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## STATUTORY INSTRUMENTS

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# 2018 No. 611

## The Renewable Heat Incentive Scheme Regulations 2018

### PART 3

#### Accreditation, registration and tariff guarantees

##### Applications for accreditation

**30.**—(1) An owner of a plant, including a plant which is additional RHI capacity, may apply for it to be accredited.

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

- (a) such of the information specified in Schedule 2 as the Authority may require;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant's knowledge and belief;
- (c) a declaration that the applicant is the owner, or one of the owners, of the plant for which accreditation is being sought;
- (d) if the plant is a large installation, a declaration as to the total heat in kWhth which the applicant expects that plant to generate each year for eligible purposes; and
- (e) any other declarations which the Authority reasonably requires in order to allow the application to be determined.

(3) The Authority must, where the plant is owned by more than one person, require that—

- (a) an application submitted under this regulation is made by only one of those owners;
- (b) the applicant has the authority from all other owners to be the participant for the purposes of the Scheme; and
- (c) the applicant provides to the Authority, in such manner and form as the Authority may request, evidence of that authority.

(4) Where the Authority considers that further information is necessary for the purpose of determining an application it may by notice—

- (a) specify further information which the applicant is required to provide under Schedule 2;
- (b) specify a period of no less than four weeks starting with the date of the notice within which that information must be provided; and
- (c) inform the applicant that failure to provide the requested information within that period may result in the application being rejected.

(5) The Authority may by notice extend the period specified in a notice under paragraph (4)(b) where it is satisfied that it is reasonable to do so.

(6) The Authority may reject an application for accreditation if, within the period specified under paragraph (4)(b) or, where applicable, paragraph (5), the applicant has failed to provide the information specified in a notice given under paragraph (4).

*Status: Point in time view as at 01/03/2021.*

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(7) Before accrediting a plant, the Authority may request entry to the site without notice at any reasonable hour to carry out site inspections, in order to satisfy itself that the plant should be accredited.

(8) The Authority may, in granting accreditation, attach such conditions as it considers to be appropriate.

(9) Where an application for accreditation has, in the Authority's opinion, been properly made and the Authority is satisfied that the plant is an eligible installation the Authority must (subject to paragraphs (12) to (14) and regulations 31 and 81(4))—

- (a) accredit the eligible installation;
- (b) notify the applicant in writing that the application has been successfully completed and the applicant is a participant;
- (c) enter on a central register maintained by the Authority the applicant's name and such other information as the Authority considers necessary for the proper administration of the Scheme;
- (d) notify the applicant of any conditions attached to the accreditation;
- (e) in relation to an applicant who is or will be generating heat from solid biomass or solid biomass contained in waste, having regard to the information provided by the applicant, specify by notice to the applicant which of regulation 37, 38 or 39 applies;
- (f) provide the applicant with a written statement (“statement of eligibility”) including the following information—
  - (i) the date of accreditation;
  - (ii) the tariff which will apply;
  - (iii) the process and timing for providing meter readings;
  - (iv) details of the frequency and timetable for periodic support payments; and
  - (v) the tariff lifetime and tariff end date.

(10) Where the Authority does not accredit a plant it must notify the applicant in writing that the application for accreditation has been rejected, giving reasons.

(11) Once a specification made in accordance with paragraph (9)(e) has been notified to an applicant, it cannot be changed except where the Authority considers that an error has been made or on the receipt of new information by the Authority which demonstrates that the specification should be changed.

(12) The Authority—

- (a) must not accredit an eligible installation if it has not been commissioned;
- (b) may reject an application to accredit an eligible installation where the Authority rejected a previous application for accreditation made by the applicant, or a connected person, on the ground that information contained in the previous application was incorrect or misleading in a material particular.

(13) The Authority may refuse to accredit an eligible installation where it considers that one or more of the applicable ongoing obligations will not be complied with.

