

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

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No. 0000

ENERGY

**The Domestic Renewable Heat Incentive Scheme (Amendment)
Regulations 2018**

Made - - - - *2018*

Coming into force in accordance with regulation 1

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

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

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

Citation and commencement

1. These Regulations may be cited as the Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2018 and come into force on the day after the day on which they are made.

Amendments to the Domestic Renewable Heat Incentive Scheme Regulations 2014

2. The Domestic Renewable Heat Incentive Scheme Regulations 2014(c) are amended as follows.

Amendments to regulation 2 (interpretation)

3. In regulation 2(1)—

(a) after the definition of “assessment date” insert—

““assignment” means an arrangement under which a participant assigns their RHI payments to an NRI;”;

(b) after the definition of “certified installer” insert—

(a) 2008 c.32. Section 100 is amended by section 51 of the Infrastructure Act 2015 (c.7) and S.I. 2011/2195.

(b) Section 105 is amended by section 51 of the Infrastructure Act 2015 which inserted subsections (3A) to (3I) concerning provisions which require the affirmative resolution procedure.

(c) S.I. 2014/928 amended by S.I. 2015/143, 2015/145, 2015/1459, 2016/257, 2017/727 and 2017/857.

“code of practice” means—

- (a) version M of the Home Insulation & Energy Systems Quality Assured Contractors Scheme Code of Practice published on 1st March 2017^(a);
- (b) version 6 of the Renewable Energy Consumer Code published on 28th October 2016^(b);
- (c) in the definition of “eligible electricity meter”, in both places where it occurs, for “MI-003” substitute “V”;
- (d) in the definition of “eligible gas meter”, in both places where it occurs, for “MI-002” substitute “IV”;
- (e) in the definition of “eligible heat meter”, in both places where it occurs, for “MI-004” substitute “VI”;
- (f) in the definition of “eligible new-build property”, in paragraph (b) after “first occupied was” insert “on or”;
- (g) in the definition of “eligible oil meter”, in both places where it occurs, for “MI-005” substitute “VII”;
- (h) for the definition of “heat meter” substitute—
 - “heat meter” has the same meaning as that given to “thermal energy meter” in Annex VI to the Measuring Instruments Directive;
- (i) after the definition of “installation capacity” insert—
 - “investor” has the meaning given in regulation 22A(1);
 - “investor application” means an application made under regulation 22A which has not been withdrawn;
 - “investor registration” means the entry of an investor’s details on the central register under regulation 22C(2)(a);
- (j) for the definition of “Measuring Instruments Directive” substitute—
 - “Measuring Instruments Directive” means Directive 2014/32/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast)^(c);
- (k) after the definition of “metering and monitoring installer” insert—
 - “metering and monitoring lump sum payment” means a single payment of—
 - (a) £700 for a metering and monitoring biomass boiler; or
 - (b) £805 for a heat pump which is an accredited domestic plant;
- (l) for the definition of “metering and monitoring payment” substitute—
 - “metering and monitoring payment” means—
 - (a) in respect of a registration given before the third relevant date, one or more payments totalling—
 - (i) £200 during a 12 month period for a metering and monitoring biomass boiler; or
 - (ii) £230 during a 12 month period for a heat pump which is an accredited domestic plant;
 - (b) in respect of a registration given on or after the third relevant date, one or more payments totalling—

(a) The code of practice can be accessed here: <https://www.hiesscheme.org.uk/scheme-rules-code-practice.pdf>. Hard copies can be obtained from HIES, Centurion House, Leyland Business Park, Centurion Way, Leyland, PR25 3GR.

(b) The consumer code can be accessed here: <https://www.recc.org.uk/scheme/consumer-code>. Hard copies can be obtained from Renewable Energy Consumer Code, 80 Strand, London WC2R 0ET.

(c) OJ L 96, 29.3.2014, p149.

- (i) £100 during a 12 month period for a metering and monitoring biomass boiler;
or
- (ii) £115 during a 12 month period for a heat pump which is an accredited domestic plant;”;
- (m) after the definition of “metering statement”, insert—
 - ““MM payments” means a metering and monitoring lump sum payment or metering and monitoring payments, or both;
 - “NRI” has the meaning given in regulation 22E(3);”;
- (n) after the definition of “NOx”, insert—
 - ““on-board meter” means an electricity meter which is integrated into a heat pump and is able to display the electricity consumption of that heat pump in kWh;”;
- (o) in the definition of “ongoing obligations”, after “Part 7” insert “or Part 7A, as applicable”;
- (p) after the definition of “participant” insert—
 - ““properly made” in relation to an application means—
 - (i) in the case of an application made under regulation 17, an application which provides the information required by regulation 17(2) and (3);
 - (ii) in the case of an application made under regulation 22A, an application which provides the information required by regulation 22A(2); and
 - (iii) in the case of an application made under regulation 50, an application which provides the information required by regulation 50(2);”;
- (q) in the definition of “registration”, after “registration” insert “, except in the term “investor registration””;
- (r) after the definition of “RHPP grant” insert—
 - ““RI” means an investor registered on the central register in accordance with regulation 22C;”;
- (s) after the definition of “testing laboratory” insert—
 - ““third relevant date” means the date of coming into force of the Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2018(a);”;
- (t) after the definition of “type-testing range” insert—
 - ““Unique Registered Investor Reference” has the meaning given in regulation 22C(2)(b)(iii);”.

Amendments to regulation 5 (requirements for heat pumps)

- 4.—(1) Renumber regulation 5 as paragraph (1) of that regulation.
- (2) In regulation 5(1) as so renumbered—
 - (a) after sub-paragraph (d) omit “and”,
 - (b) after sub-paragraph (e) insert—
 - “; and
 - (f) if it is a heat pump for which the RHI date is on or after the third relevant date, it meets the requirements specified in paragraph (2)”.
- (3) After regulation 5(1), insert—
 - “(2) The requirements specified in this paragraph are that—

- (a) one or more eligible electricity meters or on-board meters are installed to record any—
 - (i) electricity supplied to the plant which is used to generate heat;
 - (ii) electrical input into any supplementary electric heater controlled by the same control system which governs the heat pump; and
 - (iii) electrical input into any immersion heater for a domestic hot water cylinder where the immersion heater is controlled by the same control system which governs the heat pump;
- (b) in respect of any eligible electricity meter installed in accordance with sub-paragraph (a)—
 - (i) in the case of a meter installed before the third relevant date, a certified installer was responsible for installing it or for checking that it was properly installed;
 - (ii) in the case of a meter installed on or after the third relevant date, a certified installer was responsible for installing it;
 - (iii) the meter is properly calibrated, properly installed and in good working order; and
 - (iv) the meter has a label which identifies the plant or other components being metered.”.

