

EXPLANATORY MEMORANDUM TO
THE RENEWABLE HEAT INCENTIVE SCHEME AND DOMESTIC RENEWABLE
HEAT INCENTIVE SCHEME (AMENDMENT) (NO 2) REGULATIONS 2015

2015 No. 1459

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends the schemes established by the Renewable Heat Incentive Scheme Regulations 2011 (S.I. 2011/2860) (“the Non-domestic RHI scheme”) and the Domestic Renewable Heat Incentive Scheme Regulations 2014 (S.I. 2014/928) (“the Domestic RHI scheme”) in order to ensure that they continue to run smoothly, benefits are realised and value for money is delivered.
 - 2.2 The main changes introduced by these regulations are:
 - Updating reference to the Microgeneration Certification Scheme (MCS) standards. Following amendments to the MCS standards it has been necessary to update the references to the standards in the regulations, so that they refer to the most recent version.
 - Introducing the Seasonal Coefficient of Performance (SCoP) calculator – The provisions for seasonal space heating energy efficiency and water heating efficiency of heaters in Regulation (EU) No 813/2013 and in the European Directive, The Ecodesign of Energy Related Products Directive 2009/125/EC (ErP), come into force on 26th September 2015. The SCoP calculator has been developed to meet the needs of both ErP and RHI compliance.
 - Changes to budget management forecasting methodology for biomethane. The biomethane forecasting methodology has been improved (to better reflect operational realities for biomethane plants) in order to reduce uncertainty and fluctuations in forecasts which undermine the effectiveness of budget management policy.
 - Changes to the biomass sustainability requirements. Minor amendments to the reporting requirements which participants will have to meet to demonstrate compliance with the biomass sustainability rules and correct minor errors in relation to the definition of sustainable biomethane and land criteria for non-woody fuels.
 - Introduction of an explicit power to reject applications. Ofgem has been provided with an explicit power to reject applications to the Non-domestic RHI scheme, where the applicant fails to provide further information to support the application within the time period specified in a request by Ofgem.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Secretary of State makes this instrument in exercise of powers conferred by sections 100 and 104 of the Energy Act 2008 (c. 32) (“the Act”).

4.2 Since their introduction, S.I. 2011/2860 and S.I. 2014/928 have been amended as follows:

- The Renewable Heat Incentive Scheme (Amendment) Regulations 2012 (S.I. 2012/1999) introduced an interim cost control mechanism for the Non-domestic RHI scheme.
- The Renewable Heat Incentive Scheme (Amendment) Regulations 2013 (S.I. 2013/1033) introduced a long-term budget control mechanism until the end of 31st March 2015.
- The Renewable Heat Incentive Scheme (Amendment) (No.2) Regulations 2013 (S.I. 2013/2410) introduced air quality emission limits to all biomass boilers seeking accreditation under the Non-domestic RHI scheme; introduced a new streamlined approach to metering along with a number of minor changes.
- The Renewable Heat Incentive Scheme (Amendment) (No.3) Regulations 2013 (S.I. 2013/3179) amended the RHI Regulations to correct two points relating to the operation of Non-domestic RHI scheme.
- The Renewable Heat Incentive Scheme (Amendment) Regulations 2014 (S.I. 2014/1413) introduced new tariffs and technologies into the Non-domestic RHI scheme. It also introduced changes to the budget management mechanism. Changes clarified eligibility rules and rules regarding public grants to give greater flexibility.
- The Renewable Heat Incentive Scheme (Amendment) Regulations 2015 (S.I. 2015/197) introduced apportioning to CHP to add additional flexibility, as well as simplification to the requirements of underground piping and manufacturer’s instructions. Changes also clarified when Ofgem can apply sanctions.
- The Renewable Heat Incentive Scheme (Amendment) Regulations 2015 and The Domestic Renewable Heat Incentive (Amendment) Regulations 2015 (S.I.2015/145) introduced Biomass sustainability criteria to both RHI schemes, including setting up of a Biomass Suppliers List.

- The Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2015 (S.I 2015/143) which introduced updates to MCS standards, scheme clarification including providing clarity on eligible technologies.
 - The Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2015 (S.I. 2015/477) corrected an error in the regulations relating to heat being produced from the combustion of biogas from the biogas production plant.
- 4.3 The above amendments to the Non-domestic and Domestic RHI schemes, together with those set out below are necessary to ensure the schemes continue to run smoothly and deliver value for money for the taxpayer. The further amendments being introduced here are part of a planned programme of scheme improvements to drive uptake and deliver value for money.
- 4.4 Technical standards contained within the amendments are being notified as a fiscal measure under the Technical Standards Directive.

