

**EXPLANATORY MEMORANDUM TO**  
**THE RENEWABLE HEAT INCENTIVE SCHEME (AMENDMENT)**  
**REGULATIONS 2016**

**2016 No. 718**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and will be laid before Parliament by Command of Her Majesty. These regulations are being laid on 11th July 2016 and will come into force on 1st August 2016.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Renewable Heat Incentive Scheme Regulations 2011 (S.I. 2011/2860) (the “2011 Regulations”), in order to introduce a new minimum power efficiency threshold requirement for new solid biomass Combined Heat and Power (“CHP”) plant (CHP systems using solid biomass which meet the requirements set out in regulation 9A of the 2011 Regulations) participating in the non-domestic Renewable Heat Incentive (“RHI”) scheme. This new requirement has been introduced to address a specific problem that has arisen which is explained in the policy background section below.
- 2.2 The main requirement introduced by these regulations is that all new solid biomass-CHP plant for which applications are submitted on or after 1st August 2016, will need to achieve a 20% power efficiency threshold to be able to claim the higher biomass CHP tariff for all of the heat produced from that solid biomass. If the power efficiency is lower than 20%, only a proportion of the heat will receive this tariff, with the remainder receiving the tariff which applies to standard (non-CHP) biomass plant of the same capacity.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This Statutory Instrument is being made to close a loophole that has come to light which represents a financial and value for money risk to the scheme.
- 4.2 Since its introduction, S.I. 2011/2860 has 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 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 and 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 the 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 a Biomass Suppliers List.
- 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.
- The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2016 (S.I. 2016/257) introduced new triggers for each quarter up to 31st January 2017, provided for future annual tariff uplifts to be calculated in line with the consumer prices index rather than the retail prices index, updated the land criteria to mirror provisions under the Renewables Obligation, and provided clarity regarding the requirements that must be met for schemes to demonstrate equivalence to the Microgeneration Certification Scheme.

4.3 The above amendments to the non-domestic RHI scheme, together with those set out below are necessary to ensure the scheme continues to run smoothly and delivers value for money for the taxpayer. The further amendment being introduced here is part of a planned programme of scheme improvements to drive uptake and deliver value for money.

## **5. Extent and Territorial Application**

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

## 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 to facilitate and encourage the renewable generation of heat, as set out in section 100 Energy Act 2008. In the impact assessment which accompanied our consultation “The Renewable Heat Incentive: A reformed and refocused scheme” (published 3 March 2016) we estimated that by 2020 across all sectors, a contribution of 23.7TWh of renewable heat is expected as a result of the RHI scheme. The domestic and non-domestic 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.

- Installing a CHP plant can lead to significant fuel and emissions savings over conventional, separate forms of power generation and heat-only boilers. However, capital costs are high and payback periods can be long. Due to the higher cost of a CHP plant compared to a biomass only plant, the Government introduced a dedicated tariff for biomass-CHP into the non-domestic RHI scheme in May 2014 which is roughly double the tariff for large biomass heat-only plants. This higher tariff was introduced in part to reflect the higher capital costs of CHP plant and in part to take the place of the additional half Renewables Obligation Certificate uplift which had hitherto been designed to compensate the extra costs of CHP over power generation alone. To be eligible for this biomass-CHP tariff, systems must be certified under the Combined Heat and Power Quality Assurance (“CHPQA”) scheme.
- There are a range of CHP technologies (incorporating different designs and turbine types) which can currently qualify for the CHPQA scheme. These technologies vary in terms of the efficiency of the power production and the overall efficiency of the system.
- Some types of CHP plant deliver only low levels power output and / or poor overall efficiency. The amount of heat produced by these systems can however still be great and all of this heat output can currently qualify for the biomass-CHP tariff. Such plant are therefore in receipt of the biomass-CHP tariff for all their heat output despite not delivering the benefits in terms of efficient use of resources and not necessarily incurring the higher capital costs, which are part of the rationale for supporting biomass-CHP through the higher tariff.
- The aim of this amendment to the 2011 Regulations is to prevent some biomass-CHP plant (those that have installed turbines not considered to be sufficiently efficient in terms of their power output), from being eligible for the biomass-CHP tariff for all of their heat output.
- We intend that the biomass-CHP tariff will only be available for all eligible heat use where the power efficiency of the biomass-CHP plant is 20% or higher. A threshold of 20% has been selected as this is the threshold currently used within CHPQA to judge whether schemes are Good Quality CHP. This is used as a criterion to access a range of benefits other than under the RHI.

Where the power efficiency is below this level, the amount of heat output eligible for the biomass-CHP tariff will reduce proportionately, with the remainder of the heat receiving the tariff applicable for a standard biomass plant of the relevant size.

### ***Consolidation***

- 7.2 The Government introduced a number of amendments to the RHI schemes in spring 2016 (as outlined above) and we expect to implement a second package of reforms in 2017. These regulatory changes were announced as part of a consultation on reforms to the RHI schemes earlier this year. One of the aims of this second package of reforms is to consolidate the 2011 Regulations and work has already begun on this.

## **8. Consultation outcome**

- 8.1 There is no statutory duty to consult on changes to the RHI.
- 8.2 A question was also posed through the consultation on the reform of the RHI schemes which launched on 3 March 2016 and closed on 27 April 2016. This did not deal specifically with the policy change introduced by these regulations but did seek general views on whether any types of biomass-CHP plant would be overcompensated by the current tariff structure. The consultation received over 370 responses, with 68 respondents giving an answer to the relevant question. These included responses which support the policy change made by these regulations.
- 8.3 A decision was taken not to consult on the specifics of this change given the potentially significant financial risk to the scheme which could arise should a rush of applications for the relevant types of CHP plant emerge. It was judged that further consultation would increase the risk of such a rush. The issue has, however, been discussed informally with industry stakeholders who were supportive of action to ensure RHI support is focussed on value for money installations.
- 8.4 This change will not disproportionately disadvantage plants which fall slightly short of the 20% threshold as this requirement is not a complete barrier to accessing the biomass-CHP tariff; the power efficiency will only dictate what proportion of heat will attract support under the biomass-CHP tariff. For plant which fall slightly short of the threshold most of the heat will still be eligible for the biomass-CHP tariff.

## **9. Guidance**

- 9.1 Ofgem will provide further updated guidance for potential participants in the RHI scheme in a variety of formats and place this on their website [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector. The RHI is a voluntary subsidy scheme. The impact on 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.
- 10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

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

**13. Contact**

13.1 Ema Arvati at the Department of Energy and Climate Change, Telephone: 0300 068 5297 or email [Emanuela.Arvasi@decc.gsi.gov.uk](mailto:Emanuela.Arvasi@decc.gsi.gov.uk) can answer any queries regarding the instrument.