Amendments to regulation 10 (requirements regarding funding of plants)

5. For regulation 10(a) substitute—

- “(a) some or all of the costs of the purchase or installation of the plant are met by—
- (i) an owner or former owner of the plant, using that person’s own funds (including a loan which that person was liable to repay or a Green Deal Plan for which that person is liable to make, or has made, payments); or
 - (ii) an RI; or”.

Amendments to regulation 14 (metering requirements)

6. In regulation 14—

- (a) in paragraph (1)—
 - (i) after “in relation to the plant” insert “, other than any eligible electricity meters installed in order to comply with the requirements specified in regulation 5(2)”,
 - (ii) in paragraph (b) after “participant” insert “or NRI”,
- (b) for paragraph (2)(a) substitute—

“(a) in the case of a meter installed—

 - (i) before the relevant date, a certified installer was responsible for installing it or for checking that it was properly installed;
 - (ii) on or after the relevant date, a certified installer was responsible for installing it;”.

Amendments to regulation 17 (accreditation applications)

7.—(1) In regulation 17(2)—

- (a) after sub-paragraph (f) omit “and”,
- (b) after sub-paragraph (g) insert—

“; and

- (h) where paragraph (2A) applies, a declaration that, to the best of the applicant’s knowledge and belief, one or more eligible electricity meters or on-board meters are installed in accordance with the requirements specified in regulation 5(2)”.

(2) After regulation 17(2) insert—

“(2A) This paragraph applies where an accreditation application is made on or after the third relevant date in respect of a plant which is a heat pump and is—

- (a) a replacement plant, with an RHI date on or after the third relevant date; or
- (b) not a replacement plant.”.

Amendments to regulation 21 (accreditation)

8. In regulation 21—

(a) in paragraph (1)(e)—

- (i) after paragraph (v) omit “and”, and
- (ii) after paragraph (vi) insert—

“(vii) where applicable, that RHI payments have been assigned to the NRI nominated by the participant pursuant to regulation 22E; and”,

(b) after paragraph (3) insert—

“(4) Where there is an assignment, the notification and statements referred to in paragraph (1)(b) and (d) to (f), and paragraph (3), must also be provided to any NRI in respect of the plant.”.

Amendments to regulation 22 (rejection of accreditation applications)

9. In regulation 22(3) after “notify the applicant” insert “and any NRI in respect of the plant,”.

Insertion of Part 3A (Investors)

10. After regulation 22 insert—

“PART 3A

Investors

Investor applications

22A.—(1) A person (an “investor”) may apply to the Authority, on or after 27th June 2018, to be registered as an RI for the purposes of these Regulations.

(2) An application referred to in paragraph (1) (an “investor application”) must include—

- (a) all of the information specified in Schedule 4A; and
- (b) any other information from, or declarations by, the investor which the Authority may by notice request, to enable it to determine the investor application or to evaluate the operation of the domestic RHI scheme.

(3) In order to determine the investor application, the Authority may verify any information provided by the investor against any other information available to it.

Time limits for provision of information

22B. Where the Authority gives notice under regulation 22A(2)(b), the investor must comply with that request within 28 days of the notice.

Investor registration

22C.—(1) The Authority may make an investor registration subject to any conditions it considers to be appropriate.

(2) Subject to regulation 22D, where an investor application has, in the Authority's opinion, been properly made, the Authority must—

- (a) enter on the central register the investor's name and other information the Authority considers necessary for the proper administration of the domestic RHI scheme; and
- (b) notify the investor—
 - (i) that the investor application has been successful;
 - (ii) of the date from which the investor is an RI;
 - (iii) of the investor's unique reference issued by the Authority (the "Unique Registered Investor Reference"); and
 - (iv) of any conditions attached to the investor registration.

Rejection of investor applications

22D.—(1) The Authority may reject an investor application if—

- (a) the Authority is not satisfied that the investor application has been properly made;
- (b) the Authority has reason to believe that the investor will not comply with one or more of the ongoing obligations applicable to RIs;
- (c) the Authority has revoked an earlier investor registration in relation to that investor pursuant to regulation 59A; or
- (d) subject to paragraph (2), information requested by the Authority is not provided within the time limit specified in regulation 22B.

(2) The Authority must not reject an investor application on the basis that information has not been provided in accordance with regulation 22B if—

- (a) the investor contacted the Authority before the 28 day period expired—
 - (i) stating that the information sought is not yet available;
 - (ii) stating that the information cannot be provided; or
 - (iii) providing alternative information; and
- (b) fewer than three months have passed since the date of the first notice in which the Authority requested the information.

(3) Where the Authority decides to reject an investor application it must notify the investor that the investor application has been rejected, giving reasons.

Nomination of an RI

22E.—(1) Subject to paragraph (2), where at the time of making an accreditation application—

- (a) the applicant intends to enter into an assignment with an RI;
- (b) the RI consents to the assignment;
- (c) the applicant provides the Authority with the RI's Unique Registered Investor Reference in accordance with paragraph 1(j) of Schedule 4;
- (d) the RI is not under investigation pursuant to regulation 57A; and
- (e) the RI's investor registration has not been revoked pursuant to regulation 59A,

the RI is nominated by the applicant in respect of the plant for which the accreditation application is made.

(2) An RI who is an owner or a participant in relation to a plant, may not be nominated in relation to that plant.

(3) In these Regulations an NRI in relation to a plant means an RI—

- (a) nominated in relation to that plant under paragraph (1); or
- (b) to whom a transfer of NRI status in relation to that plant has been made under regulation 22F(5).

