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STATUTORY INSTRUMENTS

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**2012 No. 2782**

**The Feed-in Tariffs Order 2012**

**[<sup>F1</sup>PART 8A**

**Anaerobic digestion installations and entitlement to generation payments**

**Textual Amendments**

- F1** Pt. 8A inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, 8(1)

**Application**

**38B.** This Part applies to the FIT generator or nominated recipient of an anaerobic digestion installation in respect of which accreditation was granted pursuant to—

- (a) an application for preliminary accreditation made on or after 1st May 2017; or
- (b) an application for accreditation made on or after 1st May 2017, other than an application made during the period of validity of any preliminary accreditation granted in respect of the installation,

in this Part referred to as a “relevant installation”.

**Ongoing obligation to meet sustainability criteria**

**38C.** The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation, using biogas other than sustainable biogas.

**Ongoing obligation to provide quarterly declarations relating to sustainability criteria**

**38D.—(1)** The FIT generator or nominated recipient must, in relation to each consignment of biomass used to make the biogas used to generate electricity at the relevant installation during a quarterly reporting period, provide the Authority with a declaration that states—

- (a) whether the biogas was made from feedstock that was waste;
- (b) whether the biogas met the greenhouse gas criteria and where the criteria are met, the greenhouse gas emissions for that biogas calculated in accordance with Schedule 2A; and
- (c) whether the biogas was made from feedstock which was solid biomass which met the land criteria.

(2) The FIT generator or nominated recipient must provide the declaration within 28 days after the quarterly reporting period to which the declaration relates.

(3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which a declaration has not been provided in accordance with this article.

### **Entitlement to generation payments for electricity produced annually from biogas derived other than from waste and residue**

**38E.** Where less than 50% of the energy content of the biogas used to generate electricity at a relevant installation during an annual reporting period is derived from waste or residue, the FIT generator or nominated recipient is entitled to generation payments calculated in accordance with the following formula—

$$A \times (1.5 - B)$$

where—

A = the total generation payments to which the FIT generator or nominated recipient would be entitled, but for this paragraph;

B = the proportion of the energy content of the biogas which is not derived from waste or residue, expressed as a decimal and rounded to 4 decimal places.

### **Ongoing obligation to provide annual declarations relating to feedstock types**

**38F.**—(1) The FIT generator or nominated recipient must submit to the Authority a declaration containing the following information for each annual reporting period—

- (a) the total amount of electricity generated during the period by the relevant installation;
- (b) details of feedstock used to make the biogas used to generate the electricity; and
- (c) the proportion of the energy content of the biogas which was not derived from waste or residue, expressed as a decimal and rounded to 4 decimal places.

(2) The FIT generator or nominated recipient must provide the declaration within 3 months after the annual reporting period to which the declaration relates.

(3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which a declaration has not been submitted in accordance with this article.

### **Ongoing obligation to provide annual audit report relating to sustainability criteria and feedstock type**

**38G.**—(1) This article applies in respect of a relevant installation with a total installed capacity of 1 megawatt or above.

(2) The FIT generator or nominated recipient must, in relation to an annual reporting period, submit to the Authority an audit report that—

- (a) is prepared by a person who is not the FIT generator or nominated recipient, or a person connected to either within the meaning of section 1122 of the Corporation Tax Act 2010;
- (b) is prepared in accordance with the International Standard on Assurance Engagements 3000 (Revised): Assurance engagements other than audits or reviews of historical financial information dated 9th December 2013 or an equivalent standard;
- (c) states whether anything has come to the attention of the person preparing the report to indicate that the information in the declarations provided under article 38D in respect of the annual reporting period (“the sustainability information”) is not accurate;
- (d) considers—
  - (i) whether the systems used to produce the sustainability information are likely to produce information that is reasonably accurate and reliable;
  - (ii) whether there are controls in place to help protect the sustainability information against material misstatements due to fraud or error;

- (iii) the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the FIT generator or nominated recipient relied in preparing the sustainability information; and
  - (iv) the robustness of the data on which the FIT generator or nominated recipient relied in preparing the sustainability information; and
  - (e) states that the person preparing the report has reviewed the declaration provided under article 38F in respect of the annual reporting period and states whether the declaration is correct.
- (3) Paragraph (2) does not apply in respect of an annual reporting period that is reduced to less than 3 months as a result of the Authority specifying a date for the purpose of article 38I.
- (4) The FIT generator or nominated recipient must provide the audit report within 3 months after the annual reporting period to which the audit report relates.
- (5) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which an audit report has not been submitted in accordance with this article.

#### **Ongoing obligation to provide quarterly meter readings to the FIT licensee**

**38H.**—(1) The FIT generator or nominated recipient must provide generation meter readings to its FIT licensee for electricity generated by the relevant installation during a quarterly reporting period.

(2) The FIT generator must provide the generation meter readings within 28 days after the quarterly reporting period.

(3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period that meter readings have not been submitted in accordance with this article.

(4) When determining the amount of electricity generated by a relevant installation during a certain period (“Period A”) and the periods for which generation meter readings are available do not equate precisely with Period A, the amount of electricity generated during Period A is to be pro-rated by reference to the available meter readings.

#### **Reporting periods**

**38I.**—(1) In this Part—

- (a) a quarterly reporting period in respect of a relevant installation is each consecutive 3 month period; and
- (b) an annual reporting period in respect of a relevant installation is each consecutive 12 month period,

commencing on a date specified by the Authority by notice given to the FIT generator or nominated recipient, and its FIT licensee, or where the Authority has not specified a date, the eligibility date for the installation.

(2) When specifying a date from which reporting periods commence, the Authority may specify a date that has the effect of—

- (a) reducing the preceding quarterly reporting period to a period of less than 3 months; or
  - (b) reducing the preceding annual reporting period to a period of less than 12 months,
- and must ensure that each reporting period begins immediately on the previous period ending.

## Interpretation

**38J.** In this Part—

“annual reporting period”, in respect of a relevant installation, means a period described in article 38I(1)(b);

“energy content” means the energy contained within a substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of BS 7420:1991 (Guide for the determination of calorific values of solid, liquid and gaseous fuels (including definitions));

“greenhouse gas criteria” means the criteria set out in Schedule 2A;

“land criteria” has the meaning given in regulation 36A of the Renewable Heat Incentive Scheme Regulations 2011 or in the event that these regulations are revoked and replaced by regulations made in exercise of the powers conferred by sections 100 and 104(2) of the Energy Act 2008, the meaning given in those regulations;

“quarterly reporting period”, in respect of a relevant installation, means a period described in article 38I(1)(a);

“sustainable biogas” means—

- (a) biogas which—
  - (i) meets the greenhouse gas criteria; and
  - (ii) is made wholly from feedstock which is solid biomass which meets the land criteria;
- (b) biogas which is made wholly from feedstock which is waste; or
- (c) biogas which consists of a combination of the biogas listed in paragraphs (a) and (b);

“waste” has the meaning given in Article 3(1) of the [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste and includes excreta produced by animals.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012, PART 8A.