
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 396

**The Renewable Heat Incentive Scheme
Regulations (Northern Ireland) 2012**

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 and shall come into operation on 1st November 2012.

Commencement Information

II Reg. 1 in operation at 1.11.2012, see [reg. 1](#)

Interpretation

2.—(1) In these Regulations—

“accreditation” means accreditation of an eligible installation by the Department following an application under regulation 22;

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

“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 Department of the application for accreditation on which both the application was properly made and 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 falling on or after the date of receipt by the Department of the application for registration on which the application was properly made;

“the Department” means the Department of Enterprise, Trade and Investment;

“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 conveyor” means the holder of a licence under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996(1);

“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 conveyor;

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

“kWh” means kilowatt hours;

“kWhth” means kilowatt hours thermal;

“kWth” means kilowatt thermal;

“MCS” means the Microgeneration Certification Scheme(2) or an equivalent scheme accredited under EN 45011(3) 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(4);

“municipal waste” has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003(5);

“MWhth” means megawatt hours thermal;

“MWth” means megawatt thermal;

“NIRO” means the Northern Ireland renewables obligation as set out in the Renewables Obligation Order (Northern Ireland) 2009(6);

(1) [S.I. 1996/275 \(N.I.2\)](#)

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

(3) ISBN 0580294153. Copies of which can be obtained from the British Standards Institution at www.bsigroup.com

(4) OJ L 135, 30.4.2004. p.1, amended by Commission Directive 2009 137/EC (OJ L 294,11.11.2009, p.7)

(5) 2003 c.33; Section 21 was amended by S.I. 2011/2499, Regulation 6

(6) [S.R. 2009 No. 154](#) as amended by [S.R. 2010 No. 134](#) and [S.R. 2011 No. 169](#)

“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” means a pipe, or a system of pipes, for the conveyance of gas, and includes any associated apparatus comprised in that system;

“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 Department’s satisfaction the mass flow rate and energy of steam, including at least the following components—

- (a) a flow meter;
- (b) a pressure sensor;
- (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.

(2) The Interpretation Act (Northern Ireland) 1954⁽⁷⁾ shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Commencement Information

I2 Reg. 2 in operation at 1.11.2012, see [reg. 1](#)

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 Department 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

[^{F1}(a) used in a building for any of the following purposes—

- (i) heating a space,
- (ii) heating liquid,
- (iii) carrying out a process; or

(b) used otherwise than in a building for either of the following purposes carried out on a commercial basis—

- (i) cleaning,
- (ii) drying.]

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

Textual Amendments

F1 Words in [reg. 3\(2\)](#) substituted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), [regs. 1, 4](#)

Commencement Information

I3 Reg. 3 in operation at 1.11.2012, see [reg. 1](#)

PART 2

ELIGIBILITY AND MATTERS RELATING TO ELIGIBILITY

CHAPTER 1

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

(7) [1954 c.33 \(N.I.\)](#)

- (d) the plant satisfies the requirements set out in Chapter 3.
- (2) But this regulation is subject to regulation 14.

Commencement Information

I4 Reg. 4 in operation at 1.11.2012, see [reg. 1](#)

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) it has an installation capacity of less than 1,000kWth [^{F2}except for CHP installations] ;
 - (c) the heat from the solid biomass is generated using equipment specifically designed and installed to use solid biomass as its only primary fuel source;
 - (d) in the case of a plant with an installation capacity of 45kWth or less, regulation 13 applies;
 - (e) it is not accredited under the NIRO as a generating station generating electricity from anaerobic digestion.

Textual Amendments

F2 Words in [reg. 5\(b\)](#) added (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), [regs. 1, 5](#)

Commencement Information

I5 Reg. 5 in operation at 1.11.2012, see [reg. 1](#)

Eligible installations generating heat from solid biomass contained in municipal waste

- 6. This regulation applies if the plant complies with all of the following requirements—
 - (a) it generates heat from solid biomass contained in municipal waste;
 - (b) it has an installation capacity of less than 1,000kWth;
 - (c) it is not accredited under the NIRO as a generating station generating electricity from anaerobic digestion.

Commencement Information

I6 Reg. 6 in operation at 1.11.2012, see [reg. 1](#)

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.

Commencement Information

I7 Reg. 7 in operation at 1.11.2012, see [reg. 1](#)

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 liquid [^{F3}or ground liquid] ;
- (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.

Textual Amendments

F3 Words in [reg. 8\(a\)\(ii\)](#) inserted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), [regs. 1, 6](#)

Commencement Information

I8 Reg. 8 in operation at 1.11.2012, see [reg. 1](#)

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(c);
- (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—

- ^{F4}(a)
- (b) [^{F5}was] accredited under the NIRO [^{F6}prior to 1st October 2015] ; and
- (c) is, or at any time since it was accredited in accordance with sub-paragraph (b), has been a qualifying CHP generating station within the meaning of Article 2 of that Order.

Textual Amendments

F4 [Reg. 9\(2\)\(a\)](#) omitted (18.11.2015) by virtue of [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), [regs. 1, 7\(a\)](#)

- F5** Word in [reg. 9\(2\)\(b\)](#) substituted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, [7\(b\)\(i\)](#)
- F6** Words in [reg. 9\(2\)\(b\)](#) inserted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, [7\(b\)\(ii\)](#)

Commencement Information

- I9** Reg. 9 in operation at 1.11.2012, see [reg. 1](#)

Eligible installations generating heat using geothermal sources

10. This regulation applies if the plant generates heat using naturally occurring energy located and extracted from at least 500 metres beneath the surface of solid earth.

Commencement Information

- I10** Reg. 10 in operation at 1.11.2012, see [reg. 1](#)

Eligible installations generating heat using biogas

- 11.** This regulation applies if the plant complies with all of the following requirements—
- (a) it generates heat from biogas;
 - (b) it has an installation capacity of less than 200kWth;
 - (c) it does not generate heat from solid biomass.

Commencement Information

- I11** Reg. 11 in operation at 1.11.2012, see [reg. 1](#)

Other eligibility requirements for technologies

- 12.—(1)** The requirements referred to in regulation 4(b) are—
- (a) installation of the plant was completed and the plant was first commissioned on or after 1st September 2010;
 - (b) the plant was new at the time of installation;
 - (c) the plant uses liquid or steam as a medium for delivering heat to the space, liquid or process;
 - (d) heat generated by the plant is used for an eligible purpose.

(2) The requirements of paragraph (1)(a) and (b) are deemed to be satisfied where the plant was previously generating electricity only, using solid biomass or biogas, and was first commissioned as a CHP system on or after 1st September 2010;

(3) But the requirements of paragraph (1)(a) and (b) are not satisfied where the plant was previously generating heat only and was first commissioned as a CHP system on or after 1st September 2010.

Commencement Information

- I12** Reg. 12 in operation at 1.11.2012, see [reg. 1](#)

MCS certification for microgeneration heating equipment

13. This regulation applies where the plant for which accreditation is being sought is certified under the MCS and its installer was certified under the MCS at the time of installation.

Commencement Information

I13 Reg. 13 in operation at 1.11.2012, see [reg. 1](#)

Plants comprised of more than one plant

14.—(1) Subject to paragraph (2), and without prejudice to regulation 42(5)(b), the eligibility criteria are not met if the plant is comprised of more than one plant.

- (2) Where two or more plants—
- (a) use the same source of energy and technology;
 - (b) form part of the same heating system; and
 - (c) are not accredited RHI installations;

those plants (the “component plants”) are to be regarded as a single plant for the purposes of paragraph (1) provided that paragraph (3) applies.

(3) This paragraph applies where each component plant meets the eligibility criteria; and for that purpose a component plant can be taken to meet the eligibility criteria notwithstanding that regulation 13 does not apply.

Commencement Information

I14 Reg. 14 in operation at 1.11.2012, see [reg. 1](#)

Excluded plants

- 15.—(1) This regulation applies where the plant—
- (a) is generating heat solely for the use of one domestic premises;
 - (b) is, in the Department’s opinion, generating heat solely for an ineligible purpose; or
 - (c) is a plant which—
 - (i) is additional RHI capacity within the meaning of regulation 42(2) and was first commissioned more than 12 months after the original installation was first commissioned;
 - (ii) generates heat from biogas or using a solar collector; and
 - (iii) has an installation capacity which, together with the installation capacities of all related plants, is 200kWth or above.

- (2) For the purposes of this regulation—

“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;

“related plant” means any plant for which an application for accreditation has been made (whether or not it has been accredited) which uses the same source of energy and technology and forms part of the same heating system as the plant referred to in paragraph (1)(c).

Commencement Information

I15 Reg. 15 in operation at 1.11.2012, see [reg. 1](#)

CHAPTER 3

Eligibility criteria in relation to metering and steam measuring

Metering of plants in simple systems

16.—(1) This regulation applies where—

- (a) the plant is generating and supplying heat solely for one or more eligible purposes within one building;
- (b) no heat generated by the plant is delivered by steam^{F7}]
- ^{F8}(c)

(2) Where this regulation applies, a class 2 heat meter must be installed to measure the heat in kWh generated by the plant.

Textual Amendments

F7 Words in Reg. 16(1)(b) substituted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, 8

F8 Reg. 16(1)(c) omitted (18.11.2015) by virtue of [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, 8

Commencement Information

I16 Reg. 16 in operation at 1.11.2012, see [reg. 1](#)

Metering of plants in complex systems

17.—(1) This regulation applies where regulation 16(1) does not apply.