Transfer of NRI status

22F.—(1) This regulation applies where an NRI (“the current NRI”), the participant (“P”), or both of them, intend to transfer the current NRI’s status in relation to a plant to another RI (“ARI”).

(2) The current NRI, or P, must notify the Authority of the intended transfer and provide the Authority with the following—

- (a) ARI’s Unique Registered Investor Reference;
- (b) the date on which the intended transfer will take place (“the transfer date”), which must be at least 14 days after the date on which the Authority is notified of the intended transfer;
- (c) confirmation that P, ARI and the current NRI consent to the intended transfer taking place on the transfer date.

(3) Where the Authority is notified of an intended transfer in accordance with paragraph (2)—

- (a) it may require any of P, ARI, and the current NRI, to provide such other information as the Authority considers necessary to enable it to consider the intended transfer;
- (b) no RHI payment may be made until the Authority has agreed, or not agreed, to the intended transfer in accordance with paragraph (5) or paragraph (6).

(4) P, ARI, and the current NRI (as the case may be) must comply with any request for information under paragraph (3)(a) within 28 days of the request or such later date as the Authority may specify.

(5) Where the Authority agrees to the intended transfer, within 21 days of that decision it must—

- (a) notify P, ARI and the current NRI accordingly;
- (b) update the central register;
- (c) make payments to ARI in accordance with regulation 26(1)(b),

and ARI is deemed to be the NRI in relation to the plant from the transfer date.

(6) Where the Authority does not agree to the intended transfer, within 21 days of that decision it must notify P, ARI and the current NRI accordingly, giving reasons, and—

- (a) specify any steps P, ARI or the current NRI may take to remedy any defect in the information provided to the Authority under paragraph (2) or (3); or
- (b) resume payments to the current NRI in accordance with regulation 26(1)(b).

(7) Where a transfer of NRI status in relation to a plant is intended to occur on the same date as a change in ownership of that plant under regulation 48, references in this regulation to “P” are to be read as references to both P and the new owner.”.

Amendment to regulation 25 (authorisation)

11. In regulation 25(1)(b), after “the applicant” insert “, and where there is an assignment the NRI,”.

Amendments to regulation 26 (duty to make RHI payments)

12. For regulation 26(1) substitute—

“(1) Subject to Parts 8 and 10, the Authority must make payments, referred to in these Regulations as “RHI payments”, to—

- (a) a participant (“P”); or
- (b) where there is an assignment, the NRI,

in respect of the heat generated by P’s accredited domestic plant.”.

Amendments to regulation 36 (calculation of initial tariffs: calculation of B)

13.—(1) In regulation 36, for paragraphs (2) to (4) substitute—

“(2) Save where paragraphs (3) or (4) apply, B is 1.

(3) B is 0.9 if, on the relevant assessment date—

- (a) the expenditure threshold and the growth threshold are exceeded; and
- (b) either the super growth threshold or the super expenditure threshold is exceeded (but not both).

(4) B is 0.8 if, on the relevant assessment date—

- (a) the super expenditure threshold is exceeded; and
- (b) the super growth threshold is exceeded.”.

(2) Omit regulation 36(5)(e).

Amendment to regulation 39 (ongoing obligations: general)

14. In regulation 39(g), after “served” insert “on P”.

Amendments to regulation 40 (ongoing obligations: changes affecting accredited domestic plants)

15. In regulation 40(1)—

(a) after sub-paragraph (k) omit “or”,

(b) after sub-paragraph (l) insert—

“; or

(m) where there is an assignment, there is a change in the terms of the contract referred to in paragraph 1(j) of Schedule 4”.

Amendments to regulation 41 (ongoing obligations: annual declarations)

16. In regulation 41—

(a) after sub-paragraph (e) omit “and”,

(b) after sub-paragraph (g) insert—

“;

(h) where the accredited domestic plant is a heat pump for which the RHI date is on or after the third relevant date, the plant continues to meet the requirements under regulation 5(2); and

(i) where there is an assignment, that the contract referred to in paragraph 1(j) of Schedule 4 is still in force and its terms are being adhered to, or any change to the terms of that contract”.

Insertion of Part 7A (ongoing obligations for RIs)

17. After regulation 44 insert—

“PART 7A

Ongoing obligations on RIs

Ongoing obligations on RIs: general

44A.—(1) An RI—

- (a) must not receive any grant from public funds for any of the cost of the purchase or installation of the accredited domestic plant for which they are the NRI, other than any grant which was notified to the Authority when the accreditation application was made;
- (b) must maintain membership of a code of practice and comply with the terms of that code of practice;
- (c) must comply with any condition attached to their investor registration;
- (d) must comply with such other administrative requirements as the Authority may specify in relation to the effective administration of the domestic RHI scheme;
- (e) where RI is an NRI, must notify the Authority if they intend to amend any contract referred to in paragraph 1(g) of Schedule 4A, or to enter into a new form of such a contract;
- (f) if RI becomes aware that a plant in relation to which they are the NRI is not in good working order, must ensure that the Authority is notified accordingly;
- (g) if RI becomes aware that a plant in relation to which they are the NRI is going to be, or has been, replaced, must ensure that the Authority is notified accordingly;
- (h) if RI becomes aware that there is a material change in circumstances of a participant in relation to a plant for which RI is the NRI, and which may affect whether that plant should be metered under regulation 13, must ensure the authority is notified accordingly; and
- (i) must repay any overpayment in accordance with any notice served on them under regulation 60.

(2) A notification under any of sub-paragraphs (e) to (h) of paragraph (1) must be made within 28 days of the RI becoming aware of the circumstances to which the notification relates.

Ongoing obligations on RIs: changes affecting RI's registration

44B.—(1) An RI must notify the Authority if, at any time—

- (a) RI becomes aware that any of the information provided by RI in support of RI's investor application is incorrect;
- (b) RI becomes aware that RI will not be able to comply with an ongoing obligation;
- (c) RI ceases to comply with an ongoing obligation; or
- (d) where there is an assignment, there is any other change in circumstances which may affect RI's eligibility to receive RHI payments.

(2) A notification under this regulation must be made within 28 days of the RI becoming aware of the circumstances to which the notification relates.