(14) The Authority must not accredit a plant if—

- (a) it is, or at any time has been, an accredited domestic plant;
- (b) an application for accreditation of the plant has been made under the Domestic Renewable Heat Incentive Scheme Regulations 2014<sup>M1</sup> and that application has not been withdrawn by the applicant or rejected by the Authority;

- (c) it provides heat to the same property as an accredited domestic plant or a plant for which an application for accreditation under those Regulations has been made which has not been withdrawn or rejected;
- (d) the applicant refused to allow the Authority access to the site for the purposes of a site inspection under paragraph (7), and—
  - (i) the Authority is not satisfied that the refusal was reasonable; and
  - (ii) any subsequent access granted by the applicant for the purposes of a site inspection was not sufficient to enable the Authority to satisfy itself that the plant should be accredited.

(15) In this regulation “accredited domestic plant” has the meaning given by regulation 2(1) of the Domestic Renewable Heat Incentive Scheme Regulations 2014.

#### Marginal Citations

**M1** S.I. 2014/928, to which there are amendments not relevant to these Regulations.

#### Treatment of grants from public funds

**31.**—(1) Subject to paragraphs (2) and (6), the Authority must not accredit an eligible installation or register a producer of biomethane for injection in respect of any original biomethane or additional biomethane unless the applicant has given notice (which the Authority has no reason to believe is incorrect) that, as applicable—

- (a) no grant from public funds has been paid or will be paid in respect of any of the costs of purchasing or installing the eligible installation or any of the equipment used to produce the biomethane for which the applicant is intending to claim periodic support payments; or
- (b) such a grant was paid and has been repaid to the person or authority who made it.

(2) Where some or all of the purchase or installation costs of the eligible installation or the equipment used to produce any original biomethane were funded by any grant from public funds and—

- (a) the applicant demonstrates to the satisfaction of the Authority that the person or authority who made the grant has—
  - (i) refused to accept repayment of the grant, or
  - (ii) ceased to exist; or
- (b) paragraph (3) applies,

the Authority may accredit the eligible installation or register the producer of biomethane for injection (as the case may be), but a grant funding deduction must be deducted from each quarterly periodic support payment in accordance with paragraphs (4) and (5).

(3) This paragraph applies where—

- (a) a grant originates from funds raised by the National Lottery; and
- (b) on or after 15th July 2009 but not later than 28th November 2014—
  - (i) installation of the plant was completed and the plant was first commissioned; or
  - (ii) installation of the equipment used to produce biomethane was completed and injection of biomethane produced by that applicant has commenced.

(4) A grant funding deduction for each quarterly period is calculated in accordance with the following formula—

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where—

- a for the quarterly period commencing on the tariff start date, the figure that the Authority believes, based on all relevant information available to the Authority at the time, represents the total value of any grants from public funds to which paragraph (2) refers;
- b for any subsequent quarterly period that does not include 1st April of any year, the value of A in the previous quarterly period;
- c for any subsequent quarterly period that includes 1st April of any year, the value of A in the previous quarterly period adjusted by the percentage increase or decrease in the consumer prices index for the previous calendar year, the resulting figure being rounded.

(5) Where a grant funding shortfall arises, the Authority must deduct from the periodic support payments (“P”) payable in the subsequent quarterly period and any quarterly period thereafter, the grant funding deduction for that period together with such part of the grant funding shortfall as remains outstanding provided that the total amount so deducted does not exceed P.

(6) Where an application for registration in respect of additional biomethane is made under regulation 77—

- (a) a reference to a grant in paragraph (1) does not include a grant in respect of equipment used to produce that additional biomethane if the equipment is also used to produce original biomethane and a grant funding deduction is already being made in respect of the grant; and
- (b) paragraphs (2) to (4) do not apply in respect of the application.

(7) In this regulation—

“grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority;

“grant funding shortfall” means the amount by which the grant funding deduction exceeds the periodic support payment in any quarterly period;

“National Lottery” means the National Lottery as referred to in section 1 of the National Lottery etc. Act 1993 <sup>M2</sup>.

