following year in accordance with regulation 37(5).

#### Reporting obligations

**56.**—(1) — The Authority must provide to the Secretary of State quarterly and annual reports setting out in a practical format the following information, as applicable—

- (a) In respect of each accredited RHI installation accredited during the reporting period—
  - (i) details of the accredited RHI installation and the fuel it has used,
  - (ii) details of the generator it has replaced, if any,
  - (iii) the total amount of periodic support payments made in respect of that accredited RHI installation during the reporting period,
  - (iv) the total amount of heat in kWh for which periodic support payments were made in respect of that accredited RHI installation and the eligible purpose and the industry sector for which it was used,
  - (v) sustainability information provided in accordance with schedule 2;
- (b) the information specified in paragraph (a) in aggregate form for all accredited RHI installations accredited during the reporting period and since the date of commencement of the scheme;
- (c) details of the number of biomethane producers who are participants and the volume of biomethane produced for injection for which periodic support payments have been made; and
- (d) such other information as the Authority may hold in relation to its functions under these regulations as the Secretary of State may request.

(2) The first annual report must be published by 31 July 2012 and must cover the period ending on 31 March 2012 and each subsequent year the annual report must be published by 31 July in respect of the 12 months period ending on 31 March of that year.

(3) The Authority must publish quarterly and annual reports on its website and provide copies to the Secretary of State.

(4) The Authority must publish the following information on its website—

- (a) the quarterly and annual reports provided in accordance with this regulation; and
- (b) up to date information on the number of accredited RHI installations and their installation capacity.

#### Additional information

**57.** On request from the Secretary of State, the Authority must provide to the Secretary of State in such format as the Secretary of State may reasonably request such additional information as the Authority may hold in relation to the performance of its functions under these regulations as is requested.

## Notices

58. A notice under these regulations—

- (a) must be in writing; and
- (b) may be transmitted by electronic means.

## SCHEDULES

### SCHEDULE 1

Regulations 32 and 35

#### Information to be provided on application for accreditation or registration

1.—(1) The information referred to in regulations 32 and 35 is, as applicable to the prospective participant—

- (a) name, a [UK] postal address, e-mail address and telephone number;
- (b) any company registration number and registered office;
- (c) any trading or other name by which the prospective participant is commonly known;
- (d) details of a bank account in the applicant's name which accepts pound sterling deposits in the UK;
- (e) details of the eligible installation owned by the prospective participant, including the site on which it is located;
- (f) evidence that the eligible installation is new;
- (g) where an eligible installation has replaced an existing generator, details of the generator replaced;
- (h) evidence which demonstrates to the Authority's satisfaction the installation capacity of the eligible installation;
- (i) details of the fuel which the owner is proposing to use;
- (j) in relation to applicants generating heat from biomass, notification as to whether the applicant is proposing to use solid biomass contained in municipal solid waste and, if so, whether or not the applicant is regulated under the Environmental Permitting Regulations 2010/Waste incineration directive;
- (k) where the plant is a heat pump, evidence which demonstrates to the Authority's satisfaction, that the heat pump meets a coefficient of performance of at least 2.9.
- (l) in respect of a producer of biogas or biomethane, details of the feedstock which the producer is proposing to use;
- (m) details of what the heat generated will be used for and an estimate of how much heat will be used;
- (n) details of the building or other enclosed structure in which the heat will be used;
- (o) the industry sector for which the heat will be used;
- (p) details of the size and annual turnover of the undertaking;
- (q) details of any other heat generating equipment supplying heat to for the same eligible purpose as the eligible installation;
- (r) where regulation 13 applies, evidence from the installer that the requirements specified in that regulation are met;
- (s) such information as the Authority may specify to enable it to satisfy itself that the metering and measuring requirements imposed by chapter 2 of part 2 have been met including—
  - (i) evidence that a class 2 heat meter has been installed;

- (ii) evidence that the meter or steam measuring equipment was calibrated prior to installation;
  - (iii) details of the class 2 heat meter's manufacturer, model, meter serial number and manufacturer's declaration of conformity to the European Measuring Instruments Directive;
  - (iv) a schematic diagram;
  - (v) where—
    - (aa) an eligible installation has with an installation capacity of 1MWth or above, or
    - (bb) regulation 17 applies,
 if so requested by the Authority, an independent report by a competent person verifying the schematic diagram provided in accordance with sub-paragraph (iv);
  - (t) such other information as the Authority may reasonably request to enable it to consider the prospective participant's application for accreditation.
- (2) The costs of providing the information requested in this schedule are to be borne by the applicant.