(2) Subject to regulation 19—

- (a) where heat generated by the plant is delivered by liquid, class 2 heat meters must be installed to measure both the kWh of heat generated by that plant and the kWh of heat used for eligible purposes by the heating system of which that plant forms part; and
- (b) where heat generated by the plant is delivered by steam, the following must be installed—
 - (i) steam measuring equipment to measure both the heat generated in the form of steam by the plant and the heat in the form of steam used for eligible purposes; and
 - (ii) a class 2 heat meter or steam measuring equipment to measure any condensate or steam which returns to the plant.

(3) Where this regulation applies, and more than one plant is supplying heat to the heating system supplied by the plant, steam measuring equipment or class 2 heat meters must be installed as appropriate, to measure the heat generated in kWh by all plants supplying heat to that heating system.

Commencement Information

I17 Reg. 17 in operation at 1.11.2012, see [reg. 1](#)

Shared meters

18.—(1) Subject to paragraph (2), the heat generated by the plant must be individually metered.

(2) Subject to regulation 42(8), the heat generated by two or more plants may be metered using one meter provided that—

- (a) the plants use the same source of energy and technology;
- (b) the plants will, once given accreditation, be eligible to receive the same tariff;
- (c) the plants will then share the same tariff start date and tariff end date; and
- (d) it is the Department’s opinion that a single meter is capable of metering the heat generated by all of those plants.

Commencement Information

I18 Reg. 18 in operation at 1.11.2012, see [reg. 1](#)

Metering of CHP systems generating electricity only before 1st September 2010

19.—(1) This regulation applies where the plant is a CHP system and the requirements of regulation 12(1)(a) and (b) are deemed to be satisfied in accordance with regulation 12(2).

(2) Where this regulation applies, any existing heat meter or steam measuring equipment installed before the date of commencement of these Regulations may continue to be used by a participant to measure the heat generated by the CHP system and used for eligible purposes, provided that the CHP system was registered under the CHPQA before that date.

(3) For the purpose of this regulation, “the CHPQA” means the Combined Heat and Power Quality Assurance Standard, Issue 3, January 2009, as published by the Department of Energy and Climate Change(8).

Commencement Information

I19 Reg. 19 in operation at 1.11.2012, see [reg. 1](#)

Matters relating to all heat meters and steam measuring equipment

20.—(1) All heat meters installed or used in accordance with these Regulations must, where applicable—

- (a) be calibrated prior to use;
- (b) be calibrated correctly for any water/ethylene glycol mixture; and
- (c) be (or have been) properly installed in accordance with manufacturer’s instructions.

(2) All steam measuring equipment installed or used in accordance with these Regulations must be—

- (a) calibrated prior to use;
- (b) capable of displaying measured steam pressure and temperature;
- (c) capable of displaying the current steam mass flow rate and the cumulative mass of steam which has passed through it since it was installed; and
- (d) properly installed in accordance with manufacturer's instructions.

Commencement Information

I20 Reg. 20 in operation at 1.11.2012, see [reg. 1](#)

Additional metering requirements for plants generating heat from biogas

21.—(1) This regulation sets out additional requirements in relation to metering where a plant is generating heat from biogas.

- (2) In that case—
 - (a) a class 2 heat meter must be installed to meter any heat directed from the plant combusting the biogas to the biogas production plant; and
 - (b) a class 2 heat meter must be installed to meter any heat supplied to the biogas production plant from any source other than—
 - (i) the plant combusting the biogas; and
 - (ii) where the biogas has been produced by anaerobic digestion, the feedstock from which it was produced.

Commencement Information

I21 Reg. 21 in operation at 1.11.2012, see [reg. 1](#)

PART 3

ACCREDITATION AND REGISTRATION

Applications for accreditation

22.—(1) An owner of an eligible installation may apply for that installation to be accredited.

(2) All applications for accreditation must be made in writing to the Department and must be supported by—

- (a) such of the information specified in Schedule 1 as the Department may require;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant's knowledge and belief;
- (c) a declaration that the applicant is the owner, or one of the owners, of the eligible installation for which accreditation is being sought.

(3) The Department may, where an eligible installation is owned by more than one person, require that—

- (a) an application submitted under this regulation is made by only one of those owners;

- (b) the applicant has the authority from all other owners to be the participant for the purposes of the scheme; and
- (c) the applicant provides to the Department, in such manner and form as the Department may request, evidence of that authority.
- (4) Before accrediting an eligible installation, the Department may arrange for a site inspection to be carried out in order to satisfy itself that a plant should be accredited.
- (5) The Department may, in granting accreditation, attach such conditions as it considers to be appropriate.
- (6) Where an application for accreditation has, in the Department's opinion, been properly made in accordance with paragraphs (2) and (3) and the Department is satisfied that the plant is an eligible installation the Department must ([F9 subject to regulation 23, regulation 23A and regulation 46(3)])—
- (a) accredit the eligible installation;
 - (b) notify the applicant in writing that the application has been successful;
 - (c) enter on a central register maintained by the Department the applicant's name and such other information as the Department considers necessary for the proper administration of the scheme;
 - (d) notify the applicant of any conditions attached to the accreditation;
 - (e) in relation to an applicant who is or will be generating heat from solid biomass, having regard to the information provided by the applicant, specify by notice to the applicant which of regulations 28 or 29 applies;
 - (f) provide the applicant with a written statement ("statement of eligibility") including the following information—
 - (i) the date of accreditation;
 - (ii) the applicable tariff;
 - (iii) the process and timing for providing meter readings;
 - (iv) details of the frequency and timetable for payments; and
 - (v) the tariff lifetime and tariff end date.
- (7) Where the Department does not accredit a plant it must notify the applicant in writing that the application for accreditation has been rejected, giving reasons.
- (8) Once a specification made in accordance with paragraph (6)(e) has been notified to an applicant, it cannot be changed except where the Department considers that an error has been made or on the receipt of new information by the Department which demonstrates that the specification should be changed.

Textual Amendments

F9 Words in [reg. 22\(6\)](#) substituted (17.2.2016) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/47\)](#), regs. 1, 5

Commencement Information

I22 Reg. 22 in operation at 1.11.2012, see [reg. 1](#)

Exceptions to duty to accredit

23.—(1) The Department must not accredit an eligible installation unless the applicant has given notice (which the Department has no reason to believe is incorrect) that, as applicable—

- (a) no grant from public funds has been paid or will be paid or other public support has been provided or will be provided in respect of any of the costs of purchasing or installing the eligible installation; or

[^{F10}(b) such a grant or support has been repaid to the person or authority who made it.]

(2) In this regulation, “grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority and “public support” means any financial advantage provided by a public authority.

(3) The Department must not accredit an eligible installation if it has not been commissioned.

(4) The Department may refuse to accredit an eligible installation if its owner has indicated that one of the applicable ongoing obligations will not be complied with.

(5) The Department may refuse to accredit a plant which is a component plant within the meaning of regulation 14(2).

[^{F11}(6) The Department must not accredit an eligible plant if—

- (a) it is, or at any time has been, an accredited domestic plant within the meaning given by regulation 2 of the Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014;
- (b) an application for accreditation of the plant has been made under those Regulations and that application has not been withdrawn by the applicant or rejected by the Department; or
- (c) it provides heat to the same property as an accredited domestic plant or a plant for which an application for accreditation under those Regulations has been made which has not been withdrawn or rejected.]

Textual Amendments

F10 Reg. 23(1)(b) substituted (9.12.2014) by [The Domestic Renewable Heat Incentive Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/301\)](#), regs. 1, **61(2)**

F11 Reg. 23(6) inserted (9.12.2014) by [The Domestic Renewable Heat Incentive Scheme Regulations \(Northern Ireland\) 2014 \(S.R. 2014/301\)](#), regs. 1, **61(3)**

Commencement Information

I23 Reg. 23 in operation at 1.11.2012, see [reg. 1](#)

[^{F12}Suspension of the operation of the scheme

23A.—(1) This paragraph applies where it appears to the Department that it does not have or is not likely to have sufficient funds available to it for the purposes of meeting the total costs of—

- (a) periodic support payments for all eligible installations accredited under regulation 22 and all installations likely to be so accredited; and
- (b) RHI payments for all plants accredited under regulation 21 of the Domestic Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014 and all plants likely to be so accredited.

(2) Where paragraph (1) applies, the Department may, by notice published in such a manner as it may think appropriate, suspend the operation of the scheme in relation to the making of—

- (a) applications for accreditation under regulation 22;
- (b) applications for registration under regulation 25; and
- (c) applications for preliminary accreditation under regulation 26

made after a date specified in the notice (“the date of suspension”) and accordingly after that date and while the notice remains in force no such applications may be made or granted.

(3) Paragraph (2) does not apply to an application for accreditation for an eligible installation under regulation 22 where—

- (a) an application for preliminary accreditation was made under regulation 26 in respect of the eligible installation before the date of suspension;
- (b) that application has been granted (whether that grant was before or after the date of suspension); and
- (c) the preliminary accreditation has not been withdrawn.

(4) In paragraph (3), the reference to an ‘application for accreditation’ does not include any application for the accreditation of additional RHI capacity under regulation 42.

