STATUTORY INSTRUMENTS

2015 No. 145

ENERGY

The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2015

Made - - - - 4th February 2015
Coming into force in accordance with regulation 1(1) and(2)

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

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

In accordance with section 100(7) of that Act, the Secretary of State has obtained the consent of the Scottish Ministers to the making of these Regulations.

PART 1

Introduction

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2015 and, except as provided in paragraph (2), come into force on the day after the day on which they are made.

(2) Regulations 4 to 6 come into force on 5th October 2015.

(3) In these Regulations—

(a) "the 2011 Regulations" means the Renewable Heat Incentive Scheme Regulations 2011(**2**), and

(b) "the 2014 Regulations" means the Domestic Renewable Heat Incentive Scheme Regulations 2014(**3**).

(**1**) 2008 c. 32. Section 100 was amended by S.I. 2011/2195.
(**2**) S.I. 2011/2860, amended by S.I. 2012/1999, S.I. 2013/1033, 2410 and 3179, S.I. 2014/928 and 1413 and S.I. 2015/[ ].
(**3**) S.I. 2014/928, amended by S.I. 2015/[ ].

PART 2

Amendments to the 2011 Regulations

Amendments to the 2011 Regulations

2. The 2011 Regulations are amended in accordance with regulations 3 to 9.

Amendment to regulation 2 (interpretation)

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

""approved sustainable fuel" means solid biomass which is listed under a scheme approved by the Secretary of State in accordance with regulation 36E;";

""energy crop" means—

(a) a perennial crop planted at high density, the stems of which are harvested above ground level at intervals of less than 20 years and which is one of the following—

(i) *Acer pseudoplatanus* (also known as sycamore);

(ii) *Alnus* (also known as alder);

(iii) *Betula* (also known as birch);

(iv) *Castanea sativa* (also known as sweet chestnut);

(v) *Corylus avellana* (also known as hazel);

(vi) *Fraxinus excelsior* (also known as ash);

(vii) *Populus (*also known as poplar);

(viii) *Salix* (also known as willow);

(ix) *Tilia cordata* (also known as small-leaved lime); or

(b) a perennial crop which is one of the following—

(i) *Arundo donax* (also known as giant reed);

(ii) *Bambuseae,* where the crop was planted after 31st December 1989 and is grown primarily for the purpose of being used as fuel;

(iii) *Miscanthus*;

(iv) *Panicum*;

(v) *Pennisetum,* other than *Pennisetum setaceum* (also known as fountain grass), *Pennisetum clandestinum* (also known as kikuyu grass) and *Pennisetum villosum* (also known as feathertop grass);

(vi) *Phalaris*;".

Amendment to regulation 29 (participants using solid biomass in accredited RHI installations with an installation capacity of 1MWth or above)

4. In regulation 29, omit paragraph (9).

Amendment to regulation 33 (biomethane producers)

5. In regulation 33, omit paragraph (9).

Amendment to regulation 34 (ongoing obligations: general)

6. In regulation 34, after paragraph (a) insert—

"(aa) where they have used solid biomass which is an approved sustainable fuel at the time when it is received by the participant or in respect of which the Secretary of State had made a declaration under regulation 36E(5), they must keep and provide upon request by the Authority the authorisation number or other means of identification allocated to that fuel by the scheme under which that fuel is listed;".

Sustainable solid biomass etc

7. After regulation 36 insert—

"CHAPTER 4

Sustainable solid biomass etc

Interpretation

36A. In this Part—

"greenhouse gas criteria" means the criteria set out in Schedule 2A;

"land criteria" means—

(a) the criteria set out in Part 2 of Schedule 2B in relation to solid biomass which is wood or wholly derived from wood, except energy crops, or

(b) the criteria set out in Part 3 of Schedule 2B in relation to other solid biomass including energy crops;

"permitted location" means a place—

(a) in respect of which the participant has a right to harvest the solid biomass, whether by virtue of ownership, tenancy or otherwise; and

(b) which is no more than 50 miles from the plant in which the solid biomass is used;

"self-supplied" means—

(a) obtained by or on behalf of the participant from a permitted location; or

(b) waste wood which is obtained by or on behalf of the participant from the place where it first becomes waste;

"sustainable biogas" means—

(a) biogas which—

(i) meets the greenhouse gas criteria, and

(ii) is made wholly from feedstock which is solid biomass which meets the land criteria;

(b) biogas which is made wholly from feedstock which is waste;

(c) biogas which consists of a combination of any of the biogas listed in paragraphs (a) and (b);

"sustainable biomethane" means biomethane which, save for ingredients which are added as part of the biomethane production process—

