*Draft Regulations laid before Parliament under section 105(3) of the Energy Act 2008, for approval by resolution of each House of Parliament. This draft statutory instrument supersedes the draft Renewable Heat Incentive Regulations 2011 which were laid before Parliament on 20th June 2011 and published on 24th June 2011. It is being issued free of charge to all known recipients of that draft Statutory Instrument.*

DRAFT STATUTORY INSTRUMENTS

# 2011 No. 0000

# ENERGY

# The Renewable Heat Incentive Scheme Regulations 2011

*Made - - - -* ***

*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 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.** These Regulations may be cited as the Renewable Heat Incentive Scheme Regulations 2011 and come into force on the day after the day on which they are made.

### Interpretation

**2.** In these Regulations—

"accreditation" means accreditation of an eligible installation by the Authority following an application under regulation 22;

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

(**1**) 2008 c.32. Section 100 is amended by S.I. 2011/2195, which was made on 5.9.11 and came into force on 6.9.11.

"the Act" means the Energy Act 2008;

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

"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;

"CHP" means combined heat and power;

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

(a) complies with the relevant requirements set out in Annex 1 to the Measuring Instruments Directive,

(b) complies with the specific requirements listed in Annex MI-004 to that Directive, and

(c) falls within accuracy class 2 as defined in Annex 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;

"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;

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

(a) the first day falling on or after the date of receipt by the Authority of the application for accreditation on which the Authority is satisfied both that the application was properly made and that the plant meets 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 falling on or after the date of receipt by the Authority of the application for registration on which the Authority is satisfied that the application was properly made;

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

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

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

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

"gas transporter" means the holder of a licence granted under section 7 of the Gas Act 1986(**2**);

"heat meter" has the same meaning as that given in Annex MI-004 of the Measuring Instruments Directive;

"ineligible purpose" means a purpose which is not an eligible purpose;

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

"installation capacity", in relation to a plant, means the total installed peak heat output capacity of the plant;

"kWh" means kilowatt hours;

(**2**) 1986 c.44; section 7 was amended by the Utilities Act 2000 (c.27), section 3(2), section 76, section 108, Schedule 6, Part I, paragraphs 1 and 4 and Schedule 8 and the Energy Act 2004 (c.20), section 149, subsections (1) and (5), section 197(9) and Schedule 23, Part I.

"kWhth" means kilowatt hours thermal;

"kWth" means kilowatt thermal;

"MCS" means the Microgeneration Certification Scheme(**3**) or an equivalent scheme accredited under EN 45011(**4**) which certifies microgeneration products and installers in accordance with consistent standards;

"Measuring Instruments Directive" means Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments(**5**);

"municipal waste" has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003(**6**);

"MWhth" means megawatt hours thermal;

"MWth" means megawatt thermal;

"ongoing obligations" means the obligations specified in Part 4;

"participant" means—

(a) the owner of an accredited RHI installation or, where there is more than one such owner, the owner with authority to act on behalf of all owners in accordance with regulation 22(3); or

(b) a producer of biomethane who has been registered under regulation 25;

"periodic support payments" have the meaning given in regulation 3;

"pipe-line system" has the same meaning as in section 5(10) of the Gas Act 1986(**7**);

"process" means any process other than the generation of electricity;

"pyrolysis" means the thermal degradation of a substance in the absence of an oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

"quarterly period" means, except where otherwise specified, the first, second, third or fourth quarter of any year commencing with, or with the anniversary of, a participant's tariff start date;

"retail prices index" means—

(a) the general index of retail prices (for all items) 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;

"scheme" (except in this regulation) means the incentive scheme established by these Regulations;

"solar collector" means a liquid filled flat plate or evacuated tube solar collector;

"statement of eligibility" has the meaning given by regulation 22(6)(f);

"steam measuring equipment" means all the equipment needed to measure to the Authority's satisfaction the mass flow rate and energy of steam, including at least the following components —

(a) a flow meter,

(b) a pressure sensor,

(**3**) Details of which are available at www.microgenerationcertification.org.
(**4**) ISBN 0580294153. Copies can be obtained from the British Standards Institution at www.bsigroup.com.
(**5**) OJ L 135, 30.4.2004, p. 1, amended by Commission Directive 2009/137/EC (OJ L 294, 11.11.2009, p. 7).
(**6**) 2003 c.33.
(**7**) Section 5(6) to (10) was inserted by section 149(1) and (3) of the Energy Act 2004 (c.20).