(5) The Department may revoke any notice under paragraph (2) by a further notice in writing and that revocation shall have effect from such date as may be specified in that further notice.]

Textual Amendments

F12 Reg. 23A inserted (17.2.2016) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/47\)](#), regs. 1, 4

[^{F13}Voluntary buy-out arrangements

23B.—(1) The powers conferred by paragraph (2) may only be exercised in the period while there is no Executive.

(2) The Department may, in respect of the financial year beginning with 1st April 2019 and each of the two financial years immediately following, prepare and publish in such manner as it thinks appropriate arrangements (“buy-out arrangements”) which—

- (a) enable a participant to apply in writing to the Department to receive a payment (“a buy-out payment”) in respect of an accredited RHI installation;
- (b) set out the method by which the Department is to determine—
 - (i) whether a participant qualifies for a buy-out payment in respect of an accredited RHI installation; and
 - (ii) if the participant does qualify, the amount of that payment;
- (c) where the Department determines that a participant does not qualify for a buy-out payment, require the Department to serve a notice on the participant stating that fact and setting out how the Department made that determination;
- (d) where the Department determines that a participant qualifies for a buy-out payment, require the Department to serve on the participant a notice (“a buy-out offer”) setting out—
 - (i) the proposed amount of that payment,
 - (ii) how that payment is calculated, and
 - (iii) the effect of paragraph (5);
- (e) enable the participant to serve a notice on the Department accepting or rejecting the buy-out offer; and

- (f) require the Department, subject to paragraph (4)(b), to make to a participant the buy-out payment proposed in a buy-out offer which has been accepted by the participant.
- (3) The method referred to in paragraph (2)(b)—
 - (a) must be such as to take into account the amount of periodic support payments previously received by the participant in respect of the accredited RHI installation; and
 - (b) may accordingly be such that the participant does not qualify for a buy-out payment.
- (4) The buy-out arrangements may contain such other provisions as appear to the Department to be necessary or expedient for the proper administration of the arrangements, including provisions—
 - (a) setting out the times at which, or the periods within which, the steps mentioned in paragraph (2) must be taken by a participant or, as the case may be, the Department;
 - (b) preventing a buy-out payment being made to a participant at any time when periodic support payments to the participant are being withheld or reduced under Part 7 or are suspended under that Part;
 - (c) for the Department to suspend periodic support payments in respect of an accredited RHI installation while an application in respect of that installation is being dealt with under the arrangements;
 - (d) applying provisions of these regulations relating to the scheme to the arrangements (with or without modifications).
- (5) Where in accordance with the buy-out arrangements, the Department makes a buy-out payment to a participant in respect of an accredited RHI installation, the installation ceases from the date of the payment to be an accredited RHI installation.
- (6) In paragraph (1) “the period while there is no Executive” means the period—
 - (a) beginning with the coming into operation of section 4 of the Northern Ireland (Regional Rates and Energy) Act 2019; and
 - (b) ending on the next occasion when the offices of all of the Northern Ireland Ministers (including those of the First Minister and the deputy First Minister) are filled.]

Textual Amendments

F13 Reg. 23B inserted (26.5.2019) by [Northern Ireland \(Regional Rates and Energy\) Act 2019 \(c. 13\)](#), ss. 4, 6(3) (with s. 2(2))

Changes in ownership

- 24.**—(1) This regulation applies where ownership of all or part of an accredited RHI installation is transferred to another person.
- (2) No periodic support payment may be made to a new owner until—
 - (a) that owner has notified the Department of the change in ownership; and
 - (b) the steps set out in paragraph (3) have been completed.
 - (3) On receipt of a notification under paragraph (2), the Department—
 - (a) may require the new owner to provide such of the information specified in Schedule 1 as the Department considers necessary for the proper administration of the scheme;
 - (b) may review the accreditation of the accredited RHI installation to ensure that it continues to meet the eligibility criteria and should remain an accredited RHI installation.
 - (4) Where the Department has received the information required under paragraph (3)(a) and is satisfied as to the matters specified in paragraph (3)(b) it must—

- (a) update the central register referred to in regulation 22(6)(c);
- (b) where the new owner is the participant, send the new owner a statement of eligibility setting out the information specified in regulation 22(6)(c); and
- (c) where applicable, send the new owner (if the new owner is the participant) a notice in accordance with regulation 22(6)(f).

(5) If, within a period of 12 months from the transfer of ownership of the accredited RHI installation, no notification is made in accordance with paragraph (2) or paragraph (4) does not apply, the installation will on the expiry of that period cease to be accredited and accordingly no further periodic support payments will be paid in respect of the heat it generates.

(6) The period specified in paragraph (5) may be extended by the Department where the Department considers it is just and equitable to do so.

(7) Subject to paragraph (8), following the successful completion of the steps required under paragraphs (3) and (4), the new owner of an accredited RHI installation will receive periodic support payments calculated from the date of completion of those steps for the remainder of the tariff lifetime of that accredited RHI installation.

(8) Where a transfer of ownership of all or part of an accredited RHI installation takes place and results in that accredited RHI installation being owned by more than one person, the Department may require that only one of those owners is the participant for the purposes of the scheme and require that owner to comply with sub-paragraphs (b) and (c) of regulation 22(3).

Commencement Information

I24 Reg. 24 in operation at 1.11.2012, see [reg. 1](#)

[^{F14}Changes in location of accredited RHI installations

24A.—(1) This regulation applies where an accredited RHI installation is moved to a new location during its tariff lifetime.

(2) No periodic support payment may be made in respect of the RHI installation after the date on which it is moved to the new location until—

- (a) the owner has notified the Department of the change in location; and
- (b) the Department has concluded that the accredited RHI installation should continue to be accredited.

(3) On receipt of a notification under paragraph (2) the Department—

- (a) may require the owner to provide such of the information specified in Schedule 1 as the Department considers necessary for the proper administration of the scheme; and
- (b) must review the accreditation of the RHI installation to determine whether it continues to meet the eligibility criteria in the new location (except the requirement in regulation 12(1)(b)) and accordingly whether it should continue to be accredited.

(4) Where the Department concludes that the RHI installation should continue to be accredited it must update the central register referred to in regulation 22(6)(c) if appropriate.

(5) Where the Department concludes that the accredited RHI installation should continue to be accredited, periodic support payments calculated from the date of that decision and for the remainder of the tariff lifetime of that accredited RHI installation shall be payable.]

Textual Amendments

F14 Reg. 24A inserted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, 9

Producers of biomethane

25.—(1) A producer of biomethane for injection may apply to the Department to be registered as a participant.

(2) Applications for registration must be in writing and supported by—

- (a) such of the information specified in Schedule 1 as the Department may require;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant’s knowledge and belief;
- (c) details of the process by which the applicant proposes to produce biomethane and arrange for its injection; and
- (d) a notice given in accordance with paragraph (6).

(3) The Department may in registering an applicant attach such conditions as it considers appropriate.

(4) Where the application for registration is properly made in accordance with paragraph (2), the Department must ([^{F15}subject to paragraphs (5) to (8) and regulation 23A])—

- (a) notify the applicant in writing that registration has been successfully completed and the applicant is a participant;
- (b) enter on a central register maintained by the Department the date of registration and the applicant’s name;
- (c) notify the applicant of any conditions attached to their registration as a participant; and
- (d) send the applicant a statement of eligibility including such of the information specified in regulation 22(6)(f) as the Department considers applicable.

(5) The Department may refuse to register an applicant if the applicant has indicated that one or more of the applicable ongoing obligations will not be complied with.

(6) The Department must not register an applicant unless that applicant has given notice (which the Department has no reason to believe is incorrect) that no grant from public funds has been paid or will be paid or other public support has been provided or will be provided in respect of any of the equipment used to produce the biomethane for which the applicant is intending to claim periodic support payments.

(7) The Department must not register an applicant if it would result in periodic support payments being made to more than one participant for the same biomethane.

(8) The Department must not register the applicant unless, at the time of making the application, injections of biomethane produced by that applicant has commenced.

(9) In this regulation, “grant from public funds” and “public support” have the meanings given in regulation 23(2).

Textual Amendments

F15 Words in [reg. 25\(4\)](#) substituted (17.2.2016) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/47\)](#), regs. 1, 6

Commencement Information

I25 Reg. 25 in operation at 1.11.2012, see [reg. 1](#)

Preliminary accreditation

26.—(1) The Department may, upon the application by a person who proposes to construct or operate an eligible installation which has not yet been commissioned, grant preliminary accreditation in respect of that eligible installation provided—

- (a) any necessary planning permission has been granted; or
- (b) such planning permission is not required and appropriate evidence of this is provided to the Department from the relevant planning authority.

(2) The Department must not grant preliminary accreditation to any plant under this regulation if, in its opinion, that plant is unlikely to generate heat for which periodic support payments may be paid.

(3) An application for preliminary accreditation must be in writing and supported by such of the information specified in Schedule 1 as the Department may require.

(4) The Department may attach such conditions as it considers appropriate in granting preliminary accreditation under this regulation.

(5) Where a plant has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for accreditation is made under this Part, the Department must, subject to regulation 23, grant that application unless it is satisfied that—

- (a) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;
- (b) any condition attached to the preliminary accreditation has not been complied with;
- (c) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Department known the true position when the application for preliminary accreditation was made, it would have been refused; or
- (d) there has been a change in applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused.

