STATUTORY INSTRUMENTS

2016 No. 257

ENERGY

The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2016

Made - - - -	*1st March 2016*
Laid before Parliament	*3rd March2016*
Coming into force - -	*24th March 2016*

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

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. These Regulations may be cited as the Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2016 and come into force on 24th March 2016.

(**1**) 2008 c.32; section 100 was amended by S.I. 2011/2195 and section 51 of the Infrastructure Act 2015 (c.7). 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 require the affirmative resolution procedure. These Regulations do not contain provisions of the kind described in those subsections.

PART 2

Amendments to the Renewable Heat Incentive Scheme Regulations 2011

Amendments to the Renewable Heat Incentive Scheme Regulations 2011

2. The Renewable Heat Incentive Scheme Regulations 2011(**2**) are amended in accordance with regulations 3 to 14.

Amendments to regulation 2 (interpretation)

3. In regulation 2—

(a) insert "(1)" before "In these Regulations—";

(b) after the definition of "commissioned" insert the following definition—

""consumer prices index" means—

(a) the consumer prices index calculated and 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;";

(c) after the definition of "environmental permit" insert the following definition—

""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 biomass is derived;";

(d) after the definition of "working day" insert the following—

"(2) Where these Regulations provide for a figure to be rounded—

(a) if the figure is required to be stated to one decimal place, that figure must be rounded to the nearest tenth of a penny, with any twentieth of a penny being rounded upwards;

(b) if the figure is required to be stated to two decimal places, that figure must be rounded to the nearest hundredth of a penny, with any two hundredth of a penny being rounded upwards.".

Amendment to regulation 13 (certification for installation of Microgeneration heating equipment)

4. For regulation 13(1)(b) substitute—

"(b) a scheme where—

(i) installers are certified to that scheme's standards by a certification body or organisation accredited to EN 45011(**3**) or EN ISO/IEC 17065:2012(**4**);

(ii) the plant is installed in accordance with the installation requirements applicable to the plant under that scheme on the plant's first commissioning date and which are equivalent to a relevant installation standard; and

(iii) that scheme is equivalent to the Microgeneration Certification Scheme.".

(**2**) S.I. 2011/2860; relevant amending instruments are S.I. 2012/1999, 2013/1033, 2410 and 3179, 2014/928 and 1413, 2015/145, 197, 477 and 1459.

(**3**) The ISBN for the English language version of this standard is ISBN 0580294153. This standard is published by the British Standards Institution and copies can be obtained at www.bsigroup.com.

(**4**) The ISBN for the English language version of this standard is ISBN 9780580784729. This standard is published by the British Standards Institution and copies can be obtained at www.bsigroup.com.

Amendment to regulation 23 (treatment of grants from public funds)

5. For regulation 23(5)(c) substitute—

"(c) for any subsequent quarterly period that includes 1st April of any year, the value of A in the previous quarterly period adjusted by the percentage increase or decrease in—

(i) the retail prices index for the previous calendar year, if the tariff start date is earlier than 1st April 2016; or

(ii) the consumer prices index for the previous calendar year, if the tariff start date is on or after 1st April 2016,

the resulting figure being stated to two decimal places and rounded.".

Amendments to regulation 36B (ongoing obligation to use sustainable solid biomass or biogas or to produce sustainable biomethane)

6.—(1) In regulation 36B(3)(a) after "any" insert "biogas or".

(2) In regulation 36B(3)(a)(i) after "Renewables Obligation Order 2009" insert ", the Renewables Obligation Order 2015(**5**)".

(3) For regulation 36B(3)(a)(iii) substitute—

"(iii) where—

(aa) in the case of solid biomass used before 24th March 2016, information about that solid biomass is provided to the Authority(**6**) in accordance with article 54 of either the Renewables Obligation Order 2009(**7**) or the Renewables Obligation (Scotland) Order 2009(**8**);

(bb) in the case of biogas or solid biomass used on or after 24th March 2016 in a generating station in Scotland, the biogas or solid biomass meets the greenhouse gas emission criteria in paragraph 2 of Part 1 of Schedule A1A to the Renewables Obligation (Scotland) Order 2009(**9**) and the relevant land criteria in Schedule A2 to that Order(**10**); or

(cc) in the case of biogas or solid biomass used on or after 24th March 2016 in a generating station in England or Wales, the biogas or solid biomass meets the greenhouse gas criteria in paragraph 2 of Part 1 of Schedule 2 to the Renewables Obligation Order 2015 and the relevant land criteria in Schedule 3 to that Order; or".

Amendment to regulation 36D (sustainability audit reports)

7. For regulation 36D(3)(a) substitute—

"(a) any biogas or solid biomass in respect of which regulation 36B(1) is deemed to be complied with by virtue of regulation 36B(3)(a);".

Amendments to regulation 37 (payment of periodic support payments to participants)

8.—(1) In regulation 37(8)—

(**5**) S.I. 2015/1947.
(**6**) means the Gas and Electricity Markets Authority, as defined in section 100(3) of the Energy Act 2008 (c.32).
(**7**) S.I. 2009/785; the relevant amending instruments are S.I. 2010/1107, 2011/984, 2013/768 and 2014/893.
(**8**) S.S.I. 2009/140, as amended by S.S.I. 2009/276, S.S.I. 2010/147, S.S.I. 2011/225, S.S.I. 2011/226, S.S.I. 2013/116, S.S.I. 2014/94, S.S.I. 2015/188 and S.S.I. 2015/384.
(**9**) Schedule A1A was inserted by S.S.I. 2015/384.
(**10**) Schedule A2 was substituted by S.S.I. 2015/384.