5. Territorial Extent and Application

- 5.1 This instrument extends to Great Britain.
- 5.2 In accordance with section 100(7)(a) of the Act, the Secretary of State has obtained the Scottish Minister's consent to the making of these Regulations.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why
- 7.1 The RHI scheme was introduced primarily to help meet the UK's target under Directive 2009/28/EC (the "Renewables Directive") that 15% of energy consumption is to come from renewable sources by 2020. The UK intends that renewable heat will make a significant contribution to this overall energy target. The RHI schemes align with the Government's longer-term energy and climate change goals. The Non-domestic RHI scheme opened for applications on 28 November 2011. The Domestic RHI scheme opened for applications on 9 April 2014.

- Updating of Microgeneration Certification Scheme (MCS) standards
 - 7.2 The use of MCS standards is a key part of the Domestic RHI scheme; these standards are used to provide assurance to the consumers that both the installer and the installation meet clear standards of competence. MCS is also used within the Non-Domestic RHI for systems smaller than 45kW.
 - 7.3 The MCS Standards Management Group regularly reviews their standards to ensure they are reflecting the most recent changes in the market and European legislation and to improve the standards over time. MCS will require MCS certified installers to meet these new standards. These regulations will introduce the new standards for heat pumps, solid biomass and solar thermal installers, specified by the latest MCS standard updates, into the Domestic and Non-Domestic RHI schemes.
 - 7.4 The new installer standards for solid biomass and solar thermal introduce minor amendments to achieve consistency of language across all MCS standards.
 - 7.5 The new installer standard for heat pumps has been produced to bring MCS standards in line with the ErP (see below); this is a European Directive that comes into force across Europe for all heat pumps manufactured or imported into Europe on or after 26th September 2015.
- The ErP Directive
 - 7.6 The ErP is a recast of Directive 2005/32/EC; ‘a framework for the setting of ecodesign requirements for energy-using products (EuP)’, covering a wider reach of products when considering energy usage or the reduction of it. The ErP is designed to introduce minimum performance standards for energy-related products across Europe and increase these standards over time.
 - 7.7 The ErP introduces a new testing methodology for the efficiency of heat pumps. Testing will now be done at five flow temperatures instead of two, which is the current requirement. The ErP changes will affect heat pumps up to 400kW capacity. Heat pumps will also be required to be sold with a new ErP label; examples of the new labels are shown below.

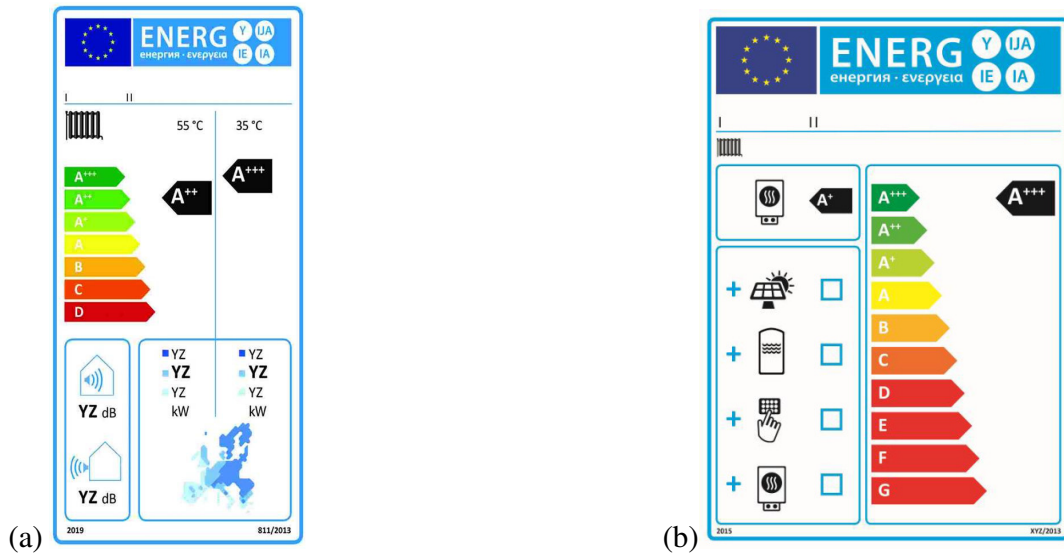


Figure 1 – (a) example of a new individual product ErP label, (b) example of a new combined system label. The Heat pump labels will vary depending on whether only space heating or space and water heating is provided and whether it is a low temperature heat pump or not.