(6) Where any of the circumstances mentioned in paragraph (7) apply in relation to a preliminary accreditation which the Department has granted and having regard to those circumstances the Department considers it appropriate to do so, the Department may—

- (a) withdraw the preliminary accreditation;
- (b) amend the conditions attached to the preliminary accreditation;
- (c) attach conditions to the preliminary accreditation.

(7) The circumstances referred to in paragraph (6) are as follows—

- (a) in the Department's view there has been a material change in circumstances since the preliminary accreditation was granted;
- (b) any condition attached to the preliminary accreditation has not been complied with;
- (c) the Department considers that the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular;

- (d) there has been change in the applicable legislation since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused.
- (8) The Department must send the applicant a notice setting out—
- (a) its decision on an application for preliminary accreditation of a plant or on the withdrawal of any preliminary accreditation;
 - (b) any condition attached to the preliminary accreditation or any amendment to those conditions.
- (9) The notice sent pursuant to paragraph (8) must specify the date on which the grant or withdrawal of preliminary accreditation is to take effect and, where applicable, the date on which any conditions (or amendments to those conditions) attached to the preliminary accreditation are to take effect.
- (10) In paragraph (1), the reference to the person who proposes to construct an eligible installation includes a person who arranges for the construction of the eligible installation.
- (11) This regulation does not apply to a plant which will generate heat using—
- (a) a solar collector;
 - (b) a heat pump which complies with the requirements of regulation 8(a); or
 - (c) solid biomass, provided that the plant will have an installation capacity below 200kWth.

Commencement Information

I26 Reg. 26 in operation at 1.11.2012, see [reg. 1](#)

PART 4

ONGOING OBLIGATIONS FOR PARTICIPANTS

CHAPTER 1

Ongoing obligations relating to the use of solid biomass to generate heat

Interpretation

27. In this Part—

“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 British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions) published by the British Standards Institute on 28th June 1991);⁽⁹⁾

“landfill gas” means gas formed by the digestion of material in a landfill;

“standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the accredited RHI installation;

“waste” has the same meaning as in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽¹⁰⁾

⁽⁹⁾ ISBN 0580194825 Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/

⁽¹⁰⁾ S.I. 1997/2778 (N.I. 19); Article 2(2) was amended by SR 2011 No. 127

Commencement Information

I27 Reg. 27 in operation at 1.11.2012, see [reg. 1](#)

Participants using solid biomass contained in municipal waste

28.—(1) This regulation applies to participants generating heat in an accredited RHI installation from solid biomass contained in municipal waste.

(2) The proportion of solid biomass contained in the municipal waste must be a minimum of 50 per cent.

(3) For the purposes of paragraph (2)—

- (a) the proportion of solid biomass contained in the municipal waste is to be determined by the Department for every quarterly period;
- (b) it is for the participant to provide, in such form as the Department may require, evidence to demonstrate to the Department's satisfaction the proportion of the energy content of the municipal waste used in any quarterly period which is composed of fossil fuel, to enable the Department to determine the proportion of solid biomass in accordance with sub-paragraph (c);
- (c) the proportion of solid biomass is the energy content of the municipal waste used in any quarterly period to generate heat less the energy content of any fossil fuel of which that municipal waste is in part composed, expressed as a percentage of the energy content of that municipal waste.

(4) The participant may use fossil fuel (other than fossil fuel mentioned in paragraph (3)(c)) in an accredited RHI installation for the following permitted ancillary purposes only—

- (a) cleansing other fuels from the accredited RHI installation's combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
- (b) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
- (c) the ignition of fuels of low or variable calorific value;
- (d) emission control;
- (e) in relation to accredited RHI installations which are CHP systems, standby generation or the testing of standby generation capacity.

(5) The energy content of the fossil fuel used during any quarterly period for the permitted ancillary purposes specified in paragraph (4) must not exceed 10 per cent of the energy content of all the fuel used by that accredited RHI installation to generate heat during that quarterly period.

(6) Without prejudice to paragraph (3)(b), when determining the proportion of solid biomass contained in municipal waste, the Department may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the energy content of the municipal waste is composed of fossil fuel.

(7) Subject to paragraph (8), where the participant produces to the Department—

- (a) data published by the Department of the Environment or a district council demonstrating that the proportion of municipal waste used by that participant which is composed of fossil fuel is unlikely to exceed 50 per cent; and
- (b) evidence that the municipal waste used has not been subject to any process before being used that is likely to have materially increased that proportion;

the Department may accept this as sufficient evidence for the purposes of paragraph (3)(b) of the fact that the proportion of the municipal waste used which is composed of fossil fuel is no more than 50 per cent.

(8) Where the Department so requests, the participant must arrange for samples of the municipal waste used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such municipal waste, to be taken by a person (and analysed in a manner) specified by the Department, and for the results of that analysis to be made available to the Department in such form as the Department may require.

(9) The participant may not generate heat using solid biomass contained in any waste other than municipal waste.

Commencement Information

I28 Reg. 28 in operation at 1.11.2012, see [reg. 1](#)

Participants using solid biomass in accredited RHI installations with an installation capacity of between 45kWth and 1MWth

29.—(1) This regulation applies to participants generating heat from solid biomass, not being solid biomass contained in municipal waste, in an accredited RHI installation with an installation capacity of between 45kWth and 1MWth.

(2) The participant may use solid biomass contaminated with fossil fuel provided that the participant complies with the following sub-paragraphs as well as the other requirements of this regulation—

- (a) the participant may use solid biomass contaminated with fossil fuel only where the proportion of fossil fuel contamination does not exceed 10 per cent;
- (b) such contaminated biomass may not be used unless the fossil fuel is present because—
 - (i) the solid biomass has been subject to a process, the undertaking of which has caused the fossil fuel to be present in, on or with the biomass even though that was not the object of the process; or
 - (ii) the fossil fuel is waste and was not added to the solid biomass with a view to its being used as a fuel;
- (c) for the purposes of sub-paragraph (a)—
 - (i) the proportion of fossil fuel contamination is to be determined by the Department for every quarterly period;
 - (ii) it is for the participant to provide, in such form as the Department may require, evidence to demonstrate to the Department’s satisfaction the proportion of fossil fuel contamination; and
 - (iii) the proportion of fossil fuel contamination is the energy content of the fossil fuel with which the solid biomass used in any quarterly period is contaminated expressed as a percentage of the energy content of all solid biomass (contaminated or otherwise) used in that quarterly period to generate heat other than fossil fuel used in accordance with sub-paragraphs (d) and (e);
- (d) the participant may use fossil fuel (other than fossil fuel mentioned in sub-paragraph (a)) in an accredited RHI installation for the following permitted ancillary purposes only—
 - (i) cleansing other fuels from the accredited RHI installation’s combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;

- (ii) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
 - (iii) the ignition of fuels of low or variable calorific value;
 - (iv) emission control;
 - (v) in relation to accredited RHI installations which are CHP systems, standby generation or the testing of standby generation capacity;
- (e) the energy content of the fossil fuel used during a quarterly period for the permitted ancillary purposes specified in sub-paragraph (d) must not exceed 10 per cent of the energy content of all the fuel used by that accredited RHI installation to generate heat during that quarterly period.

(3) Where solid biomass contaminated with fossil fuel is used in an accredited RHI installation, the participant must keep and provide upon request written evidence including invoices, receipts and such other documentation as the Department may specify relating to fuel use and fossil fuel used for the permitted ancillary purposes specified in paragraph (2)(d) and provide this information upon request to the Department, in such form as the Department may require, to demonstrate compliance with this regulation.

(4) Without prejudice to paragraph (3), the Department may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the contaminated solid biomass is composed of fossil fuel.

(5) Where—

(a) the Department is not satisfied that the proportion of fossil fuel contamination (within the meaning of paragraph 2(c)(iii) does not exceed 10 per cent; or

(b) the Department is not satisfied as to the matters specified in paragraphs (2)(d) and (2)(e), the Department may require the participant to arrange for samples of the fuel used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such fuel, to be taken by a person (and analysed in a manner) specified by the Department, and for the results of that analysis to be made available to the Department in such form as the Department may require.

Commencement Information

I29 Reg. 29 in operation at 1.11.2012, see [reg. 1](#)

CHAPTER 2

Ongoing obligations relating to the use of biogas to generate heat and the production of biomethane for injection

Biogas produced from gasification or pyrolysis

30.—(1) This regulation applies to participants producing biogas using gasification or pyrolysis and generating heat from that biogas in an accredited RHI installation.

(2) The participant may only use solid biomass or municipal waste as feedstock to produce the biogas.

(3) Where the participant uses municipal waste as feedstock—

(a) paragraphs (2), (3), (6) and (7) of regulation 28 apply to the proportion of solid biomass contained in the municipal waste used for feedstock in the same way as for the proportion of solid biomass contained in municipal waste used to generate heat; and

(b) paragraphs (4) and (5) of regulation 28 apply.

(4) Where the participant uses solid biomass (not being solid biomass contained in municipal waste) as feedstock—

(a) paragraphs (2)(a), (b) and (c) and (4) of regulation 29 apply to the contamination of solid biomass used for feedstock in the same way as for solid biomass contaminated with fossil fuel used to generate heat; and

(b) paragraphs 2(d) and (e) of regulation 29 applies.