(a) in sub-paragraph (b) for the words from "rounded" to "rounded upwards", substitute "stated to one decimal place and rounded";

(b) in sub-paragraph (c)(i) for the words from "rounded" to "rounded upwards", substitute "stated to one decimal place and rounded";

(c) in sub-paragraph (c)(ii) for the words from "rounded" to "rounded upwards", substitute "stated to one decimal place and rounded".

(2) For regulation 37(11) substitute—

"(11) Subject to paragraph (12), for the purposes of paragraph (7)(b), the subsequent tariff for a particular subsequent year is the tariff applicable to the biomethane produced by the participant or to the installation on the 31st March immediately preceding the commencement of the subsequent year, adjusted by the percentage increase or decrease in the relevant measure of inflation for the calendar year ending on the 31st December immediately preceding the commencement of that subsequent year, the resulting figure being stated to—

(a) one decimal place and rounded, if the subsequent year commences on a date which is earlier than 1st April 2015; or

(b) two decimal places and rounded, if the subsequent year commences on or after 1st April 2015.".

(3) After regulation 37(11) insert—

"(11A) In paragraph (11), the "relevant measure of inflation" is—

(a) the retail prices index, if the tariff start date is earlier than 1st April 2016; or

(b) the consumer prices index, if the tariff start date is on or after 1st April 2016.".

(4) In regulation 37(12)(a) omit the words from "to the nearest tenth of a penny" to the end.

Amendments to regulation 37B (calculation of A)

9.—(1) In regulation 37B(2)—

(a) in sub-paragraph (a) for the words from "rounded" to "rounded upwards", substitute "stated to one decimal place and rounded";

(b) in sub-paragraph (b) for the words from "rounded" to "rounded upwards", substitute "stated to one decimal place and rounded".

(2) For regulation 37B(4) substitute—

"(4) If the tariff start date is within any subsequent tariff period commencing with 1st April, A is the previous tariff adjusted by the percentage increase or decrease in the relevant measure of inflation for the calendar year ending on the 31st December immediately preceding the commencement of that subsequent tariff period, the resulting figure being stated to—

(a) one decimal place and rounded, if the subsequent tariff period commences on a date which is earlier than 1st April 2015; or

(b) two decimal places and rounded, if the subsequent tariff period commences on or after 1st April 2015.".

(3) After regulation 37B(4) insert—

"(4A) In paragraph (4), the "relevant measure of inflation" is—

(a) the retail prices index, if the tariff start date is earlier than 1st April 2017; or

(b) the consumer prices index, if the tariff start date is on or after 1st April 2017.".

Amendments to regulation 39C (CHP systems accredited in relation to the Renewables Obligation)

10.—(1) In regulation 39C(3)(a)(ii) after "Renewables Obligation Order 2009" insert ", the Renewables Obligation Order 2015".

(2) In regulation 39C(3)(a)(iii) for "of those Orders" substitute "the Renewables Obligation Order 2009 or the Renewables Obligation (Scotland) Order 2009, or under article 35(7) of the Renewables Obligation Order 2015".

(3) In regulation 39C(3)(b)(ii) after "Renewables Obligation Order 2009" insert ", the Renewables Obligation Order 2015".

(4) For regulation 39C(3)(b)(iii) substitute—

"(iii) forms part of a generating station which is or at any time since it was so accredited has been—

(aa) a qualifying combined heat and power generating station within the meaning of article 2 of the Renewables Obligation Order 2009 or the Renewables Obligation (Scotland) Order 2009; or

(bb) a qualifying CHP station within the meaning of article 2 of the Renewables Obligation Order 2015.".

Amendment to Schedule 2 (provision of information in relation to the use of biomass in certain circumstances)

11. In Schedule 2 omit paragraph 5.

Amendments to Schedule 2B (land criteria)

12.—(1) Schedule 2B is amended as follows.

(2) In paragraph 2 omit the definition of "lightly forested area".

(3) For paragraph 4 substitute—

"**4.** Solid biomass which is wood or wholly derived from wood (except energy crops) meets the land criteria if—

(a) at least 70% of each consignment was obtained from a sustainable source;

(b) where more than one consignment is used in a quarterly period, at least 70% of the solid biomass used was obtained from a sustainable source; or

(c) the solid biomass was certified under an environmental quality assurance scheme which ensures that at least 70% of the solid biomass certified by that scheme was obtained from a sustainable source.".

(4) For paragraph 5 substitute—

"**5.**—(1) For the purposes of paragraph 4, solid biomass which is wood or wholly derived from wood (except energy crops) is obtained from a sustainable source if it—

(a) was grown within an area of forest or of other land which is managed—

(i) in a way that is consistent with—

(aa) the Forest Europe Sustainable Forest Management Criteria, or

(bb) a set of international principles for the sustainable management of land which meet the requirements specified in sub-paragraph (2); and