Ongoing obligations on RIs: annual declarations

44C. RI must submit a declaration each year to the Authority, at such time and in such form as the Authority may request, confirming—

- (a) that, to the best of RI’s knowledge and belief, no RI or previous RI in relation to an accredited domestic plant for which RI is the NRI has received—
 - (i) any grant from public funds for the cost of the purchase or installation of the accredited domestic plant other than any grant which was notified to the Authority before the accreditation application was determined;
 - (ii) funding from any other source (other than under a loan or a Green Deal Plan for which an owner is liable to make, or has made, payments) which reimbursed all of the costs incurred by RI, any owner or any previous owner for the cost of the purchase or installation of the accredited domestic plant;
- (b) that RI remains a member of a code of practice and is in compliance with the terms of that code of practice;
- (c) that RI does not own all or part of any accredited domestic plant or formerly accredited domestic plant for which RI is the NRI;
- (d) where RI is an NRI, that any contract referred to in paragraph 1(j) of Schedule 4 is still in force and its terms are being adhered to, or notification of any change to the terms of that contract; and
- (e) where RI is an NRI, that RI’s NRI status in relation to any accredited domestic plant has not been transferred to or from RI, other than in accordance with regulation 22F.

Ongoing obligations on RI: provision of information

44D.—(1) RI must provide the Authority on request any information which RI holds and which the Authority requires in order to discharge its functions under these Regulations.

(2) RI must retain a copy of—

- (a) any information relied on when making any investor application; and
- (b) any other evidence which verifies that RI is continuing to comply with the ongoing obligations to which RI is subject,

whether or not copies of that documentation have been supplied to the Authority.

(3) RI must comply with any request for information under paragraph (1) within 28 days of the request or such later date as the Authority may specify.”.

Amendments to regulation 45 (review of accreditation following notification of a change in circumstances)

18. In regulation 45—

- (a) in the title of the regulation, after “accreditation” insert “or investor registration”,
- (b) in paragraph (1)—
 - (i) after “regulation 40” insert “or regulation 44B,”,
 - (ii) after “regulations” insert “22F,”,
- (c) in paragraph (3) for “the notification” substitute “a notification under regulation 40”,
- (d) after paragraph (3) insert—

“(3A) On receipt of a notification under regulation 44B, the Authority may—

 - (a) require RI to provide such of the information specified in Schedule 4A and any information or declarations the Authority considers necessary for the proper administration of the domestic RHI scheme; and

- (b) review RI's investor registration to ensure RI continues to meet the ongoing obligations to which RI is subject.”,
- (e) for paragraph (4) substitute—
 - “(4) The requirements referred to in paragraph (2) are that—
 - (a) in the case of a notification under regulation 40, the Authority has notified the participant and, where applicable, NRI that—
 - (i) it is satisfied that the matters to which the notification relates are such that it is unnecessary to review the accreditation of the plant; or
 - (ii) it has carried out a review and is satisfied that the plant may continue to be an accredited domestic plant; or
 - (b) in the case of a notification under regulation 44B, the Authority has notified NRI in relation to that plant, that—
 - (i) it is satisfied that the matters to which the notification relates are such that it is unnecessary to review RI's investor registration; or
 - (ii) it has carried out a review and is satisfied that RI may continue to be an RI.”.

Amendments to regulation 46 (changes affecting whether accredited domestic plants must be metered)

19. In regulation 46—

- (a) in paragraphs (2)(b), (5), (6)(b) and (7), in each place where it occurs, after “participant” insert “and, where there is an assignment, the NRI”,
- (b) for paragraph (6)(a) substitute—
 - “(a) regulation 27 for the period commencing on the tariff start date and ending on the date on which the Authority—
 - (i) received the notification under regulation 40;
 - (ii) received the notification under regulation 44B where there is an assignment; or
 - (iii) commenced its investigation under Part 10;”,
- (c) in paragraph (7) after “regulation 40” insert “or regulation 44B”.

Amendments to regulation 48 (changes in ownership of accredited domestic plants)

20. In regulation 48—

- (a) after paragraph (2)(a)—
 - (i) omit “and”,
 - (ii) insert—
 - “(aa) where there is an assignment, the new owner has notified the Authority that the NRI in relation to the plant remains the same, or has notified the Authority of the intended transfer of NRI status in accordance with regulation 22F; and”,
- (b) after paragraph (3)(a)—
 - (i) omit “and”,
 - (ii) insert—
 - “(aa) where there is an assignment, require the NRI in relation to the plant to provide such information as the Authority considers necessary for the proper administration of the domestic RHI scheme; and”,
- (c) in paragraph (5)(b) after “new owner” insert “, and where applicable the NRI”,
- (d) in paragraph (6)(a) after “(2)(a)” insert “or (aa), if required”.

Amendments to regulation 49 (additional payments where a registered metering and monitoring agreement relates to an accredited domestic plant)

21. For regulation 49(2) substitute—

“(2) Subject to paragraph (2A) and regulations 54, 54A, 54B and 55, where the Authority has given registration for a metering and monitoring agreement, the Authority must—

- (a) make metering and monitoring payments; and
- (b) where the registration is given on or after the third relevant date, make payment of the metering and monitoring lump sum payment with the next RHI payment due following registration,

to the participant who is a party to that agreement.

(2A) The Authority must not make payment of more than one metering and monitoring lump sum payment in respect of an accredited domestic plant.”.

Amendment to regulation 53 (exceptions to duty to give registration)

22. For regulation 53(2) substitute—

“(2) This paragraph applies if the giving of registration would cause the total number of metering and monitoring agreements given registration to exceed 11,255.”.

Insertion of regulation 54A (power to withhold MM payments during investigation) and regulation 54B (power to withhold MM payments in the case of non-compliance)

23. After regulation 54 insert—

“Power to withhold MM payments during investigation

54A.—(1) Where the Authority has reasonable grounds to suspect that—

- (a) a metering and monitoring agreement no longer meets the requirements specified in Schedule 7;
- (b) a metering and monitoring agreement is no longer in force or that its terms are not being complied with;
- (c) a condition of registration of a metering and monitoring agreement has not been or is not being complied with; or
- (d) registration was given wholly or partly as a result of the provision of information which was incorrect in a material particular,

and the Authority requires time to investigate, it may withhold all or part of the MM payments under that agreement pending the outcome of that investigation.