#### **Marginal Citations**

**M2** 1993 c.39. Section 1 was amended by section 3 of the [National Lottery Act 2006 \(c.23\)](#).

#### **Producers of biomethane**

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

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

- (a) such of the information specified in Schedule 2 as the Authority may require;
- (b) a declaration that the information provided by the applicant is accurate to the best of the applicant's knowledge and belief;

- (c) details of the process by which the applicant proposes to produce biomethane for injection; and
  - (d) a declaration as to the volume in cubic metres of biomethane which the applicant expects to produce for injection each year.
- (3) Before registering a producer of biomethane for injection as a participant, the Authority may request access without notice at any reasonable hour to carry out inspections of any equipment which is being used to produce the biomethane for which the applicant is intending to claim periodic support payments (including equipment used to produce the biogas from which that biomethane is made) in order to satisfy itself that the applicant should be registered.
- (4) Where the applicant is not also the person producing the biogas used to make the biomethane in respect of which that application is made, the Authority may require—
- (a) that the applicant has the authority from all persons who produce the biogas from which the biomethane is made to be the participant; and
  - (b) that the applicant provides to the Authority, in such manner and form as the Authority may request, evidence of that authority.
- [<sup>F1</sup>(4A) Where a producer of biomethane for injection makes an application for registration on or after 20th June 2018, the Authority must not register an applicant unless—
- (a) the applicant has specified the biogas production plant to be used for the purposes of its registration; and
  - (b) the equipment used to produce biomethane has been commissioned.]
- (5) Where the Authority considers that further information is necessary for the purpose of determining an application, it may by notice—
- (a) specify further information which the applicant is required to provide;
  - (b) specify a period of no less than four weeks starting with the date of the notice within which that information must be provided; and
  - (c) inform the applicant that failure to provide the requested information within that period may result in the application being rejected.
- (6) The Authority may by notice extend the period specified in a notice under paragraph (5)(b) where it is satisfied that it is reasonable to do so.
- (7) The Authority may refuse to register an applicant if, within the period specified under paragraph (5)(b) or, where applicable, (6), the applicant has failed to provide the information specified in a notice given under paragraph (5).
- (8) The Authority may in registering an applicant attach such conditions as it considers appropriate.
- (9) The Authority must specify the maximum initial capacity in respect of which the participant is registered.
- (10) Where the application for registration has, in the Authority's opinion, been properly made, the Authority must (subject to paragraphs (11) to (14) and regulations 31 and 81(4))—
- (a) notify the applicant in writing that registration has been successfully completed and the applicant is a participant;
  - (b) enter on a central register maintained by the Authority the date of registration and the applicant's name;
  - (c) notify the applicant of any conditions attached to their registration as a participant;
  - (d) notify the applicant of the maximum initial capacity specified in accordance with paragraph (9); and

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- (e) send the applicant a statement of eligibility including such of the information specified in regulation 30(9)(f) as the Authority considers applicable.
- (11) The Authority may refuse to register an applicant where it considers that one or more of the applicable ongoing obligations will not be complied with.
- (12) Where an application for registration is made on or after the date on which these Regulations come into force, the Authority must not register an applicant unless any necessary planning permission has been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected.
- [<sup>F2</sup>(12A) Where an application for registration is made on or after 1st October 2018, the Authority must not register an applicant unless—
- (a) any necessary environmental permits have been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected; and
  - (b) a declaration is made that the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected comply, and will continue to comply, with all local and national laws including those relating to the protection of the environment.]
- (13) The Authority—
- (a) must not register an applicant if it would result in periodic support payments being made to more than one participant for the same biomethane;
  - (b) must not register an applicant where the applicant refused to allow the Authority access for the purposes of an inspection under paragraph (3), and—
    - (i) the Authority is not satisfied that the refusal was reasonable; and
    - (ii) any subsequent access granted by the applicant for the purposes of an inspection was not sufficient to enable the Authority to satisfy itself that the applicant should be registered;
  - (c) may refuse to register an applicant if the Authority refused a previous application for registration made by the applicant, or a connected person, on the ground that information contained in the previous application was incorrect or misleading in a material particular;
- [<sup>F3</sup>(d) in the case of an application for registration made on or after 20th June 2018, may refuse to register an applicant where the Authority is satisfied that the biogas production plant specified in accordance with paragraph (4A)(a) has been used for the purposes of the registration of any other participant].
- (14) The Authority must not register an applicant unless at the time of making the application, injection of biomethane produced by that applicant has commenced.
- (15) Where the Authority does not register an applicant it must notify the applicant in writing that the application for registration has been rejected, giving reasons.

