Draft Regulations laid before Parliament under section 105(3) of the Energy Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. 0000

ENERGY

The Renewable Heat Incentive Scheme Regulations 2017

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Laid before Parliament ***

Coming into force in accordance with regulation 1

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

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) of that Act, the Secretary of State has obtained the consent of the Scottish Ministers to the making of these Regulations.

PART 1

Introductory provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme Regulations 2017 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"accreditation" means accreditation of an eligible installation by the Authority(**2**)following an application under regulation 30;

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

(**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.

(**2**) The "Authority" means the Gas and Electricity Markets Authority; see section 100(3) of the Energy Act 2008.

"additional biomethane" has the meaning given in regulation 77;

"additional RHI capacity" has the meaning given in regulation 76;

"air source heat pump" means a plant which generates heat by absorbing energy stored in the form of heat in the ambient air;

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

"approved sustainable fuel" means solid biomass which is listed under a scheme approved by the Secretary of State in accordance with regulation 51;

"biogas production plant" means a plant which produces biogas by anaerobic digestion, gasification or pyrolysis;

"building" means any permanent or long-lasting building or structure of whatever kind and whether fixed or moveable which, except for doors and windows, is wholly enclosed on all sides with a roof or ceiling and walls;

"certified installer" means a person who is certified by the Microgeneration Certification Scheme(**3**) or a scheme which is—

(a) equivalent to that scheme; and

(b) under which installers are certified to that scheme's standards by a certification body or organisation accredited to EN 45011(**4**) or EN ISO/IEC 17065:2012(**5**);

"CHP system" means a system which generates power and is (or may be) operated for purposes including the supply to any premises (using liquid or steam) of heat produced in association with that power;

"CHPQA" means, except in regulation 27, the Combined Heat and Power Quality Assurance Standard, Issue 6, October 2016(**6**);

"class 2 heat meter" means a heat meter which—

(a) complies with the relevant requirements set out in Annex I to the Measuring Instruments Directive;

(b) complies with the specific requirements listed in Annex VI (Thermal energy meters (MI-004)) to that Directive; and

(c) falls within accuracy class 2 as defined in Annex VI (Thermal energy meters (MI-004)) to that Directive;

"coefficient of performance" means the ratio of the amount of heating or cooling in kilowatts provided by a heat pump to the kilowatts of power consumed by the heat pump;

"combustion unit" means—

(a) a boiler which uses solid biomass or solid biomass contained in waste as fuel; or

(b) a boiler, turbine or engine which uses biogas as fuel;

"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 that it is capable of operating and delivering heat to the premises or process for which it was installed;

(**3**) Details of which are available at www.microgenerationcertification.org

(**4**) The ISBN for the English language version of this standard is ISBN 0 580 29415 3. This standard was published by the British Standards Institution on 15th July 1990 and copies can be obtained at www.bsigroup.com.

(**5**) The ISBN for the English language version of this standard is ISBN 978 0 580 78472 9. This standard was published by the British Standards Institution on 31st October 2012 and copies can be obtained at www.bsigroup.com.

(**6**) This standard was published by the Department for Business, Energy and Industrial Strategy and is available at www.gov.uk/guidance/combined-heat-power-quality-assurance-programme.

"connection agreement" means an agreement between a person who proposes to inject biomethane into a pipe-line system and the operator of the pipe-line system which provides for the design and construction of a connection whereby the biomethane may be injected into the pipe-line system;

"consumer prices index" means—

(a) the consumer prices index calculated and published by the Statistics Board (also known as the Office for National Statistics); or

(b) where the index is not published for a year, any substituted index or figures published by that Board;

"date of accreditation", in relation to an accredited RHI installation, means the later of—

(a) 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—

  (i) the application was properly made, and

  (ii) the plant met the eligibility criteria; and

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

"date of registration", in relation to a producer of biomethane for injection, means the first day which falls on or after the date of receipt by the Authority of the application for registration on which the application was, in the Authority's opinion, properly made;

"deep geothermal" in relation to energy, means naturally occurring energy located and extracted from at least 500 metres beneath the surface of solid earth, and a "deep geothermal plant" means a plant which generates heat using such energy;

"design heat load" means, in relation to ground source heat pumps that are capable of heating and cooling, the heat flow required to achieve the planned heating requirements for that plant;

"domestic premises" means single, self-contained premises used wholly or mainly as a private residential dwelling where the fabric of the building has not been significantly adapted for non-residential use;

"eligibility criteria" has the meaning given by regulation 4;

"eligible biomethane" has the meaning given in regulation 73;

"eligible installation" means a plant which meets the eligibility criteria;

"eligible purpose" means a purpose specified in regulation 3(2);

"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 BS 7420:1991 (Guide for the determination of calorific values of solid, liquid and gaseous fuels (including definitions))(**7**);

"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);

(**7**) The ISBN for the English language version of this standard is ISBN 0 580 19482 5. This standard was published by the British Standards Institution on 28 June 2011 and copies can be obtained at www.bsigroup.com.