(5) Where the Department so requests, the participant must arrange for samples of the municipal waste or solid biomass used (or to be used) as feedstock in the biogas production plant, or of any gas or other substance produced as a result of the use of such municipal waste or solid biomass, to be taken by a person (and analysed in a manner) specified by the Department, and for the results of that analysis to be made available to the Department in such form as the Department may require.

Commencement Information

I30 Reg. 30 in operation at 1.11.2012, see [reg. 1](#)

Participants generating heat from biogas

31.—(1) This regulation applies to participants generating heat from biogas in an accredited RHI installation where regulation 30 does not apply.

(2) A participant using biogas produced by anaerobic digestions may only use biogas which—

(a) was produced from one or more of the following feedstocks—

(i) solid biomass;

(ii) solid waste;

(iii) liquid waste; and

(b) is not landfill gas.

(3) The participant may use fossil fuel in the accredited RHI installation only in accordance with paragraphs 2(d) and (e) of regulation 29.

Commencement Information

I31 Reg. 31 in operation at 1.11.2012, see [reg. 1](#)

Biomethane producers

32.—(1) This regulation applies to participants producing biomethane for injection.

(2) A participant producing biomethane for injection from biogas made by gasification or pyrolysis may only use biogas made using solid biomass or municipal waste as feedstock.

(3) Where municipal waste is used as feedstock, paragraphs (2) and (3)(c) of regulation 28 apply to the proportion of solid biomass contained in municipal waste used as feedstock in the same way as for the proportion of solid biomass contained in municipal waste used to generate heat.

(4) Where solid biomass is used as feedstock, paragraphs (2) (a), (b) and (c)(iii), of regulation 29 applies to the contamination of solid biomass used for feedstock in the same way as for solid biomass contaminated with fossil fuel used by participants to generate heat.

(5) A participant producing biomethane for injection from biogas made by anaerobic digestion must comply with regulation 31(2).

(6) The participant must provide measurements in such format as the Department may request which satisfies the Department of all of the following—

- (a) the gross calorific value and volume of biomethane injected;
- (b) the gross calorific value and volume of any propane contained in the biomethane;
- (c) the kWh of biomethane injected together with supporting meter readings and calculations;
- (d) the kWhth of heat supplied to the biogas production plant (other than heat contained in feedstock to produce biogas by anaerobic digestion) which made the biogas used in any quarterly period to produce biomethane for injection;
- (e) any heat supplied to the biomethane production process.

(7) The participant must keep and provide upon request copies or details of agreements with third parties with whom the participant contracts to carry out any of the processes undertaken to turn the biogas into biomethane and to arrange for its injection.

(8) The participant must keep and provide upon request written evidence including invoices, receipts, contracts and such other information as the Department may specify in relation to biogas purchased and feedstock used in the production of the biogas used to produce biomethane.

(9) The participant must provide sustainability information in accordance with Schedule 2.

Commencement Information

I32 Reg. 32 in operation at 1.11.2012, see [reg. 1](#)

CHAPTER 3

Ongoing obligations relating to other matters

Ongoing obligations: general

33. Participants must comply with the following ongoing obligations, as applicable—

- (a) they must keep and provide upon request by the Department records of type of fuel used and fuel purchased for the duration of their participation in the scheme;
- (b) they must keep and provide upon request by the Department written records of fossil fuel used for the permitted ancillary purposes specified in Chapters 1 and 2;
- (c) they must submit an annual declaration as requested by the Department confirming, as appropriate, that they are using their accredited RHI installations in accordance with the eligibility criteria and are complying with the relevant ongoing obligations;
- (d) they must notify the Department if any of the information provided in support of their application for accreditation or registration was incorrect;
- (e) they must ensure that their accredited RHI installation continues to meet the eligibility criteria;
- (f) they must comply with any condition attached to their accreditation or registration;
- (g) they must keep their accredited RHI installation maintained to the Department's satisfaction and keep evidence of this including service and maintenance documents;
- (h) participants combusting biogas must not deliver heat by air from their accredited RHI installation to the biogas production plant producing the biogas used for combustion;

- (i) they must allow the Department or its authorised agent reasonable access in accordance with Part 9;
- (j) participants generating heat from solid biomass must comply with the regulation specified by the Department in accordance with regulation 22(6)(e);
- (k) they must notify the Department within 28 days where they have ceased to comply with an ongoing obligation or have become aware that they will not be able so to comply, or where there has been any change in circumstances which may affect their eligibility to receive periodic support payments;
- (l) they must notify the Department within 28 days of the addition or removal of a plant supplying heat to a heating system of which their accredited RHI installation forms part;
- (m) they must notify the Department within 28 days of a change in ownership of all or part of their accredited RHI installation;
- (n) they must repay any overpayment in accordance with any notice served under regulation 47;
- (o) they must, if requested, provide evidence that the heat for which periodic support payments are made is used for an eligible purpose;
- (p) they must not generate heat for the predominant purpose of increasing their periodic support payments;
- (q) they must comply with such other administrative requirements that the Department may specify in relation to the effective administration of the scheme.

Commencement Information

I33 Reg. 33 in operation at 1.11.2012, see [reg. 1](#)

Ongoing obligations in relation to metering

34.—(1) Participants must keep all meters and steam measuring equipment required to be used in accordance with these Regulations—

- (a) continuously operating;
- (b) properly maintained and periodically checked for errors; and
- (c) re-calibrated every 10 years or within such period of time as may be specified in accordance with manufacturers’ instructions where available; whichever is the sooner,

and must retain evidence of this, including service and maintenance invoices, receipts or certificates for the duration of their participation in the scheme.

(2) The Department may, by the date (if any) specified by it, or at such regular intervals as it may require to enable it to carry out its functions under these Regulations, require participants to provide the following information—

- (a) meter readings and other data collected in accordance with these Regulations from all steam measuring equipment, class 2 heat meters and other heat meters used in accordance with these Regulations in such format as the Department may reasonably require;
- (b) in relation to participants using steam measuring equipment, a kWhth figure of both the heat generated and the heat used for eligible purposes together with supporting data and calculations; and
- (c) the evidence and service and maintenance documentation specified in paragraph (1).

(3) Participants using heat pumps to provide both heating and cooling must ensure that their meters for those pumps enable them to—

- (a) measure heat used for eligible purposes only; and
- (b) where appropriate, measure (in order to discount) any cooling generated by the reverse operation of the heat pump,

and must provide upon request an explanation of how their metering arrangements have enabled the cooling in sub-paragraph (b) to be discounted.

(4) The data referred to in paragraph (2)(a) and (b) may be estimated in exceptional circumstances if the Department has agreed in writing to an estimate being provided and to the way in which those estimates are to be calculated.

(5) Nothing in this regulation prevents the Department from accepting further data from a participant, if the Department considers it appropriate to do so.

Commencement Information

I34 Reg. 34 in operation at 1.11.2012, see [reg. 1](#)

Ongoing obligations in relation to the provision of information

35.—(1) A participant must provide to the Department on request any information which the participant holds and which the Department requires in order to discharge its functions under these Regulations.

(2) Participants must retain the information referred to in Schedule 1, including such information as may reasonably be required by the Department under paragraph 1(2)(e), (f), (h), (k), (n), (v) or (w) and whether or not copies of that documentation have been supplied to the Department, for the duration of their participation in the scheme.

(3) Information requested under paragraph (1) must be provided within 7 days of the request or such later date as the Department may specify.

(4) Information provided to the Department under these Regulations must be accurate to the best of the participant's knowledge and belief.

(5) Sub-paragraphs (3) and (4) of paragraph 1 of Schedule 1 have effect.

Commencement Information

I35 Reg. 35 in operation at 1.11.2012, see [reg. 1](#)

PART 5

PERIODIC SUPPORT PAYMENTS

Payment of periodic support payments to participants

36.—(1) Periodic support payments shall accrue from the tariff start date and shall be payable for 20 years.

(2) Periodic support payments shall be calculated and paid by the Department.

(3) [^{F16}Subject to regulation 42(5) and paragraphs (7) to [^{F17}(7C)] the tariff for an accredited RHI installation] accredited RHI installation shall be fixed when that installation is accredited.

(4) Subject to paragraph (7), the tariff for a participant who is a producer of biomethane is the biomethane and biogas combustion tariff set out in Schedule 3.

^{F18}(5) Subject to paragraphs (6) to ^{F19}(7C) , the tariff for an accredited RHI installation is the tariff set out in Schedule 3, 3A ^{F20}, 4 or 5] as the case may be in relation to its source of energy or technology and installation capacity.]

(6) ^{F21}For the purposes of paragraphs (5) and (7) to ^{F22}(7C) , where the accredited RHI installation] the accredited RHI installation is one of a number of plants forming part of the same heating system its installation capacity is to be taken to be the sum of the installation capacities of that accredited RHI installation and all plants for which an application for accreditation has been made (whether or not they have been accredited) which—

- (a) use the same source of energy and technology as that accredited RHI installation; and
- (b) form part of the same heating system as that accredited RHI installation.

(7) ^{F23}The tariffs ^{F24}for installations accredited before 18th November 2015]^{F25}, other than installations to which paragraph (7B) ^{F26}or (7C)] applies] —

- (a) for the period beginning with the commencement of these Regulations and ending with 31st March 2013, are the tariffs set out in Schedule 3; and
- (b) for each subsequent year commencing with 1st April and ending with 31st March, are the tariffs applicable on the immediately preceding 31st March adjusted by the percentage increase or decrease in the retail prices index for the previous calendar year (the resulting figure being rounded to the nearest tenth of a penny, with any twentieth of a penny being rounded upwards).]