(2) Within 21 days of a decision to withhold any MM payments under paragraph (1), the Authority must send a notice to the participant who is a party to that agreement which—

- (a) specifies which of the grounds in paragraph (1)(a) to (d) apply; and
- (b) sets out the date from which MM payments will be withheld and the next steps in the investigation.

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

(4) Immediately upon conclusion of its investigation under this regulation, the Authority must inform the participant of—

- (a) the outcome of the investigation;
- (b) the action the Authority proposes to take under this Part, if any; and
- (c) the participant’s right of review.

(5) Where the Authority concludes that none of the grounds in paragraph (1)(a) to (d) are satisfied, it must resume payment of MM payments in accordance with these Regulations and pay to the participant any MM payments withheld during the course of its investigation.

(6) Within three months of sending a notice under paragraph (2), the Authority must either resume payment of MM payments or must send the participant a notice under regulation 54B, 55, 58, 59 or 60.

Power to withhold MM payments in the case of non-compliance

54B.—(1) Where the Authority is satisfied that—

- (a) a metering and monitoring agreement no longer meets the requirements specified in Schedule 7;
- (b) a metering and monitoring agreement is no longer in force or that its terms are not being complied with;
- (c) a condition of registration of a metering and monitoring agreement has not been or is not being complied with; or
- (d) registration was given wholly or partly as a result of the provision of information which was incorrect in a material particular,

it may withhold all or part of the MM payments under that agreement.

(2) Within 21 days of a decision to withhold any MM payments under paragraph (1), the Authority must send a notice to the participant who is a party to that agreement specifying—

- (a) which of the grounds in paragraph (1)(a) to (d) apply and the reasons for the Authority's decision;
- (b) the amount of MM payments that will be withheld, to the extent this is known to the Authority;
- (c) the date from which the MM payments are being withheld;
- (d) the steps, if any, that the participant must take to satisfy the Authority that the MM payments should no longer be withheld;
- (e) the date by which any steps required under sub-paragraph (d) must be completed;
- (f) the consequences of the participant failing to take any steps required under sub-paragraph (d) by that date; and
- (g) details of the participant's right of review.

(3) Where the Authority is satisfied that—

- (a) the participant has taken the steps specified in paragraph (2)(d) within the time specified; and
- (b) the grounds specified in the notice under paragraph (2)(a) no longer apply,

it must resume payment of MM payments in accordance with these Regulations.

(4) The Authority may extend the time specified in paragraph (2)(e) where it is satisfied that it is reasonable to do so.

(5) If, within three months of receipt by the participant of a notice served under paragraph (2), the Authority is satisfied that—

- (a) the participant has taken the steps specified in that notice; and
- (b) the grounds specified in the notice no longer apply,

the Authority may pay, within 28 days of being so satisfied, all MM payments withheld under this regulation.”.

Amendments to regulation 55 (withdrawal of registration)

24.—(1) In the heading to regulation 55, after “registration” insert “and repayments”.

- (2) In regulation 55(1)—
- (a) after sub-paragraph (c) omit “or”,
 - (b) after sub-paragraph (d) insert—
 - “;
 - (e) is satisfied that the participant has failed to take any steps specified in a notice given under regulation 54B(2) by the later of—
 - (i) the date specified in that notice; or
 - (ii) where applicable, such later date as the Authority specified under regulation 54B(4); or
 - (f) is satisfied that the participant has failed to take any steps specified in a notice given under regulation 58(2) by the date specified in that notice or, if applicable, by any later date specified under regulation 58(4)”.
- (3) In regulation 55(2)—
- (a) after sub-paragraph (a) omit “and”,
 - (b) after sub-paragraph (b) insert—
 - “; and
 - (c) in respect of any metering and monitoring payments paid on or after the third relevant date, the Authority may—
 - (i) require those payments to be repaid by the participant or former participant; or
 - (ii) offset those payments against any future RHI payments in respect of the accredited domestic plant,
 to the extent those metering and monitoring payments exceed the amount to which that person was entitled under these Regulations”.
- (4) After regulation 55(2) insert—
- “(3) Where—
- (a) the Authority decides to withdraw registration under paragraph (1)(d);
 - (b) the information which is incorrect in a material particular is the confirmation provided under regulation 50(2)(b); and
 - (c) the participant or former participant has received a metering and monitoring lump sum payment,
- the Authority may require the metering and monitoring lump sum payment to be repaid by the participant or former participant, or offset that payment against future RHI payments, to the extent that lump sum payment exceeds the amount to which the participant or former participant was entitled under these Regulations.
- (4) Within 21 days of a decision to require payments to be repaid or offset under paragraph (2)(c) or (3), the Authority must send the participant or former participant a notice specifying—
- (a) the amount which the Authority is seeking to recover;
 - (b) whether that amount must be repaid or will be offset;
 - (c) where applicable, the date by which that amount must be repaid; and
 - (d) the participant’s or former participant’s right of review.
- (5) Where a participant or former participant who is required to repay an amount under this regulation fails to make payment in full by the date specified under paragraph (4)(c), the Authority may recover any outstanding sum as a civil debt.
- (6) The Authority must not require a participant or former participant to repay, or offset, an amount which exceeds the total of any RHI payments and MM payments received by that person.”.

Amendments to regulation 57 (power to withhold RHI payments during investigation)

25. In regulation 57—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (b) for “is” substitute “was”,
 - (ii) for “participant’s RHI payments” substitute “participant’s, or NRI’s, RHI payments (as the case may be)”
- (b) in paragraph (2) in each place where it occurs, after “participant” insert “or NRI (as the case may be)”
- (c) in paragraph (4)—
 - (i) after “participant” insert “or NRI (as the case may be)”
 - (ii) in sub-paragraph (c) after “participant’s” insert “or NRI’s”
- (d) in paragraph (5) after “participant” insert “or NRI (as the case may be)”
- (e) in paragraph (6) after “participant” insert “or NRI (as the case may be)”

Power to investigate an RI’s status and withhold RHI payments

26. After regulation 57 insert—

“Power to investigate an RI’s status and withhold RHI payments

57A.—(1) Where the Authority has reasonable grounds to suspect that an RI—

- (a) became an RI pursuant to regulation 22C wholly or partly as a result of the provision of information which was incorrect in a material particular; or
- (b) has failed or is failing to comply with an ongoing obligation,

and the Authority requires time to investigate, it may withhold all or part of any RHI payments in respect of any accredited domestic plant in relation to which RI is the NRI, pending the outcome of that investigation.