#### Textual Amendments

- F1** Reg. 32(4A) inserted (20.6.2018) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/635\)](#), regs. 1(2), **14(a)**
- F2** Reg. 32(12A) inserted (1.10.2018) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/635\)](#), regs. 1(4), **14(b)**
- F3** Reg. 32(13)(d) inserted (20.6.2018) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/635\)](#), regs. 1(2), **14(c)**

### Preliminary accreditation

33.—(1) Subject to paragraphs (2) and (3), the Authority may, upon the application by a person who proposes to construct or operate an eligible installation which has not yet been commissioned, grant preliminary accreditation in respect of that eligible installation.

(2) The Authority must not grant preliminary accreditation to any plant under this regulation unless evidence has been provided from the relevant planning authority that—

- (a) any necessary planning permission has been granted; or
- (b) planning permission is not required.

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

(4) An application for preliminary accreditation must be in writing and supported by such of the information specified in Schedule 2 as the Authority may require and declarations as to—

- (a) the date on which the applicant expects the plant to be commissioned;
- (b) the total heat in kWhth which the applicant expects the plant to generate each year for eligible purposes once the plant has been commissioned; and
- (c) the installation capacity of the plant.

(5) Where the Authority considers that further information is necessary for the purpose of determining an application for preliminary accreditation it may by notice—

- (a) specify further information which the applicant is required to provide under Schedule 2;
- (b) specify a period of no less than four weeks starting with the date of the notice within which that information must be provided; and
- (c) inform the applicant that failure to provide the requested information within that period may result in the application being rejected.

(6) The Authority may by notice extend the period specified in a notice under paragraph (5)(b) where it is satisfied that it is reasonable to do so.

(7) The Authority may reject an application for preliminary accreditation if, within the period specified under paragraph (5)(b) or, where applicable, paragraph (6), the applicant has failed to provide the information specified in a notice given under paragraph (5)

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

(9) Where a plant has been granted preliminary accreditation (and such preliminary accreditation has not been withdrawn) and an application for accreditation is made under this Part [<sup>F4</sup>before Scheme closure], the Authority must, subject to paragraphs (3) and (12) to (14) of regulation 30, and regulations 31 and 81(4), grant that application unless it is satisfied that—

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

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(10) Where any of the circumstances mentioned in paragraph (11) apply in relation to a preliminary accreditation which the Authority has granted and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may—

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

(11) The circumstances referred to in paragraph (10) are as follows—

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

(12) The Authority must send the applicant a notice setting out—

- (a) its decision on an application for preliminary accreditation of a plant or on the withdrawal of any preliminary accreditation;
- (b) any condition attached to the preliminary accreditation or any amendment to those conditions,

specifying the date on which the granting or withdrawal of preliminary accreditation is to take effect and, where applicable, the date on which any conditions (or amendments to those conditions) attached to the preliminary accreditation are to take effect.

(13) In paragraph (1), the reference to a person who proposes to construct an eligible installation includes a person who arranges for the construction of the eligible installation.

(14) This regulation does not apply to a plant which will generate heat using—

- (a) a solar collector;
- (b) a ground source heat pump with an installation capacity below 100kWth or an air source heat pump with an installation capacity below 45kWth;
- (c) a shared ground loop system with an installation capacity below 100kWth; or
- (d) solid biomass or solid biomass contained in waste, provided that the plant will have an installation capacity below 200kWth.

#### **Textual Amendments**

- F4** Words in [reg. 33\(9\)](#) inserted (1.3.2021) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2021 \(S.I. 2021/76\)](#), [regs. 1\(2\)\(b\)\(iv\)](#), [15](#)

#### **Preliminary registration of biomethane producers**

**34.—(1)** The Authority may grant preliminary registration to a person who—

- (a) proposes to produce biomethane for injection; and
- (b) has not yet started production.



(2) The Authority must not grant preliminary registration to any plant under this regulation unless evidence has been provided from the relevant planning authority that—

- (a) any necessary planning permission has been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected; or
- (b) planning permission is not required.

(3) An application for preliminary registration must be in writing and supported by such of the information specified in Schedule 2 as the Authority may require and declarations as to—

- (a) the date on which the applicant expects that injection will commence;
- (b) the volume in cubic metres of biomethane which the applicant expects to produce for injection each year once injection has commenced; and
- (c) the expected maximum initial capacity.