^{F27}(7A) The tariffs for installations accredited on or after 18th November 2015 ^{F28}, other than installations to which paragraph (7C) applies] —

- (a) for the period beginning with 18th November 2015 and ending with 31st March 2016, are the tariffs set out in Schedule 4; and
- (b) for each subsequent year commencing with 1st April and ending with the next 31st March, are the tariffs applicable on the immediately preceding 31st March adjusted by the percentage increase or decrease in the retail prices index for the previous calendar year (the resulting figure being rounded to the nearest tenth of a penny, with any twentieth of a penny being rounded upwards).]

^{F29}(7B) The tariffs for installations accredited before 18th November 2015 and falling within the small or medium biomass tariffs set out in Schedule 3A, for the period beginning with the coming into operation of section 2 of the Northern Ireland (Regional Rates and Energy) Act 2018 and ending with 31st March 2019, are the tariffs set out in Schedule 3A adjusted by the percentage increase or decrease in the retail prices index for the calendar year 2017 (the resulting figure being rounded to the tenth of a penny, with any twentieth of a penny being rounded upwards).]

^{F30}(7C) The tariffs for installations (whether accredited before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) falling within the small or medium biomass tariffs set out in Schedule 5—

- (a) for the period beginning with 1st April 2019 and ending with 31st March 2020, are the tariffs set out in Schedule 5;
- (b) for each subsequent year commencing with 1st April and ending with the next 31st March, are the tariffs applicable on the immediately preceding 31st March adjusted by the percentage increase or decrease in the consumer prices index for the previous calendar year (the resulting figure being rounded to the tenth of a penny, with any twentieth of a penny being rounded upwards).

(7D) For the purposes of paragraph (7C) “the consumer prices index” means—

- (a) the consumer prices index calculated and published by the Office for National Statistics; or
- (b) where the index is not published for a year, any substituted index or figures published by that Office.]

(8) The Department must calculate the tariff rates each year in [^{F31}accordance with paragraphs (7) to [^{F32}(7C)] and publish] on or before 1st April of each year a table of tariffs for the period commencing with 1st April of that year and ending with 31st March of the following year.

[^{F33}(9) Where an accredited RHI installation falls within the small or medium biomass tariffs as set out in Schedule 4—

- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation is the relevant tier 1 tariff specified in Schedule 4;
- (b) the tariff for further heat generated in that same 12 month period up to a maximum of 400,000 kWh is the relevant tier 2 tariff; and
- (c) any further heat generated over 400,000 kWh in the same 12 month period shall not be eligible for RHI payments.

[
^{F34}(9A) Where an accredited RHI installation falls within the small or medium biomass tariffs set out in Schedule 3A [^{F35}and the tariff for the installation falls to be determined for the period mentioned in paragraph (7B)] —

- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation (regardless of whether that date falls before or after the coming into operation of section 2 of the Northern Ireland (Regional Rates and Energy) Act 2018) is the relevant Tier 1 tariff specified in Schedule 3A;
- (b) the tariff for further heat generated in that same 12 month period up to a maximum of 400,000 kWh is the relevant Tier 2 tariff specified in Schedule 3A; and
- (c) any further heat generated in that same 12 month period shall not be eligible for periodic payments.]

[
^{F36}(9B) Where an accredited RHI installation falls within the small biomass tariff set out in Schedule 5—

- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation (regardless of whether that date falls before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) is the Tier 1 tariff specified in Schedule 5;
- (b) the tariff for further heat generated in that same 12 month period is the relevant Tier 2 tariff specified in Schedule 5.

(9C) Where an accredited RHI installation falls within either of the medium biomass tariffs set out in Schedule 5—

- (a) the tariff for the initial heat generated by the installation in any 12 month period commencing with, or with the anniversary of, the date of accreditation (regardless of whether that date falls before or after the coming into operation of section 3 of the Northern Ireland (Regional Rates and Energy) Act 2019) is the relevant tariff specified in Schedule 5; and
- (b) any further heat generated in that same 12 month period shall not be eligible for periodic payments.]

(10) ^{F37}For the purposes of paragraphs (9) ^{F38}to (9C) , “the initial heat” means] the heat in kWh generated by an accredited RHI installation running at its installation capacity for 1,314 hours.]

^{F39}(11) Despite regulation 1(3) of the Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 (S.R. (NI) 2017 No.32) (which provides for those Regulations to cease to have effect on 31 March 2018), paragraphs (3) to (10) and Schedule 3A continue to have effect as amended by those Regulations in relation to heat generated before 1 April 2018.]

Textual Amendments

- F16** Words in reg. 36(3) substituted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(2)**, 3(2) (with reg. 2(14)-(16))
- F17** Word in reg. 36(3) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(1)**, 6(2) (with ss. 2(2), 3(13))
- F18** Reg. 36(5) inserted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(3)**, 3(2) (with reg. 2(14)-(16))
- F19** Word in reg. 36(5) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(2)(a)**, 6(2) (with ss. 2(2), 3(13))
- F20** Words in reg. 36(5) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(2)(b)**, 6(2) (with ss. 2(2), 3(13))
- F21** Words in reg. 36(6) substituted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(4)**, 3(2) (with reg. 2(14)-(16))
- F22** Word in reg. 36(6) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(3)**, 6(2) (with ss. 2(2), 3(13))
- F23** Reg. 36(7) ceases to have effect as specified (temp. until 31/3/2018) (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of The Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/32), regs. 1, **5(4)**
- F24** Words in reg. 36(7) inserted (18.11.2015) by The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/371), regs. 1, **10(2)**
- F25** Words in reg. 36(7) inserted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(5)**, 3(2) (with reg. 2(14)-(16))
- F26** Words in reg. 36(7) inserted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(4)**, 6(2) (with ss. 2(2), 3(13))
- F27** Reg. 36(7A) inserted (18.11.2015) by The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/371), regs. 1, **10(3)**
- F28** Words in reg. 36(7A) inserted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(5)**, 6(2) (with ss. 2(2), 3(13))
- F29** Reg. 36(7B) inserted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(6)**, 3(2) (with reg. 2(14)-(16))
- F30** Reg. 36(7C)(7D) inserted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(6)**, 6(2) (with ss. 2(2), 3(13))
- F31** Words in reg. 36(8) substituted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(7)**, 3(2) (with reg. 2(14)-(16))
- F32** Word in reg. 36(8) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(7)**, 6(2) (with ss. 2(2), 3(13))
- F33** Reg. 36(9)(10) inserted (18.11.2015) by The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/371), regs. 1, **10(4)**
- F34** Reg. 36(9A) inserted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), **ss. 2(8)**, 3(2) (with reg. 2(14)-(16))
- F35** Words in reg. 36(9A) inserted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(8)**, 6(2) (with ss. 2(2), 3(13))
- F36** Reg. 36(9B)(9C) inserted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), **ss. 3(9)**, 6(2) (with ss. 2(2), 3(13))

- F37** Words in reg. 36(10) substituted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), ss. 2(9), 3(2) (with reg. 2(14)-(16))
- F38** Words in reg. 36(10) substituted (1.4.2019) by Northern Ireland (Regional Rates and Energy) Act 2019 (c. 13), ss. 3(10), 6(2) (with ss. 2(2), 3(13))
- F39** Reg. 36(11) inserted (1.4.2018) by Northern Ireland (Regional Rates and Energy) Act 2018 (c. 6), ss. 2(10), 3(2) (with reg. 2(15))

Commencement Information

- I36** Reg. 36 in operation at 1.11.2012, see [reg. 1](#)

Periodic support payments for accredited RHI installations in simple systems

37.—(1) This regulation applies to participants who own an accredited RHI installation (“the installation”) which—

- (a) is generating and supplying heat solely for one or more eligible purposes used in one building;
- (b) does not deliver heat by steam^{F40};

^{F41}(c)

(2) Subject to regulations 39 and 40, participants shall be paid a periodic support payment for the installation in respect of each quarterly period calculated in accordance with one of the following formulae, as applicable—

- (a) $A \times B$; or
- (b) where the installation is generating heat from the combustion of biogas,
 $A \times (B - C)$,

where—

- (a) A is the tariff for the installation determined in accordance with regulation 36;
- (b) B is the heat in kWhth generated by the installation during the relevant quarterly period; and
- (c) C is the heat in kWhth directed from the installation or delivered by any other source to the biogas production plant which produced the biogas combusted in the relevant quarterly period (other than heat contained in feedstock used to produce biogas by anaerobic digestion).

Textual Amendments

- F40** Words in Reg. 37(1)(b) substituted (18.11.2015) by The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/371), regs. 1, **11**
- F41** Reg. 37(1)(c) omitted (18.11.2015) by virtue of The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/371), regs. 1, **11**

Commencement Information

- I37** Reg. 37 in operation at 1.11.2012, see [reg. 1](#)

Periodic support payments accredited RHI installations for complex systems

38.—(1) This regulation applies to participants who own an accredited RHI installation (“the installation”) which does not fall within regulation 37.