(2) Within 21 days of a decision to withhold RHI payments under paragraph (1), the Authority must send a notice to the RI which—

- (a) specifies—
 - (i) the respect in which the Authority suspects the RI has failed or is failing to comply with an ongoing obligation; or
 - (ii) a description of the information suspected to be incorrect and upon which the investor registration was based; and
- (b) sets out the date from which RHI payments will be withheld and the next steps in the investigation.

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

(4) Immediately upon conclusion of its investigation under this regulation, the Authority must inform the RI of—

- (a) the outcome of the investigation;
- (b) the action the Authority proposes to take under this Part, if any; and
- (c) the RI’s right of review.

(5) Where the Authority concludes that there has been no material breach of an ongoing obligation or provision of incorrect information, it must resume payment of RHI payments in accordance with these Regulations and pay to the RI any RHI payments withheld during the course of its investigation.

(6) Within 6 months of sending a notice under paragraph (2), the Authority must either resume payment of RHI payments or must send the RI a notice under regulation 58, 59A or 60.”.

Amendments to regulation 58 (power to withhold RHI payments in the case of non-compliance)

27.—(1) In regulation 58(1)—

(a) for sub-paragraph (a) substitute—

“(a) that either a participant or, where there is an assignment, an NRI has failed or is failing to comply with an ongoing obligation”,

(b) in sub-paragraph (b) for “is” substitute “was”,

(c) in the final line of paragraph (1) for “that participant’s RHI payments” substitute “any RHI payments payable to the participant, or to the NRI”.

(2) In regulation 58(2)—

(a) after “the participant” where it appears for the first time insert “or, where there is an assignment, the NRI”,

(b) for sub-paragraph (a) substitute—

“(a) where there is or has been a failure to comply with an ongoing obligation, the respect in which the Authority is satisfied that the participant or the NRI is failing or has failed to comply”,

(c) in sub-paragraphs (e), (f) and (h) after “participant” insert “or the NRI”,

(d) in sub-paragraph (i) after “participant’s” insert “or NRI’s”.

(3) In regulation 58(3) after “the participant” insert “or NRI”.

(4) In regulation 58(5)—

(a) after “by the participant” insert “or, where applicable, the NRI”,

(b) after “that the participant” insert “or NRI”,

(c) after “all” insert “or part of any”.

Amendment to regulation 59 (revocation of accreditation)

28. In regulation 59—

(a) at the end of paragraph (1)(b) omit “or”,

(b) after paragraph (1)(c) insert—

“; or

(d) where there has been an assignment—

(i) there is or has been a serious or repeated failure by an NRI to comply with an ongoing obligation; or

(ii) there is no longer an NRI in respect of the relevant accredited domestic plant,”

,

(c) for paragraph (2) substitute—

“(2) Where—

(a) paragraph (1) applies, the Authority may revoke the accreditation for the relevant accredited domestic plant;

(b) sub-paragraphs (1)(a), (b) or (c) apply, the Authority may revoke the accreditation for any other accredited domestic plants owned by that participant;

(c) sub-paragraph (1)(d)(i) applies, the Authority may revoke the accreditation for any other accredited domestic plant in respect of which RI is the NRI.”,

- (d) in paragraph (3)—
 - (i) after “the participant” where it appears for the first time insert “and, where there is an assignment, the NRI”,
 - (ii) in sub-paragraph (a) after “including” insert “, where applicable,” and after “the participant” insert “or, where there is an assignment, the NRI (or both),”,
 - (iii) in sub-paragraph (c) after “participant’s” insert “or the NRI’s (as the case may be)”.

Revocation of investor registration

29. After regulation 59 insert—

“**59A.**—(1) Where the Authority is satisfied that—

- (a) there has been a serious or repeated failure by an RI to comply with an ongoing obligation;
- (b) there has been a failure by the RI to comply with a notice under regulation 58(2); or
- (c) the RI has become an RI wholly or partly as a result of the provision of information which was incorrect in a material particular,

the Authority may revoke the RI’s investor registration.

(2) Before revoking an RI’s investor registration the Authority must send the RI a notice specifying—

- (a) the reason for the intended revocation, including details of the respect in which the RI has failed to comply with an ongoing obligation or details of the incorrect information;
- (b) an explanation of the effect of the revocation; and
- (c) details of the RI’s right of review.

(3) Where an investor’s RI status has been revoked the Authority—

- (a) must cease payment of all RHI payments to that investor;
- (b) must remove that investor from the central register;
- (c) must inform all participants who nominated that investor under regulation 22E(1) of the revocation and the effect of the revocation; and
- (d) may reject any further investor applications by that investor.”.

Amendments to regulation 60 (overpayment notices and offsetting)

30.—(1) In regulation 60(1)—

- (a) for “participant or former participant” substitute “participant, former participant, NRI or former NRI”,
- (b) after sub-paragraph (b) omit “or”,
- (c) after sub-paragraph (c) insert—
 - “; or
 - (d) were paid to an NRI or former NRI who became registered wholly or partly as a result of the provision of information which was incorrect in a material particular”.

(2) In regulation 60(2)—

- (a) in sub-paragraph (a) for “participant or former participant” substitute “participant, former participant, NRI or former NRI”,
- (b) in sub-paragraph (b) after “payments” insert “payable in respect of any accredited domestic plant for which that person is the participant or NRI”.