(4) Where the Authority considers that further information is necessary for the purpose of determining an application for preliminary registration, it may by notice—

- (a) specify further information which the applicant is required to provide;
- (b) specify a period of no less than four weeks starting with the date of the notice within which that information must be provided; and
- (c) inform the applicant that failure to provide the requested information within that period may result in the application being rejected.

(5) The Authority may by notice extend the period specified in a notice under paragraph (4)(b) where it is satisfied that it is reasonable to do so.

(6) The Authority may refuse to grant preliminary registration if, within the period specified under paragraph (4)(b) or, where applicable, (5), the applicant has failed to provide the information specified in a notice given under paragraph (4).

(7) The Authority may attach such conditions as it considers appropriate in granting preliminary registration under this regulation.

(8) The Authority must not grant preliminary registration unless it is satisfied that a connection agreement in relation to the proposed production of biomethane has been entered into.

(9) Where a person has been granted preliminary registration (and such preliminary registration has not been withdrawn) and an application for registration is made under this Part [<sup>F5</sup>before Scheme closure], the Authority must, subject to regulations 31 and 32(4) [<sup>F6</sup>, (4A),] and (11) to (14), grant that application unless it is satisfied that—

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

(10) Where any of the circumstances mentioned in paragraph (11) apply in relation to the preliminary registration which the Authority has granted, and having regard to those circumstances the Authority considers it appropriate to do so, the Authority may—

- (a) withdraw the preliminary registration;

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- (b) amend the conditions attached to the preliminary registration;
  - (c) attach conditions to the preliminary registration.
- (11) The circumstances referred to in paragraph (10) are as follows—
- (a) in the Authority's view there has been a material change in circumstances since the preliminary registration was granted;
  - (b) any condition attached to the preliminary registration has not been complied with;
  - (c) the Authority considers that the information on which the decision to grant the preliminary registration was based was incorrect in a material particular;
  - (d) there has been a change in the applicable legislation since the preliminary registration was granted such that, had the application for preliminary registration been made after the change, it would have been refused.
- (12) The Authority must send the applicant a notice setting out—
- (a) its decision on an application for preliminary registration or on the withdrawal of any preliminary registration;
  - (b) any condition attached to the preliminary registration or any amendment to those conditions,

specifying the date on which the granting or withdrawal of preliminary registration is to take effect and, where applicable, the date on which any conditions (or amendments to those conditions) attached to the preliminary registration are to take effect.

#### Textual Amendments

- F5** Words in [reg. 34\(9\)](#) inserted (1.3.2021) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2021 \(S.I. 2021/76\)](#), regs. 1(2)(b)(v), **16**
- F6** Word in [reg. 34\(9\)](#) inserted (20.6.2018) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/635\)](#), regs. 1(2), **15**

#### Tariff guarantees

**35.—(1)** At or after 10.00 am on the date on which these Regulations come into force or, if that is not a working day, on the next working day, a person who proposes to—

- (a) construct and operate a plant to which paragraph (3) applies and which has not yet been commissioned; or
- (b) produce biomethane for injection but has not yet started production,

may make an application for a tariff guarantee in respect of that plant or that production (as the case may be), in accordance with this regulation.

- (2) An applicant for a tariff guarantee may not—
- (a) amend an application made under paragraph (1);
  - (b) make a further application under paragraph (1) in relation to the same plant or the same production, without first withdrawing the original application.
- (3) This paragraph applies in respect of a plant which, when commissioned, will—
- (a) generate heat from solid biomass or solid biomass contained in waste with an installation capacity of 1MWth or above;
  - (b) generate heat using geothermal sources;
  - (c) generate heat from biogas with an installation capacity of 600kWth or above;