7.8 There are two types of label; those for individual products (Figure 1(a)) and those for combined systems (Figure 1 (b)). The combined label will take into consideration the other parts of the heating system beyond the heat pump, such as hot water cylinders, smart controls and solar thermal. This results in a label showing the whole system performance/efficiency rather than individual product performance, which will provide the consumer with a clearer understanding of both product performance and their individual system performance.

- Seasonal Coefficient of Performance (SCoP) Calculator

7.9 Currently the Domestic RHI scheme uses the Heat Emitter Guide (HEG) to establish heat pump Seasonal Performance Factor (SPF), which represents the efficiency (i.e. the amount of heat it generates for every unit of electricity it uses) of the heat pump averaged over a whole year. The SPF of a heat pump is used, together with the heat demand of the property from the EPC (Energy Performance Certificate), to calculate the approximate amount of renewable heat generated by the heat pump to establish payments.

7.10 These regulations introduce a new calculator, the SCoP calculator. This will be used by Certification Bodies to determine if a heat pump meets the requirements of the ErP. It will also establish the SPF required for the RHI. The new SCoP calculator will replace the current version of the HEG used to determine SPF.

7.11 The current definition of ‘Seasonal Performance Factor’ in the regulations will be updated to include the SCoP calculator; the ‘SCoP calculator’ by definition is the methodology set out in version 1.0 of the document entitled “MCS 026 – Seasonal Coefficient of Performance Calculator, published on 1st May 2015”.

- Improving Expenditure Forecasts (Non-domestic scheme)

7.12 Deployment of biomethane injection to grid under the RHI has grown significantly over the last twelve months. There are currently 27 plants in the RHI system and more plants are expected to come forward and be operating by the end of 2015.

7.13 The RHI has a budget management mechanism set out in the regulations where tariffs are automatically reduced by pre-set amounts if forecast spend crosses defined thresholds. The assessment whether to reduce tariffs is made on a quarterly basis.

7.14 The current approach to estimating biomethane deployment can cause a temporary but significant underestimate of forecast expenditure for biomethane plants due to the ramp-up in production typically associated with establishing a new biogas plant. The current approach does not reflect this ramp-up period in which plants can take around 6 months to reach full production. This undermines the effectiveness of the RHI budget management policy. The amendments introduce a more accurate forecasting methodology to better reflect operational realities for biomethane plants.

- Biomass sustainability

7.15 The RHI regulations include requirements for the use of sustainable biomass by participants in both the Non-domestic and Domestic RHI schemes. These ensure the use of biomass incentivised by the scheme deliver credible greenhouse gas emissions savings and avoid broader land-use impacts. These requirements were introduced through regulations in February 2015 and come into force on 5th October 2015.

7.16 These regulations amend the reporting requirements for non-domestic participants so that Combined Heat and Power (CHP) installations participating in both the Renewables Obligation (RO) and the RHI do not have to demonstrate compliance with the sustainability requirements under the RHI scheme where they are meeting these requirements under the RO. We are also making two small amendments to correct the definition of sustainable biomethane and the land criteria for non-woody fuels.

- Explicit rejection power (Non-domestic scheme)

7.17 The amendments provide Ofgem with an explicit power to reject applications to the Non-domestic RHI scheme where the applicant fails to provide further information to support the application within the time period specified in a request by Ofgem.

7.18 At present there are a significant number of applications which are essentially dormant, but Ofgem are unable to reject these under the current regulations. The changes will deliver cost savings by reducing the operational burden of managing these applications. They will also improve financial clarity given that once applications are rejected it is no longer necessary to accrue for possible spend in relation to them.

8. Consultation

8.1 We have not formally consulted on the amendments. These are not considered to be material changes to the scheme itself. The changes deliver improvements and efficiencies to the delivery of the Non-domestic and Domestic RHI scheme. That is, the changes will reduce the administrative burden for Ofgem, and also reduce the burden for applicants.

9. Guidance

9.1 Ofgem will provide further updated guidance for potential participants in the Domestic and Non-domestic RHI schemes in a variety of formats and place this on their website - www.ofgem.gov.uk.

10. Impact

10.1 The RHI is a voluntary subsidy scheme. The impact on domestic consumers, as well as industrial, commercial, public sector and not-for-profit organisations is only applicable if they are owners of eligible renewable heat installations and choose to apply for the RHI.

11. Regulating small business

11.1 The legislation applies to small businesses that operate in the renewable heat market or use renewable heat, however it does not add regulatory burden to their operations.

12. Monitoring & review

12.1 DECC is monitoring the performance and operation of the Non-domestic and Domestic RHI schemes.

13. Contact

13.1 Gwilym Tudor Jones at the Department of Energy and Climate Change, Tel: 0300 068 8384 or email gwilym.tudorjones@decc.gsi.gov.uk