(3) In paragraph (3)—

- (a) for “participant or former participant” substitute “participant, former participant, NRI or former NRI”,
 - (b) in sub-paragraph (e) for “participant’s or former participant’s” substitute “participant’s, former participant’s, NRI’s or former NRI’s”.
- (4) In paragraph (4) for “participant or former participant” substitute “participant, former participant, NRI or former NRI”.
- (5) In paragraph (5) for “participant or former participant” substitute “participant, former participant, NRI or former NRI”.

Amendments to regulation 61 (revocation of sanctions)

31. In regulation 61—

- (a) in paragraph (1) after “with” insert “regulations 54A, 54B or 55 or”,
- (b) in paragraph (2)(a) and (b), in each place where it occurs, after “RHI payments” insert “or MM payments”,
- (c) in paragraph (2)(a) and (b), in each place where it occurs, for “participant or former participant” substitute “participant, former participant, NRI or former NRI”,
- (d) in paragraph (3) after “former participant” insert “and, in the case of an assignment, the NRI or former NRI”,
- (e) in paragraph (4), after “under regulation” to the end substitute “54A(1), 54B(1), 55(1), 57(1), 57A(1), 58(1), 59(2) or (4), 59A(1) or (3), or 60(2)”.

Amendments to regulation 62 (right of review)

32. In regulation 62(1), after “participant” insert “or prospective, current or former RI”.

Amendments to regulation 65 (provision of information to the Authority)

33. In regulation 65—

- (a) for “applicant or a participant” substitute “applicant, participant, investor or RI”,
- (b) for “applicant or participant” substitute “applicant, participant, investor or RI”,
- (c) in paragraph (a) for “the applicant’s or participant’s” substitute “that person’s”,
- (d) in paragraph (b) “applicant or participant” substitute “person”.

Amendment to regulation 66 (reliance on declarations and other information available to the Authority)

34. In regulation 66(a)—

- (i) after “applicant” insert “or an investor”,
- (ii) after “participant” insert “or an RI”.

Amendment to regulation 67 (duty to maintain a central register)

35. In regulation 67 after paragraph (b) insert—

- “;
- (c) all RIs”.

Amendment to regulation 68 (duty to publish guidance)

36. In regulation 68 after “participants” insert “and RIs”.

Amendment to regulation 69 (duty to report to the Secretary of State)

37. After regulation 69(1)(a) insert—

“;

- (aa) for each person who becomes an RI in the period covered by the report, such of the information specified in Schedule 4A as the Authority may hold and the Secretary of State may require regarding the RI”.

Amendment to regulation 70 (duty to provide additional information to the Secretary of State)

38. In regulation 70(2)—

- (a) at the end of sub-paragraph (a) omit “or”,

- (b) after sub-paragraph (b) insert—

“; or

- (c) about an RI except for the RI’s bank account details”.

Amendment to Part 1 of Schedule 4 (information required from all applicants making an accreditation application)

39. In paragraph 1 of Part 1 of Schedule 4—

- (a) at the beginning of sub-paragraph (g) insert “except where there is to be an assignment and no registration application is to be made under regulation 50,”,

- (b) at the end of sub-paragraph (h) omit “and”, and

- (c) after sub-paragraph (i) insert—

“; and

- (j) where there is to be an assignment, a copy of the contract under which the applicant has entered into the assignment agreement, and the Unique Registered Investor Reference of the RI that the participant is seeking to nominate”.

Information required from all investors making an investor application

40. After Schedule 4 insert—

“SCHEDULE 4A

Regulation 22A(2)(a)

Information required from investors making an investor application

1. The information referred to in regulation 22A(2)(a) is—

- (a) information to enable the Authority to satisfy itself as to the identity of the individual completing the application;
- (b) where the investor is an individual, the name, date of birth, address, e-mail address (if any) and telephone number (if any) of the investor;
- (c) where the investor is not an individual, the name of the individual making the application on behalf of the investor, the individual’s date of birth, address, e-mail address (if any) and telephone number (if any);
- (d) where the investor is a company, the trading or other name by which the investor is commonly known, its registration number, and the address of its registered office;
- (e) details of a bank account in the investor’s name which accepts pound sterling deposits in the United Kingdom into which any RHI payments may be paid;

- (f) information to enable the Authority to satisfy itself that the investor is a member of a code of practice; and
- (g) a current copy of the form of contract under which the investor would enter into an assignment agreement with an applicant, including any related or subsidiary documents.”.

Amendment to Schedule 6 (expenditure for individual technologies)

41.—(1) Schedule 6 is amended as follows.

(2) In Part 1, in Table 1 (biomass plants), for the last two rows substitute—

“30th April 2018	£43.30m	£0.69m	£45.24m	£0.97m
31st July 2018	£43.99m	£0.69m	£46.21m	£0.97m
31st October 2018	£44.69m	£0.70m	£47.19m	£0.98m
31st January 2019	£45.41m	£0.72m	£48.18m	£1.00m
30th April 2019	£46.17m	£0.76m	£49.22m	£1.04m
31st July 2019	£46.82m	£0.66m	£50.15m	£0.93m
31st October 2019	£47.48m	£0.66m	£51.09m	£0.94m
31st January 2020	£48.18m	£0.70m	£52.06m	£0.97m
30th April 2020	£48.94m	£0.76m	£53.10m	£1.04m
31st July 2020	£49.70m	£0.76m	£54.14m	£1.04m
31st October 2020	£50.47m	£0.77m	£55.18m	£1.04m
Any date after 30th January 2021	£51.24m	£0.77m	£56.23m	£1.05m”.

(3) In Part 2, in Table 2 (air source heat pumps), for the last two rows substitute—

“30th April 2018	£25.14m	£1.74m	£32.48m	£2.79m
31st July 2018	£26.88m	£1.74m	£35.26m	£2.79m
31st October 2018	£28.64m	£1.76m	£38.07m	£2.81m
31st January 2019	£30.45m	£1.81m	£40.93m	£2.86m
30th April 2019	£32.33m	£1.88m	£43.86m	£2.93m
31st July 2019	£34.17m	£1.84m	£46.74m	£2.88m
31st October 2019	£36.02m	£1.85m	£49.64m	£2.90m
31st January 2020	£37.91m	£1.89m	£52.58m	£2.94m
30th April 2020	£39.88m	£1.96m	£55.60m	£3.01m
31st July 2020	£41.86m	£1.98m	£58.62m	£3.02m
31st October 2020	£43.85m	£1.99m	£61.66m	£3.04m
Any date after 30th January 2021	£45.86m	£2.01m	£64.72m	£3.06m”.