- (d) be a ground source heat pump with an installation capacity of 100kWth or above;
  - (e) be a new solid biomass CHP system; or
  - (f) be a shared ground loop system with an installation capacity of 100kWth or above.
- (4) In the case of an applicant who proposes to construct and operate a plant to which paragraph (3) applies, an application must be in writing, in such form as the Authority requires, and include the following information—
- (a) the plant's proposed source of energy and technology;
  - (b) the date on which the applicant expects the plant to be commissioned;
  - (c) the total heat in kWth which the applicant expects the plant to generate each year for eligible purposes;
  - (d) the expected installation capacity of the plant;
  - (e) in the case of a plant which will be, or which will form part of a new solid biomass CHP system, the power efficiency (within the meaning of regulation 68(4)) which the applicant expects the plant to achieve;
  - (f) the proposed location of the plant;
  - (g) evidence as to the proposed heat use;
  - (h) the applicant's name and business address;
  - (i) a declaration that the plant will be owned by the applicant, or jointly owned by the applicant and one or more other persons;
  - (j) evidence from the relevant planning authority that—
    - (i) any necessary planning permission has been granted; or
    - (ii) planning permission is not required;
  - (k) any further information which the Authority may require.
- (5) In the case of an applicant who proposes to produce biomethane for injection, the application must be in writing, in such form as the Authority requires, and include the following information—
- (a) the date on which the applicant expects the injection of biomethane to commence;
  - (b) the expected maximum initial capacity;
  - (c) the location of the place where biomethane will be injected in accordance with the network entry agreement applicable to that biomethane;
  - (d) evidence that a connection agreement has been entered into;
  - (e) the applicant's name and business address;
  - (f) the volume in cubic metres of eligible biomethane which the applicant intends to inject each year;
  - (g) evidence from the relevant planning authority that—
    - (i) any necessary planning permission has been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected; or
    - (ii) planning permission is not required;
  - (h) any further information which the Authority may require.
- (6) Subject to paragraphs (16) and (17), where the application has, in the Authority's opinion, been properly made, it must issue a notice (a “provisional tariff guarantee notice”) stating—
- (a) that a tariff guarantee will be granted if the Authority is satisfied that financial close has been reached;

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- (b) the evidence which is required for the purposes of sub-paragraph (a);
- [<sup>F7</sup>(c) the date by which such evidence must be provided, which must be no later than—
- (i) 3 weeks from the date on which the provisional tariff guarantee notice is issued; or
  - (ii) 31st March 2021,
- whichever is the earlier;]
- (d) the date on which the properly made application was received by the Authority; and
- (e) the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32.
- (7) Where the Authority is satisfied that the applicant has provided the information specified in the provisional tariff guarantee notice within the time limit stated in the notice, the Authority must grant a tariff guarantee by notice to the applicant stating—
- (a) the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32;
  - (b) the date by which, for the purposes of the tariff guarantee, the plant must be commissioned or injection of biomethane must commence;
  - (c) a description of the plant or equipment used to produce biomethane to which the tariff guarantee applies;
  - (d) the information which the applicant must supply to the Authority during the period of the tariff guarantee, and the frequency with which that information must be supplied; and
  - (e) any further conditions which the Authority thinks fit in relation to the tariff guarantee.
- [<sup>F8</sup>(7A) Where the Authority has issued a notice under paragraph (7) before 20th July 2020 for an application made on or after 17th July 2019 and before 29th June 2020, the Authority may re-issue the notice substituting a date no later than 31st March 2022 as the date by which, for the purposes of the tariff guarantee, the plant must be commissioned or the injection of biomethane must commence.]
- (8) The Authority may revoke a tariff guarantee at any time before the applicant is notified in accordance with regulation 30(9) or 32(10) if—
- (a) there has been a material change in circumstances such that, had the application for the tariff guarantee been made after the change, it would have been refused;
  - (b) the applicant fails to comply with conditions imposed in accordance with paragraph (7) (b), (d) or (e);
  - (c) the Authority considers that the information on which the decision to grant the tariff guarantee was based was incorrect in a material particular; or
  - (d) the Authority considers that the plant or the production and injection of biomethane is materially different from the plant or production and injection of biomethane which was proposed under paragraph (4) or (5).
- [<sup>F9</sup>(8A) Where the Authority has revoked a tariff guarantee before 20th July 2020 for an application made on or after 17th July 2019 and before 29th June 2020 because the applicant failed to meet the condition imposed in accordance with paragraph (7)(b), the Authority may reissue a notice under paragraph (7) substituting a date no later than 31st March 2022 as the date by which, for the purposes of the tariff guarantee, the plant must be commissioned or the injection of biomethane must commence.]
- (9) Subject to paragraphs (10) and (11), where—
- (a) a plant in respect of which a tariff guarantee has been granted becomes accredited; or
  - (b) a producer of biomethane for injection in respect of which a tariff guarantee has been granted becomes registered,

the tariff applicable at the tariff start date is the initial tariff which would have applied in accordance with regulation 60 had the tariff start date been the date referred to in paragraph (6)(d) (the “guaranteed tariff”).