(a) meets the greenhouse gas criteria; and

(b) is made wholly from feedstock which—

(i) is solid biomass which meets the land criteria;

(ii) is waste; or

(iii) is a combination of the feedstocks mentioned in sub-paragraphs (i) and (ii);

"sustainable solid biomass" means—

(a) solid biomass which meets the greenhouse gas criteria and the land criteria;

(b) solid biomass which is—

(i) self-supplied;

(ii) used in an accredited RHI installation with an installation capacity of less than 1MWth; and

(iii) either—

(aa) an approved sustainable fuel; or

(bb) a fuel in respect of which the Secretary of State has made a declaration under regulation 36E(5);

(c) solid biomass which is waste, or is wholly derived from waste;

(d) solid biomass which consists of a combination of any of the solid biomass listed in paragraphs (a) to (c).

Ongoing obligation to use sustainable solid biomass or biogas or to produce sustainable biomethane

36B.—(1) A participant who generates heat or heat and power from solid biomass or biogas in an accredited RHI installation on or after 5th October 2015 must use only sustainable solid biomass or sustainable biogas.

(2) A participant who produces biomethane for injection on or after 5th October 2015 must produce for injection only sustainable biomethane.

(3) Paragraph (1) is deemed to be complied with in respect of—

(a) any solid biomass used in an accredited RHI installation—

(i) which is a generating station which is accredited under the Renewables Obligation Order 2009(**4**) or the Renewables Obligation (Scotland) Order 2009(**5**);

(ii) where the capacity of that generating station is 1MW or above; and

(iii) where information about that solid biomass is provided to the Authority in accordance with article 54 of either Order; or

(b) any solid biomass used in an accredited RHI installation to generate heat (but not heat and power) which—

(i) at the time when it is received by the participant, is an approved sustainable fuel; or

(ii) is a fuel in respect of which the Secretary of State has made a declaration under regulation 36E(5).

Information to be provided to the Authority in relation to the use of sustainable solid biomass etc

36C.—(1) This regulation applies to participants who—

(**4**) S.I. 2009/785 amended by S.I. 2011/984, S.I. 2011/988, S.I. 2013/768 and S.I. 2014/893.
(**5**) S.S.I. 2009/140 as amended by S.S.I. 2013/116.

(a) generate heat or heat and power from solid biomass or biogas in an accredited RHI installation; or

(b) produce biomethane for injection,

on or after 5th October 2015.

(2) A participant to whom this regulation applies must—

(a) in relation to each consignment of solid biomass used, provide the Authority with a declaration in accordance with paragraph (3);

(b) in relation to each consignment of solid biomass (except solid biomass to which regulation 36B(3)(b) applies) or biogas used or biomethane produced, provide the Authority with a declaration in accordance with paragraphs (4) and (5); and

(c) provide the information specified in paragraph (7).

(3) In respect of solid biomass used to generate heat (but not heat and power) a declaration must state—

(a) whether or not that solid biomass was—

(i) an approved sustainable fuel; or

(ii) a fuel in respect of which the Secretary of State has made a declaration under regulation 36E(5); and

(b) where paragraph (a)(i) or (ii) applies, the authorisation number or other means of identification allocated to that fuel by the scheme under which that fuel was listed.

(4) A declaration must state whether or not—

(a) solid biomass used was waste or wholly derived from waste;

(b) biogas used, or biomethane produced was made from feedstock which was waste;

(c) solid biomass or biogas used or biomethane produced met the greenhouse gas criteria;

(d) solid biomass used met the land criteria; or

(e) biogas used or biomethane produced was made from feedstock which was solid biomass which met the land criteria.

(5) Where a participant declares in accordance with paragraph (4)(c) that solid biomass, biogas or biomethane met the greenhouse gas criteria, the declaration must specify the lifecycle greenhouse gas emissions for that solid biomass, biogas or biomethane calculated in accordance with paragraph 2 of Schedule 2A.

(6) Except where the Authority specifies otherwise, participants must provide declarations and information in accordance with this regulation in respect of the solid biomass or biogas used or biomethane produced in every quarterly period which commences on or after 5th October 2015 within 28 days from the end of each such period.

(7) Where in the relevant quarterly period a participant—

(a) uses solid biomass (other than an approved sustainable fuel or a fuel in respect of which the Secretary of State has made a declaration under regulation 36E(5)) to generate heat or heat and power in an accredited RHI installation with an installation capacity of 1MWth or above; or

(b) produces biomethane for injection,

the participant must provide the information in Schedule 2 in relation to that solid biomass or biomethane.

(8) In addition to the declarations in accordance with paragraphs (3) to (5) and information in accordance with paragraph (7), the Authority may from time to time require