STATUTORY INSTRUMENTS

2018 No. 635

ENERGY

The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2018

Made - - - -	*24th May 2018*
Laid before Parliament	*29th May 2018*
Coming into force in accordance with regulation 1(2) to (4)	

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 100(1), 100(2)(a), (b), (ba) and (d) and 104(2) of the Energy Act 2008(**1**).

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.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2018.

(2) This Part, and regulations 9(a), 14(a) and (c), and 15, come into force on 20th June 2018.

(3) Part 2 comes into force on 27th June 2018.

(4) The remainder of these Regulations comes into force on 1st October 2018.

(**1**) 2008 c.32. Section 100 is amended by section 51 of the Infrastructure Act 2015 (c.7) and S.I. 2011/2195. Section 51 also amended section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation) and inserted subsections (3A) to (3I) concerning provisions which attract the affirmative resolution procedure. By virtue of subsections (3A) to (3I), these Regulations do not attract the affirmative procedure.

PART 2

Amendments to the Domestic Renewable Heat Incentive Scheme Regulations 2014

Amendments to the Domestic Renewable Heat Incentive Scheme Regulations 2014

2. The Domestic Renewable Heat Incentive Scheme Regulations 2014(**2**) are amended in accordance with this Part.

Amendments to regulation 2 (interpretation)

3. In regulation 2(1), for the definition of "investor" substitute—

""investor" means a person who provides funding in relation to any of the cost of the purchase or installation of a plant in return for RHI payments and enters into a contract with an applicant or participant in respect of such arrangement, or a person who intends to do so;".

Amendments to regulation 22A (investor applications)

4. For regulation 22A(1) substitute—

"(1) An investor may apply to the Authority, on or after 27th June 2018, to be registered as an RI for the purposes of these Regulations.".

New regulation 26A (investors and RHI payments)

5. After regulation 26 insert—

"**Investors and RHI payments**

26A. In relation to an accredited domestic plant with a tariff start date on or after 27th June 2018, an investor may only receive RHI payments, directly or indirectly, if they are an NRI.".

Amendments to regulation 39 (ongoing obligations: general)

6. In regulation 39—

(a) after paragraph (l) omit "and",

(b) after paragraph (m) insert—

"; and

(n) in relation to an accredited domestic plant with a tariff start date on or after 27th June 2018, P must ensure that RHI payments are not made to an investor, directly or indirectly, unless the investor is an NRI".

Amendment to Schedule 4 (information required for accreditation)

7. In paragraph 1(g) of Schedule 4, after "RHI payments" insert "or MM payments".

(**2**) S.I. 2014/928 amended by S.I. 2015/143, 2015/145, 2015/1459, 2016/257, 2017/727, 2017/857 and 2018/610.

PART 3

Amendments to the Renewable Heat Incentive Scheme Regulations 2018

Amendments to the Renewable Heat Incentive Scheme Regulations 2018

8. The Renewable Heat Incentive Scheme Regulations 2018(**3**) are amended in accordance with this Part.

Amendments to regulation 2 (interpretation)

9. In regulation 2(1)—

(a) in the definition of "commissioned"—

(i) after "in relation to an eligible installation", insert "or equipment used to produce biomethane for injection",

(ii) after "that type of eligible installation", insert "or equipment used to produce biomethane for injection", and

(iii) after "installed", insert ", or producing biomethane for injection",

(b) for the definition of "date of accreditation" substitute—

""date of accreditation" means in relation to an accredited RHI installation which is—

(a) not a replacement plant, the later of—

(i) the first day which falls on or after the date of receipt by the Authority of the application for accreditation on which, in the Authority's opinion, both—

(aa) the application was properly made, and

(bb) the plant met the eligibility criteria; and

(ii) the day on which the plant was first commissioned; or

(b) a replacement plant, the date of accreditation of the original plant;",

(c) after the definition of "large installation" insert—

""local and national laws" means laws applying in the locality in which the site is situated, whether made at a local or national level;",

(d) after the definition of "original biomethane" insert—

""original plant" means an accredited RHI installation which is replaced by a replacement plant;",

(e) after the definition of "relevant tariff" insert—

""replacement plant" means a plant which is installed in place of an original plant and uses the same source of energy and technology as the original plant;".

Amendments to regulation 3 (renewable heat incentive scheme)

10.—(1) In regulation 3(5)(b)—

(a) in paragraph (i) for "(7) or (8)" substitute "(7), (8), (8A) or (8B)",

(b) in paragraph (ii), at the end insert ", except where the heat is generated by an installation to which paragraph (8B) applies",

(**3**) S.I. 2018/611.

(c) in paragraph (iii), at the end insert ", except where the heat is generated by an installation to which paragraph (8B) applies".

(2) After regulation 3(8) insert—

"(8A) This paragraph applies to a replacement plant where paragraph (7) or (8) applied to the original plant.

(8B) This paragraph applies to a replacement plant where paragraph (6) did not apply to the original plant.".

Amendments to regulation 4 (eligible installations)

11.—(1) In regulation 4(1)(b)—

(a) at the end of paragraph (ii) omit "and",

(b) for paragraph (iii) substitute—

"(iii) regulation 17A; and

(iv) Chapter 3".

(2) In regulation 4(2) for "and 20" substitute ", 20 and 55A(5)".

Amendment to regulation 17 (planning permission)

12. In regulation 17, for "4(b)(ii)" substitute "4(1)(b)(ii)".

New regulation 17A (environmental permits and declaration of compliance)

13. After regulation 17 insert—

"**Environmental permits and declaration of compliance**

17A. The requirements referred to in regulation 4(1)(b)(iii) are that, where an application for accreditation is made on or after 1st October 2018—

(a) any necessary environmental permits are held in relation to the plant; and

(b) a declaration is made that the plant complies, and will continue to comply, with all local and national laws including those relating to the protection of the environment.".

Amendments to regulation 32 (producers of biomethane)

14. In regulation 32—

(a) after paragraph (4) insert—

"(4A) Where a producer of biomethane for injection makes an application for registration on or after 20th June 2018, the Authority must not register an applicant unless—

(a) the applicant has specified the biogas production plant to be used for the purposes of its registration; and

(b) the equipment used to produce biomethane has been commissioned.",

(b) after paragraph (12) insert—

"(12A) Where an application for registration is made on or after 1st October 2018, the Authority must not register an applicant unless—