(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;

"environmental permit" means a permit issued in accordance with the provisions of the Environmental Permitting (England and Wales) Regulations 2010(**8**) or the Pollution Prevention and Control (Scotland) Regulations 2012(**9**);

"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;

"EPC" means energy performance certificate, as defined by—

(a) in relation to a property in England and Wales, regulation 2(1) of the Energy Performance of Buildings (England and Wales) Regulations 2012(**10**);

(b) in relation to a property in Scotland, regulation 2(1) of the Energy Performance of Buildings (Scotland) Regulations 2008(**11**);

"GWh" means gigawatt hours;

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

"gas transporter" means the holder of a licence granted under section 7 of the Gas Act 1986(**12**);

"ground loop" means, in relation to a shared ground loop system, the equipment which absorbs energy stored in the form of heat in the ground, including heat in water in the ground, or in surface water;

"ground source heat pump" means—

(a) in the case of a shared ground loop system, the piece of equipment installed in each premises which generates heat in those premises using the heat energy provided by the ground loop;

(**8**) S.I. 2010/675; relevant amending instruments are S.I. 2011/988, 2012/630, 2013/390, 2014/255, and 2016/475.
(**9**) S.S.I. 2012/360; amended by S.S.I.2014/267; there are other amending instruments but none is relevant.
(**10**) S.I. 2012/3118; amended by S.I. 2016/284; there are other amending instruments but none is relevant.
(**11**) S.S.I. 2008/309, to which there are amendments not relevant to these Regulations.
(**12**) 1986 c.44; section 7 was amended by the Utilities Act 2000 (c.27), sections 3(2) and 76 and Schedule 6, Part 1, paragraph 4 and Schedule 8, paragraph 1 and the Energy Act 2004 (c.20), section 149(5).

(b) in all other cases, a plant which generates heat by absorbing energy stored in the form of heat in the ground, including water in the ground, or in surface water, but does not include a plant which is a deep geothermal plant;

"guaranteed tariff" means the initial tariff which would have applied in accordance with regulation 60 had the tariff start date been the date specified by the Authority under regulation 35(5)(d);

"heat loss calculation" means a calculation of heat lost which is carried out in accordance with the guidance issued by the Chartered Institute of Building Services Engineers and contained in CIBSE Guide C- reference data (2007 edition)(**13**);

"heat meter" has the same meaning as that given to "thermal energy meter" in Annex VI (Thermal energy meters (MI-004)) of the Measuring Instruments Directive;

"initial tariff" means the tariff calculated in accordance with regulation 60;

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

"installation capacity" means—

(a) in the case of a CHP system to which regulation 12(2)(b) or 13 applies, the capacity determined by the formula—

$$\frac{x}{y} \times p$$

where—

(i) X is the total installed peak heat output capacity of all the combustion units to which regulation 12(2)(b) or 13 applies which use the same source of energy;

(ii) Y is the total installed peak heat output capacity of all the combustion units forming part of the CHP system; and

(iii) P is the total installed peak heat output capacity of the CHP system;

(b) in the case of a shared ground loop system, the sum of the total installed peak heat output capacities of each of the ground source heat pumps which forms part of the shared ground loop system;

(c) for any other plant, the total installed peak heat output capacity of the plant;

"kWh" means kilowatt hours;

"kWhth" means kilowatt hours thermal;

"kWth" means kilowatt thermal;

"maximum additional capacity" has the meaning given in regulation 77;

"maximum initial capacity" means the maximum volume of biomethane, expressed in cubic metres per quarterly period which a participant is entitled to supply for injection under the network entry agreement applicable to the biomethane in relation to which an application for registration under regulation 32 is made;

"Measuring Instruments Directive" means Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast)(**14**);

"MWth" means megawatt thermal;

(**13**) The ISBN for the English language version of this standard is ISBN 978 1903287 804. This standard was published by the Chartered Institute of Building Services Engineers in 2007 and copies can be obtained at www.cibse.org.
(**14**) OJ No L 96, 29.3.2014, p149