(4) In Part 3, in Table 3 (ground source heat pumps), for the last two rows substitute—

“30th April 2018	£23.91m	£1.51m	£30.03m	£2.38m
31st July 2018	£25.41m	£1.51m	£32.41m	£2.38m
31st October 2018	£26.94m	£1.53m	£34.81m	£2.40m
31st January 2019	£28.50m	£1.56m	£37.24m	£2.43m
30th April 2019	£30.11m	£1.61m	£39.72m	£2.48m
31st July 2019	£31.67m	£1.56m	£42.15m	£2.43m
31st October 2019	£33.24m	£1.57m	£44.60m	£2.45m
31st January 2020	£34.84m	£1.60m	£47.08m	£2.48m
30th April 2020	£36.48m	£1.64m	£49.59m	£2.52m
31st July 2020	£38.14m	£1.65m	£52.12m	£2.53m
31st October 2020	£39.80m	£1.67m	£54.66m	£2.54m
Any date after 30th January 2021	£41.48m	£1.68m	£57.21m	£2.55m”.

(5) In Part 4, in Table 4 (solar thermal plants), for the last two rows substitute—

“30th April 2018	£1.32m	£0.07m	£1.70m	£0.11m
31st July 2018	£1.38m	£0.07m	£1.82m	£0.11m
31st October 2018	£1.45m	£0.07m	£1.93m	£0.12m
31st January 2019	£1.52m	£0.07m	£2.05m	£0.12m
30th April 2019	£1.59m	£0.07m	£2.17m	£0.12m
31st July 2019	£1.65m	£0.07m	£2.28m	£0.12m
31st October 2019	£1.72m	£0.07m	£2.40m	£0.12m
31st January 2020	£1.79m	£0.07m	£2.52m	£0.12m
30th April 2020	£1.85m	£0.07m	£2.64m	£0.12m
31st July 2020	£1.92m	£0.07m	£2.75m	£0.12m
31st October 2020	£1.99m	£0.07m	£2.87m	£0.12m
Any date after 30th January 2021	£2.06m	£0.07m	£2.99m	£0.12m”.

Amendment to Schedule 7 (requirements for metering and monitoring agreements)

42. For paragraph 6(b) of Schedule 7 (requirements for presentation of information) substitute—

“(b) updated automatically—

- (i) where registration is given on or after the third relevant date, within one month of that information being recorded by the relevant measuring instruments; or
- (ii) where registration is given before the third relevant date, within one week of that information being recorded by the relevant measuring instruments.”.

Name
Parliamentary Under Secretary of State

Address
Date

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Domestic Renewable Heat Incentive Scheme Regulations 2014 (“the 2014 Regulations”). The 2014 Regulations established a renewable heat incentive scheme (“the scheme”) under which owners of biomass plants, heat pumps and solar thermal plants which generate heat for domestic properties (“participants”) may receive payments at prescribed rates (“RHI payments”) when the plant generates heat for that property.

These Regulations insert a new Part 3A into the 2014 Regulations, which provides for the assignment of the right to receive RHI payments. Part 3A allows an investor, once registered by the Gas and Electricity Markets Authority (“the Authority”), to be nominated to receive RHI payments in respect of a plant, in place of the participant. Part 3A also makes provision for the transfer of the right to receive RHI payments from one nominated registered investor to another. These Regulations insert a new Part 7A into the 2014 Regulations, which sets out ongoing obligations with which registered investors and nominated registered investors must comply, including requirements to give annual declarations, to provide information and to notify the Authority of any relevant change of circumstances. The Regulations also insert a new Schedule 4A into the 2014 Regulations, which sets out the information to be provided in support of an application to become a registered investor, and also make a number of consequential changes, in particular in relation to the Authority’s powers of investigation and enforcement.

These Regulations amend regulation 5 of the 2014 Regulations to introduce requirements for heat pumps to have electricity meters installed; and amend regulation 14 to exclude meters fitted to comply with those requirements from metering and meter positioning requirements.

They amend regulation 36 of the 2014 Regulations to simplify the calculation of a plant's initial tariff; they amend regulation 49 to change the structure of metering and monitoring agreement payments in respect of registrations; and they amend regulation 53 so that the Authority may not give registration of a metering and monitoring agreement where that registration would take the total number of metering and monitoring agreements over 11,255.

These Regulations insert new provisions into the 2014 Regulations to enable the Authority to withhold metering and monitoring payments if the Authority has reasonable grounds to suspect that specified metering and monitoring registration requirements are not being met. Where this power is exercised, the Authority must give notice specifying its reasons for doing so, the amount to be withheld and from when, any steps the participant must take to satisfy the Authority that payments should no longer be withheld and by when, the consequences of a failure to take those steps, and the participant's right of review. If the Authority is subsequently satisfied that payments should no longer be withheld, it must resume payments and may repay any withheld payments.

These Regulations update Schedule 6 of the 2014 Regulations (expenditure for individual technologies) for the purposes of calculating initial tariffs; and they amend Schedule 7 (requirements for metering and monitoring agreements) so that information recorded under a metering and monitoring agreement must be updated automatically within one month of being recorded.

Version M of the Home Insulation & Energy Systems Quality Assured Contractors Scheme Code of Practice published on 1st March 2017, referred to in regulation 3, can be accessed on the Home Insulation and Energy Systems website (<https://www.hiesscheme.org.uk/the-scheme/>), and hard copies can be obtained from or inspected at Centurion House, Leyland Business Park, Centurion Way, Leyland, PR25 3GR.

Version 6 of the Renewable Energy Consumer Code published on 28th October 2016, also referred to in regulation 3, can be accessed on the Renewable Energy Consumer Code website (<https://www.recc.org.uk/scheme/consumer-code>), and hard copies can be obtained from or inspected at Renewable Energy Consumer Code, 80 Strand, London WC2R 0ET.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET.

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