(10) Where in any 12 month period commencing with the tariff start date or the anniversary of the tariff start date—

- (a) the heat produced by the accredited RHI installation and used for eligible purposes exceeds 250GWh; or
- (b) the biomethane injected by a producer of biomethane exceeds 250GWh,

the guaranteed tariff will apply to the first 250GWh of such heat or biomethane only.

(11) [<sup>F10</sup>In relation to tariff guarantee applications made before 17th July 2019, the] guaranteed tariff does not apply where—

- (a) the tariff start date in relation to an accredited RHI installation is earlier than the date given under paragraph (4)(b) or the tariff start date for a producer of biomethane for injection is earlier than the date given in accordance with paragraph (5)(a);
- (b) the tariff guarantee has been revoked; or
- (c) the tariff start date in relation to an accredited RHI installation or producer of biomethane for injection is—
  - (i) 183 or more days after the date given in accordance with paragraph (4)(b) or (5)(a); or
  - (ii) after 31st January 2020,

whichever is the earlier.

[<sup>F11</sup>(11A) In relation to tariff guarantee applications made on or after [<sup>F12</sup>29th June 2020 and before 20th July 2020], the guaranteed tariff does not apply where—

- (a) the tariff start date in relation to an accredited RHI installation is earlier than the date given under paragraph (4)(b) or the tariff start date for a producer of biomethane for injection is earlier than the date given in accordance with paragraph (5)(a);
- (b) the tariff guarantee has been revoked; or
- (c) the tariff start date in relation to an accredited RHI installation or producer of biomethane for injection is—
  - (i) 183 or more days after the date given in accordance with paragraph (4)(b) or (5)(a); or
  - (ii) after 31st January 2021,

whichever is the earlier.]

[<sup>F13</sup>(11B) In relation to tariff guarantee applications made on or after 17th July 2019 and before 29th June 2020 or on or after 20th July 2020, the guaranteed tariff does not apply where—

- (a) the tariff start date in relation to an accredited RHI installation is earlier than the date given under paragraph (4)(b) or the tariff start date for a producer of biomethane for injection is earlier than the date given in accordance with paragraph (5)(a);
- (b) the tariff guarantee has been revoked and a notice under paragraph (7) has not been reissued under paragraph (8A); or
- (c) the tariff start date in relation to an accredited RHI installation or producer of biomethane for injection is after 31st March 2022.]

(12) Where the Authority revokes a tariff guarantee, it must send a notice to the participant specifying—

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- (a) the reason for the revocation;
  - (b) details of the applicant's right of review.
- (13) For the purposes of paragraph (8)(d)—
- (a) the Authority may take into account such matters as are, in the Authority's opinion, relevant, including —
    - (i) the location of the plant or place where biomethane is injected;
    - (ii) the installation capacity of the plant or maximum initial capacity of biomethane; and
    - (iii) the source of energy and technology or design of the plant;
  - (b) a plant is materially different in a case where—
    - (i) the installation capacity is at least 10% greater or smaller than the installation capacity proposed under paragraph (4);
    - (ii) the installation capacity is such that a different tariff would apply.
- (14) The Secretary of State—
- (a) must determine and publish the budget allocation for tariff guarantees (the “budget allocation”) for each of the financial years 2018/2019, 2019/2020 [<sup>F14</sup>, 2020/2021, 2021/2022 and 2022/2023];
  - (b) must publish—
    - (i) estimates of inflation for each of the relevant financial years;
    - (ii) load factors applicable for each relevant technology;
    - (iii) quarterly biomethane production factors;
  - (c) may review the budget allocation for a current or future relevant financial year;
  - (d) may, as a result of such a review, increase a budget allocation, provided that such increase may only take effect on 1st February, 1st May, 1st August or 1st November in a relevant financial year.
- [<sup>F15</sup>(e) may determine and publish that part of the budget allocation which will be allocated to a particular technology or group of technologies.]
- (15) The Authority must publish the following information on its website—
- (a) current information in aggregate form as to—
    - (i) the number of tariff guarantee applications made;
    - (ii) the number of provisional tariff guarantee notices issued;
    - (iii) the number of tariff guarantee applications granted;
    - (iv) the sources of energy and technology and capacity of the plants in respect of which tariff guarantees have been granted; and
  - (b) the estimated total tariff guarantee commitment for each of the relevant financial years.
- (16) The Authority must consider applications for a tariff guarantee in the order in which they are received by it, and must not—
- (a) issue a provisional tariff guarantee notice where the estimated total tariff guarantee commitment for a relevant financial year would exceed the budget allocation for that year if the tariff guarantee were granted;
  - (b) issue a provisional tariff guarantee notice in respect of any subsequent application for consideration except where granting a tariff guarantee would not cause the budget allocation for a relevant financial year to be exceeded.