(2) Subject to regulations 39 and 40, participants shall be paid a periodic support payment for the installation in respect of each quarterly period calculated in accordance with one of the following formulae, as applicable—

(a) $A \times B \times D / E$; or

(b) where the accredited RHI installation is generating heat from the combustion of biogas,

$$A \times (B - C) \times D / E,$$

where—

- (a) A is the tariff for the installation determined in accordance with regulation 36;
- (b) B is the heat in kWhth used by the heating system of which the installation forms part during the relevant quarterly period for eligible purposes;
- (c) C is the heat in kWhth directed from the installation or delivered from any other source to the biogas production plant which produced the biogas combusted in the relevant quarterly period (other than heat contained in feedstock to produce biogas by anaerobic digestion) or, where there is not such heat, zero;
- (d) D is the heat in kWhth generated by the installation during the relevant quarterly period; and
- (e) E is the heat in kWhth generated by all plants supplying heat to the same heating system of which the installation forms part in the relevant quarterly period.

^{F42}**38A.**—(1) No periodic support payments may be made in relation to any heat generated by any capacity of a CHP system to which paragraph (2) or (3) applies.

(2) This paragraph applies to capacity which generated heat and electricity before 1st May 2013 and which—

- (a) uses solid biomass or solid biomass contained in municipal waste to generate heat and electricity, and
- (b) forms part of a generating station which—
 - (i) is accredited under the NIRO, and
 - (ii) is or at any time since it was so accredited, has been a qualifying combined heat and power generating station within the meaning of article 2 of the Renewables Obligation Order.

(3) This paragraph applies to capacity which first generates heat and electricity on or after 1st October 2015 and—

- (a) which—
 - (i) uses solid biomass to generate heat and electricity;
 - (ii) forms part of a generating station which is accredited under the NIRO, and
 - (iii) is capacity in respect of which a declaration made in accordance with article 26(8) of the Renewables Obligation Order; has been made; or
- (b) which—
 - (i) uses solid biomass contained in municipal waste to generate heat and electricity;
 - (ii) forms part of a generating station which is accredited under the NIRO; and
 - (iii) forms part of a generating station which is or at any time since it was so accredited, has been a qualifying combined heat and power generating station within the meaning of article 2 of the Renewables Obligation Order.

(4) For the purpose of this regulation, “the Renewables Obligation Order” means the Renewables Obligation Order (Northern Ireland) 2009.]

Textual Amendments

F42 Reg. 38A inserted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), regs. 1, **12**

Commencement Information

I38 Reg. 38 in operation at 1.11.2012, see [reg. 1](#)

Fossil fuel contamination of solid biomass and fossil fuel used for permitted ancillary purposes

39.—(1) This regulation applies to participants generating heat in an accredited RHI installation where the heat is generated from solid biomass contained in municipal waste.

(2) The periodic support payment calculated in accordance with regulation 37 or 38 shall be reduced pro rata to reflect the proportion of the energy content of the municipal waste used in the relevant quarterly period which was composed of fossil fuel and, where fossil fuel has been used for permitted ancillary purposes in accordance with regulation 28, to reflect the proportion of fossil fuel so used which resulted in the generation of heat.

Commencement Information

I39 Reg. 39 in operation at 1.11.2012, see [reg. 1](#)

Fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis

40.—(1) This regulation applies to participants producing biogas from gasification or pyrolysis and generating heat from that biogas in an accredited RHI installation.

(2) Where, in accordance with regulation 30, a participant uses feedstock contaminated with fossil fuel, the periodic support payment calculated in accordance with regulation 37 or 38 shall be reduced pro rata to reflect the proportion of fossil fuel contamination in the feedstock used by the participant in the relevant quarterly period.

Commencement Information

I40 Reg. 40 in operation at 1.11.2012, see [reg. 1](#)

Periodic support payments to producers of biomethane

41. Participants producing biomethane for injection shall be paid a periodic support payment in respect of each quarterly period calculated in accordance with the following formula—

$$A \times (B - (C + D + E)) \times F,$$

where—

- (a) A is the biomethane and biogas combustion tariff determined in accordance with regulation 36;

- (b) B is the kWh of biomethane injected in any quarterly period;
- (c) C is the kWh of propane contained in B;
- (d) D is the kWhth of heat supplied to the biogas production plant (other than heat contained in feedstock to produce biogas by anaerobic digestion) which produced the biogas from which the biomethane was made, from any heat source other than heat generated from the combustion of that biogas;
- (e) E is the kWhth of heat supplied to the biomethane production process; and
- (f) F applies only in relation to biomethane made using biogas produced from gasification or pyrolysis, and is the proportion of biomass contained in the feedstock used in the relevant quarterly period to produce the biogas.

Commencement Information

I41 Reg. 41 in operation at 1.11.2012, see [reg. 1](#)

PART 6

ADDITIONAL RHI CAPACITY

Treatment of additional RHI capacity

- 42.**—(1) This regulation applies where a participant installs additional RHI capacity.
- (2) In this regulation “additional RHI capacity” means a plant which is—
- (a) first commissioned after the date on which an accredited RHI installation (“the original installation”) was first commissioned;
 - (b) uses the same source of energy and technology as the original installation; and
 - (c) supplies heat to the same heating system as that of which the original installation forms part.
- (3) A participant must inform the Department within 28 days of the additional RHI capacity being first commissioned.
- (4) Paragraph (5) applies where the additional RHI capacity is first commissioned within 12 months of the date on which the original installation was first commissioned.
- (5) Where this paragraph applies—
- (a) the Department may review the accreditation of any accredited RHI installation using the same source of energy and technology and supplying heat to the same heating system as the additional RHI capacity;
 - (b) upon an application for accreditation of the additional RHI capacity, the Department must—
 - (i) treat the additional RHI capacity as if it were part of the original installation; and
 - (ii) decide whether or not to accredit the additional RHI capacity and original installation as one eligible installation in accordance with Part 3;
 - (c) subject to sub-paragraph (d), a refusal of accreditation under sub-paragraph (b)(ii) does not affect the accreditation of the original installation;

- (d) if a review undertaken in accordance with sub-paragraph (a) results in a finding that a relevant ongoing obligation is no longer being complied with, the Department may take appropriate action under Part 7; and
- (e) where the Department grants accreditation in accordance with sub-paragraph (b), from the date of that accreditation a participant's periodic support payments in respect of the original installation will be replaced by periodic support payments calculated using the applicable tariff determined in accordance with [F43 paragraphs (7) and (7A)] of regulation 36 in relation to the source of energy and technology concerned based on the sum of the installation capacities of the additional RHI capacity and the original installation, and will terminate with the tariff end date of the original accredited RHI installation.
- (6) Paragraph (7) applies where the additional RHI capacity is first commissioned more than 12 months after the original installation was first commissioned.
- (7) Where this paragraph applies, the Department may review the accreditation of any accredited RHI installation using the same source of energy and technology and supplying heat to the same heating system as the additional RHI capacity; and if a review results in a finding that a relevant ongoing obligation is no longer being complied with, the Department may take appropriate action under Part 7.
- (8) All additional RHI capacity must be individually metered.

Textual Amendments

- F43** Words in [reg. 42\(5\)\(e\)](#) substituted (18.11.2015) by [The Renewable Heat Incentive Schemes \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/371\)](#), [regs. 1, 13](#)
-

Commencement Information

- I42** Reg. 42 in operation at 1.11.2012, see [reg. 1](#)

PART 7

ENFORCEMENT

Power to temporarily withhold periodic support payments to investigate alleged non-compliance

43.—(1) Where the Department has reasonable grounds to suspect that a participant has failed or is failing to comply with an ongoing obligation and the Department requires time to investigate, it may temporarily withhold all or part of that participant's periodic support payments.

(2) Within 21 days of a decision to withhold periodic support payments, the Department must send a notice to the participant specifying—

- (a) the respect in which the Department suspects the participant has failed or is failing so to comply;
- (b) the reason why periodic support payments are being withheld;
- (c) the date from which periodic support payments will be withheld;
- (d) the next steps in the investigation; and
- (e) details of the participant's right of review including any relevant time-limits.

(3) The Department's investigation must be commenced and completed as soon as is reasonably practicable.

(4) The Department may withhold a participant's periodic support payments for a maximum period of 6 months commencing with the date specified in accordance with the notice required by paragraph (2)(c).

(5) The Department must review its decision to withhold a participant's periodic support payments every 30 days commencing 30 days after the date of the notice required by paragraph (2).

(6) Following a review pursuant to paragraph (5), the Department must send a notice to the participant providing an update on—

- (a) the progress of any investigation to date; and
- (b) whether the Department intends to continue to withhold periodic support payments.

(7) For the purposes of calculating the time-limit specified in paragraph (4), no account is to be taken of any period attributable to the participant's delay in providing any information reasonably requested by the Department.

(8) For the purposes of paragraph (7), a participant is not to be deemed to have delayed in providing information if that participant responds within 2 weeks of a request from the Department.

(9) On expiry of the period referred to in paragraph (4) or, if earlier, the conclusion of the investigation, the Department must—

- (a) send the participant a notice specifying the outcome of the investigation or, where the investigation is not concluded, inform the participant accordingly; and
- (b) pay within 28 days of the date of that notice all periodic support payments temporarily withheld under this regulation, subject to any permanent withholding or reduction of any such payments under regulation 45.

