Draft Regulations laid before Parliament under sections 105(2(a) and (3) of the Energy Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

ENERGY

The Renewable Heat Incentive Scheme (Amendment) Regulations 2012

Made - - - - 14th June 2012

Coming into force in accordance with regulation 1

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

In accordance with sections 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.

Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Scheme (Amendment) Regulations 2012 and come into force on the day after the day on which they are made.

Amendments to the Renewable Heat Incentive Scheme Regulations 2011

2. The Renewable Heat Incentive Scheme Regulations 2011(**2**) are amended as follows.

Amendments to regulation 2

3.—(1) In regulation 2, in the definition of "date of accreditation" for the words "the Authority is satisfied both that the application was properly made and that the plant meets the eligibility criteria" substitute "both the application was properly made and the plant met the eligibility criteria".

(2) In the definition of "date of registration", omit "the Authority is satisfied that".

(**1**) 2008 c.32. Section 100 is amended by S.I. 2011/2195.
(**2**) S.I. 2011/2860.

Amendment to regulation 22

4. In paragraph (1) of regulation 22 (applications for accreditation), for "An owner" substitute "Subject to regulation 51A(10), an owner".

Amendments to regulation 23

5. After paragraph (5) of regulation 23 (exceptions to duty to accredit) insert—

"(6) Subject to paragraph (7), the Authority must not accredit an eligible installation if the application for accreditation is received during a period of restriction unless—

(a) at the time of receipt of the application, the eligible installation has been commissioned; and

(b) the date of accreditation will be a date prior to the commencement of the period of suspension.

(7) Paragraph (6) does not apply where—

(a) an application for preliminary accreditation pursuant to regulation 26 was made in respect of the eligible installation before the relevant date;

(b) the eligible installation has been granted preliminary accreditation; and

(c) that accreditation has not been withdrawn.

(8) In this regulation—

"period of restriction" and "period of suspension" have the meanings given in regulation 51B;

"relevant date" means the date of coming into force of the Renewable Heat Incentive Scheme (Amendment) Regulations 2012."

Amendments to regulation 25

6. In regulation 25 (producers of biomethane)—

(a) in paragraph (1), for "A producer" substitute "Subject to regulation 51A(10), a producer";

(b) in paragraph (4), for "(5), (6) and (7)" substitute "(5) to (9)"; and

(c) after paragraph (7) insert—

"(8) Where an application for registration is made after the relevant date, the Authority must not register an applicant unless at the time of making the application, injection of biomethane produced by that applicant has commenced.

(9) The Authority must not register an applicant if the application for registration is received during a period of restriction unless the date of registration will be a date prior to the commencement of the period of suspension.

(10) In this regulation—

"period of restriction" and "period of suspension" have the meanings given in regulation 51B;

"relevant date" has the meaning given in regulation 23."

Amendments to regulation 26

7. In paragraph (1) of regulation 26 (preliminary accreditation), for "The Authority" substitute "Subject to regulation 51A(12), the Authority".

Amendment to regulation 43

8. For paragraph (1) of regulation 43 (treatment of additional RHI capacity) substitute—

"(1) This regulation—

(a) applies where a participant installs additional RHI capacity, but

(b) is subject to regulation 51A(10)."

Restriction of entry to the scheme

9. After regulation 51 insert—

"PART 10A

Restriction of entry to the scheme

Circumstances in which entry to the scheme is restricted

51A.—(1) Subject to paragraph (5), the Secretary of State must determine the forecast for total expenditure and publish that forecast on the website for the Department of Energy and Climate Change in accordance with paragraphs (2) and (3).

(2) The forecast must be published for the first time within the period of a week commencing on the relevant date.

(3) Subject to paragraph (5), the Secretary of State must revise the forecast each week with each revised forecast being published within the period of a week commencing from the date on which the previous forecast was published.

(4) The Secretary of State must notify the Authority in writing when the forecast for total expenditure reaches £67.9 million.

(5) Paragraphs (1) and (3) cease to have effect once the notification required by paragraph (4) has been made.

(6) On receipt of such a notification, the Authority must, as soon as is reasonably practicable, publish a notice ("notice of restriction") on its website.

(7) The notice of restriction must—

(a) be first published on a working day;

(b) specify the date on which it is first published;

(c) specify the dates with which the period of suspension will commence and end;

(d) explain that entry to the scheme will be suspended in accordance with paragraphs (10) to (12);

(e) specify the dates with which the period of restriction will commence and end;

(f) explain that during the period of restriction, the restrictions on accreditation and registration set out in paragraphs (6) and (7) of regulation 23 and paragraphs (8) and (9) of regulation 25 will apply; and

(g) explain the effect of the periods of suspension and restriction.

(8) On the first day of the period of suspension, the Authority must publish a notice ("notice of suspension") on its website.

(9) The notice of suspension must—

(a) specify the date on which it is first published;