(c) a temperature sensor, and

(d) a digital integrator or calculator able to determine the cumulative energy in MWhth which has passed a specific point;

"tariff" means the payment rate per kWhth in respect of an accredited RHI installation and per kWh in respect of biomethane injection;

"tariff end date" means the last day of the tariff lifetime;

"tariff lifetime" means—

(a) in relation to an accredited RHI installation, the period for which periodic support payments are payable for that installation, or

(b) in relation to a participant who is a producer of biomethane, the period for which that person is eligible to receive periodic support payments;

"tariff start date" means the date of accreditation of an eligible installation or, in relation to a producer of biomethane, the date of registration.

**Renewable heat incentive scheme**

**3.**—(1) These Regulations establish an incentive scheme to facilitate and encourage the renewable generation of heat and make provision regarding its administration.

(2) Subject to Part 7 and regulation 24, the Authority must pay participants who are owners of accredited RHI installations payments, referred to in these Regulations as "periodic support payments", for generating heat that is used in a building for any of the following purposes—

(a) heating a space,

(b) heating water,

(c) for carrying out a process.

(3) Subject to Part 7, the Authority must pay participants who are producers of biomethane for injection periodic support payments.

# PART 2

## Eligibility and matters relating to eligibility

### CHAPTER 1

### Eligible installations

**Eligible installations**

**4.**—(1) A plant meets the criteria for being an eligible installation ("the eligibility criteria") if—

(a) regulation 5, 6, 7, 8, 9, 10 or 11 applies;

(b) the plant satisfies the requirements set out in regulation 12(1);

(c) regulation 15 does not apply; and

(d) the plant satisfies the requirements set out in Chapter 3.

(2) But this regulation is subject to regulation 14.

## CHAPTER 2

## Eligibility criteria for technologies

### Eligible installations generating heat from solid biomass

**5.** This regulation applies if the plant complies with all of the following requirements—

(a) it generates heat from solid biomass;

(b) the heat from the solid biomass is generated using equipment specifically designed and installed to use solid biomass as its only primary fuel source;

(c) in the case of a plant with an installation capacity of 45kWth or less, regulation 13 applies.

### Eligible installations generating heat from solid biomass contained in municipal waste

**6.** This regulation applies if the plant generates heat from solid biomass contained in municipal waste.

### Eligible installations generating heat using solar collectors

**7.** This regulation applies if the plant complies with all of the following requirements—

(a) it generates heat using a solar collector;

(b) it has an installation capacity of less than 200kWth;

(c) in the case of a plant with an installation capacity of 45kWth or less, regulation 13 applies.

### Eligible installations generating heat using heat pumps

**8.** This regulation applies if the plant is a heat pump and complies with all of the following requirements—

(a) it generates heat using naturally occurring energy stored in the form of heat from one of the following sources of energy—

(i) the ground other than naturally occurring energy located and extracted from at least 500 metres below the surface of solid earth;

(ii) surface water;

(b) in the case of a heat pump with an installation capacity of 45kWth or less, regulation 13 applies;

(c) it has a coefficient of performance of at least 2.9.

### Eligible installations which are CHP systems

**9.**—(1) Subject to paragraph (2), this regulation applies if the plant is a CHP system which complies with one of the following requirements—

(a) it generates heat and electricity from solid biomass and either regulation 6 applies or the plant complies with the requirement in regulation 5(b);

(b) it generates heat and electricity from biogas and complies with regulation 11(b) and (c);

(c) it generates heat and electricity utilising naturally occurring energy located and extracted from at least 500 metres beneath the surface of solid earth.

(2) This regulation does not apply if the plant—

(a) uses solid biomass to generate heat and electricity;