(10) If, on conclusion of the investigation, the Department is satisfied that a participant is failing or has failed to comply with an ongoing obligation it may impose one or more of the other sanctions set out in this Part.

Commencement Information

I43 Reg. 43 in operation at 1.11.2012, see [reg. 1](#)

Power to suspend periodic support payments where ongoing failure to comply

44.—(1) Where the Department is satisfied that a participant is failing to comply with an ongoing obligation it may suspend that participant's periodic support payments.

(2) Within 21 days of a decision to suspend periodic support payments the Department must send a notice to the participant specifying—

- (a) the respect in which the Department is satisfied that the participant is failing so to comply;
- (b) the reason why periodic support payments are being suspended;
- (c) the date from which the suspension is effective;
- (d) the steps that the participant must take to satisfy the Department that is to comply with the ongoing obligation;
- (e) the consequences of the participant failing to take the steps required pursuant to sub-paragraph (d) including potential sanctions; and
- (f) details of the participant's right of review including any relevant time-limits.

(3) Within 21 days of being satisfied that the participant is complying with the ongoing obligation the Department must remove the suspension.

(4) If, within 6 months the Department is satisfied that the participant has taken the steps specified by notice under paragraph (2), the Department may pay within 28 days of being so satisfied all periodic support payments with-held under this regulation.

(5) The maximum period for which the Department may suspend a participant's periodic support payments is 1 year.

(6) Subject to paragraph (4), a participant may not recover any periodic support payments suspended in accordance with this regulation.

Commencement Information

I44 Reg. 44 in operation at 1.11.2012, see [reg. 1](#)

Power to permanently withhold or reduce a participant's periodic support payments

45.—(1) Where the Department is satisfied that there has been a material or repeated failure by a participant to comply with an ongoing obligation during any quarterly period and the periodic support payment for that quarterly period has not been paid, the Department may take one or more of the following actions—

- (a) permanently withhold a proportion of the participant's periodic support payment which corresponds to the proportion of that quarterly period during which the participant failed so to comply;
- (b) reduce a participant's periodic support payment for that quarterly period or for the quarterly period immediately following.

(2) Within 21 days of a decision to permanently withhold or to reduce a periodic support payments, the Department must send a notice to the participant specifying, as applicable—

- (a) the respect in which the participant has failed so to comply;
- (b) the reason why a periodic support payment is being withheld or reduced;
- (c) the period in respect of which any periodic support payment is to be withheld or reduced;
- (d) the level of any reduction; and
- (e) details of the participant's right of review including any relevant time-limits.

(3) Where reducing a periodic support payment in accordance with paragraph (1)(b), the Department may determine the level of the reduction (taking into consideration all factors which it considers relevant) up to a maximum reduction of 10 per cent of the periodic support payment in question.

Commencement Information

I45 Reg. 45 in operation at 1.11.2012, see [reg. 1](#)

Revocation of accreditation or registration

46.—(1) Where the Department is satisfied that there has been a material or repeated failure by a participant to comply with an ongoing obligation it may take one or more of the following actions—

- (a) revoke accreditation for the accredited RHI installation in respect of which there has been a material or repeated failure;

- (b) revoke accreditation for any other accredited RHI installations owned by that participant;
 - (c) in relation to a participant who is a producer of biomethane for injection, revoke that participant's registration.
- (2) Within 21 days of a decision to revoke accreditation or registration the Department must send a notice to the participant specifying—
- (a) the reason for the revocation of accreditation or registration including, where applicable, details of the respect in which the participant has failed so to comply;
 - (b) an explanation of the effect of the revocation; and
 - (c) details of the participant's right of review including any relevant time limits.
- (3) Where accreditation of an accredited RHI installation has been revoked, or a participant's registration has been revoked, the Department may refuse to accredit any eligible installations owned by the same person or refuse to register that person as a producer of biomethane for injection at any future date.

Commencement Information

I46 Reg. 46 in operation at 1.11.2012, see [reg. 1](#)

Overpayment notices and offsetting

- 47.**—(1) Where the Department is satisfied that a participant has received a periodic support payment which exceeds that participant's entitlement or has received a periodic support payment whilst failing to comply with an ongoing obligation it may—
- (a) require the participant to repay the periodic support payment as a civil debt owed to the Department; or
 - (b) offset the periodic support payment against any future periodic support payments.
- (2) Within 21 days of a decision to offset or require the participant to repay any periodic support payment the Department must send the participant a notice specifying—
- (a) the periodic support payment which the Department believes has been overpaid and the sum which it is seeking to recover from the participant;
 - (b) whether the sum specified in sub-paragraph (a) will be recovered in accordance with paragraph (1)(a) or (1)(b);
 - (c) where applicable, a date by which the sum specified in sub-paragraph (a) must be repaid;
 - (d) the consequences of failing to make any repayments requested including potential sanctions or civil action; and
 - (e) details of the participant's right of review including any relevant time limits.

Commencement Information

I47 Reg. 47 in operation at 1.11.2012, see [reg. 1](#)

PART 8

REVOCATION OF SANCTIONS

Revocation of Part 7 sanctions

48.—(1) The Department may at any time revoke a sanction imposed in accordance with Part 7 if it is satisfied that—

- (a) there was an error involved in the original imposition of the sanction; or
- (b) it is just and equitable in the particular circumstances of the case to do so.

(2) Within 21 days of a decision to revoke a sanction, the Department must send a notice to the participant specifying—

- (a) the sanction which has been revoked;
- (b) the reason for the revocation;
- (c) what action if any the Department proposes to take in relation to any loss incurred by the participant as a result of the imposition of the sanction including the time within which any action will be taken; and
- (d) details of someone within the Department whom the participant may contact if they are not satisfied with the proposals made by the Department under sub-paragraph (c).

Commencement Information

I48 Reg. 48 in operation at 1.11.2012, see [reg. 1](#)

PART 9

INSPECTION

Power to inspect accredited RHI installations

49.—(1) The Department or its authorised agent may request entry at any reasonable hour to inspect an accredited RHI installation and its associated infrastructure to undertake any one or more of the following—

- (a) verify that the participant is complying with all applicable ongoing obligations;
- (b) verify meter readings;
- (c) take samples and remove them from the premises for analysis;
- (d) take photographs, measurements or video or audio recordings;
- (e) ensure that there is no other contravention of these Regulations.

(2) Within 21 days of a request made under paragraph (1) being (in its opinion) unreasonably refused the Department must send a notice to the participant specifying—

- (a) the reason why the Department considers the refusal to be unreasonable;
- (b) the consequences of the refusal, including potential sanctions for failing to comply with the ongoing obligation imposed by regulation 33(i); and
- (c) details of the participant's right of review including any relevant time-limits.

Commencement Information

I49 Reg. 49 in operation at 1.11.2012, see [reg. 1](#)

PART 10

REVIEWS

Right of review

50.—(1) Any prospective, current or former participant affected by a decision made by the Department in exercise of its functions under these Regulations (other than a decision made in accordance with this regulation) may have that decision reviewed by the Department.

(2) An application for review must be made by notice in such format as the Department may require and must—

- (a) be received by the Department within 28 days of the date of receipt of notification of the decision being reviewed;
- (b) specify the decision which that person wishes to be reviewed;
- (c) specify the grounds upon which the application is made; and
- (d) be signed by or on behalf of the person making the application.

(3) A person who has made an application in accordance with paragraph (2) must provide the Department with such information and such declarations as the Department may reasonably request in order to discharge its functions under this regulation, provided any information requested is in that person's possession.

(4) On review the Department may—

- (a) revoke or vary its decision;
- (b) confirm its decision;
- (c) vary any sanction or condition it has imposed; or
- (d) replace any sanction or condition it has imposed with one or more alternative sanctions or conditions.

(5) Within 21 days of the Department's decision on a review, it must send the applicant and any other person who is in the Department's opinion affected by its decision a notice setting out its decision with reasons.

Commencement Information

I50 Reg. 50 in operation at 1.11.2012, see [reg. 1](#)

PART 11

ADMINISTRATIVE FUNCTIONS OF THE DEPARTMENT AND NOTICES

Publication of guidance and publication of specified information on the Department's website

51.—(1) The Department must publish procedural guidance to participants and prospective participants in connection with the administration of the scheme.

(2) The Department must publish the following information on its website—

(a) information in aggregate form as to—

- (i) the number of accredited RHI installations;
- (ii) the technology and installation capacity of those accredited RHI installations;
- (iii) the amount of heat those accredited RHI installations have generated;
- (iv) the total amount of periodic support payments made under each tariff; and

(b) information in aggregate form as to—

- (i) the number of participants who are producers of biomethane;
- (ii) the volume of biomethane produced for injection by those participants; and
- (iii) the total amount of periodic support payments made in respect of that biomethane.

Commencement Information

I51 Reg. 51 in operation at 1.11.2012, see [reg. 1](#)

Notices

52. A notice under these Regulations—

- (a) must be in writing; and
- (b) may be transmitted by electronic means.

Commencement Information

I52 Reg. 52 in operation at 1.11.2012, see [reg. 1](#)

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 31st October 2012.



A F Hepper
A senior officer of the
Department of Enterprise, Trade and Investment

Changes to legislation: There are currently no known outstanding effects for the The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012. (See end of Document for details)

Changes to legislation:

There are currently no known outstanding effects for the The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012.