## SCHEDULE 2

Regulations 24 and 28

### Provision of information in relation to use of biomass in certain circumstances

#### **Information to be provided to the Authority where biomass is used for combustion or production of biomethane**

1.—(1) This schedule applies to—

- (a) participants using solid biomass, other than biomass derived wholly from municipal waste, for combustion in accredited RHI installations with an installation capacity of 1 MWth or above; and
- (b) participants producing biomethane from biogas produced from solid biomass, other than solid biomass contained in municipal waste

(2) Participants must provide the following information to the Authority in relation to all biomass which falls within paragraph (2)—

- (a) information identifying to the best of the participant's knowledge and belief—
  - (i) the material from which the biomass was composed;
  - (ii) the form of the biomass,
  - (iii) its mass,
  - (iv) whether the biomass was a by-product of a process;
  - (v) whether the biomass was derived from waste,
  - (vi) where the biomass was plant matter or derived from plant matter, the country where the plant matter was grown;
  - (vii) where the information specified in paragraph (vi) is not known or the biomass was not plant matter or derived from plant matter, the country from which the operator obtained the biomass;
  - (viii) whether any of the biomass used was an energy crop or derived from an energy crop and if so—
    - (aa) the proportion of the consignment which was or was derived from the energy crop, and
    - (bb) the type of energy crop in question;

(ix) whether the biomass [or any matter from which it was derived] was certified under an environmental quality assurance scheme and, if so, the name of the scheme;

(x) where the biomass was plant matter or derived from plant matter, the use to which the land on which the plant matter was grown has been put since 30th November 2005.

(3) The information specified in paragraph (2) must be collated by reference to the following places of origin—

- (a) United States of America/Canada;
- (b) the European Union;
- (c) other.

(4) The information specified in paragraph (2) must be provided for every quarterly period.

(5) For the purpose of this schedule—

“energy crop” means a plant crop planted after 31<sup>st</sup> December 1989 which is grown primarily for the purpose of being used as fuel or which is one of the following—

- (a) miscanthus giganteus (a perennial grass),
- (b) salix (also known as short rotation coppice willow),
- (c) populus (also known as short rotation coppice poplar);

and

“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 a biomass fuel is derived.

## SCHEDULE 3

Regulation 37

### Tariffs participants

**Table 1**

<i>Tariff name</i>	<i>Eligible technology</i>	<i>Installation capacity</i>	<i>Tariff rate (pence/kWh)</i>	<i>Tariff duration</i>	<i>Support calculation</i>
Small commercial biomass	Solid biomass including solid biomass contained in municipal solid waste and CHP	Less than 200kWth	Tier 1: 7.6 Tier 2: 1.9	20	Metering. Tier 1 applies annually up to the tier break, the tier break is: installed capacity x 1,314 peak load hours i.e. kWhth x 1,314
Medium commercial Biomass	As above	200kWth and above up to but not including 1MWth	Tier 1: 4.7 Tier 2: 1.9	20	Metering. Tier 1 applies annually up to the tier break, the tier break is installed

capacity x  
1,314 hours  
i.e. kWhth x  
1,314

Large commercial biomass	As above	1MWth and above	2.6	20
Small commercial biomass	Ground source heat pump, water source heat pump, deep geothermal	Less than 100kWth	4.3	20
Large commercial ground source		100kWth and above	3.0	20
All	Solar collectors	Below 200 kWth	8.5	20
Biomethane and biogas combustion	Biomethane injection and biogas combustion	All biomethane injection and biogas combustion below 200 kWth	6.5	20

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