(17) Following an increase in budget allocation pursuant to paragraph (14)(d), or any decrease in the estimated total tariff guarantee commitment resulting from the withdrawal or rejection of a tariff guarantee application, the Authority must proceed to consider outstanding applications in the order in which they were received.

(18) In this regulation—

“estimated annual payment”, in relation to an application for a tariff guarantee, means—

- (a) in the financial year in which the applicant expects the plant to be commissioned, or the injection of biomethane to commence (as the case may be)—

$$E \times T \times \frac{D}{Y};$$

- (b) in any subsequent financial year—

$$E \times T \times I$$

where—

- i D is the number of days in the financial year starting with the date on which the applicant expects the plant to be commissioned, or the injection of biomethane to commence (as the case may be);
- ii E is the estimated heat;
- iii I is the estimate of inflation for that financial year, published by the Secretary of State;
- iv T is the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32; and
- v Y is the number of days in the financial year;

“estimated heat”—

- (a) in relation to a plant to which paragraph (3) applies, means—

$$C \times LF \times H$$

where—

- i C is the expected installation capacity of the plant;
- ii H is the number of hours in the year; and
- iii LF is the heat load factor for the plant's technology, published by the Secretary of State;

- (b) in relation to the production of biomethane for injection, means—

$$V \times F \times P$$

where—

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- i V is the maximum volume in cubic metres of eligible biomethane which the applicant can inject each year, based on data from the relevant connection agreement;
- ii F is 9.1 <sup>M3</sup>; and
- iii P is the average of the quarterly biomethane production factors, published by the Secretary of State, for all applicable quarters of the relevant financial year, starting from the date on which the applicant expects the injection of biomethane to commence, expressed as a decimal and rounded to four decimal places;

“estimated total tariff guarantee commitment”, in relation to a relevant financial year, means the sum of the estimated annual payments for every application for a tariff guarantee—

- (a) for which a provisional tariff guarantee notice has been issued; and
- (b) which has not been withdrawn by the applicant or rejected by the Authority;

“financial close” means the date on which the applicant has entered into all financing agreements in relation to all the funding required for the construction of the proposed plant, or the production and injection of biomethane;

“financial year” means a 12 month period commencing on 1st April and ending with the following 31st March.

#### Textual Amendments

- F7** Reg. 35(6)(c) substituted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(a)**
- F8** Reg. 35(7A) inserted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(b)**
- F9** Reg. 35(8A) inserted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(c)**
- F10** Words in reg. 35(11) substituted (17.7.2019) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2019 \(S.I. 2019/1052\)](#), regs. 1, **5(1)**
- F11** Reg. 35(11A) inserted (17.7.2019) by [The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme \(Amendment\) Regulations 2019 \(S.I. 2019/1052\)](#), regs. 1, **5(2)**
- F12** Words in reg. 35(11A) substituted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(d)**
- F13** Reg. 35(11B) inserted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(e)**
- F14** Words in reg. 35(14)(a) substituted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(f)(i)**
- F15** Reg. 35(14)(e) inserted (20.7.2020) by [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2020 \(S.I. 2020/650\)](#), regs. 1, **3(2)(f)(ii)**

#### Marginal Citations

- M3** This is a factor to account for the calorific value per cubic metre of biomethane (10 kWh/m<sup>3</sup>) and proportion of eligible biomethane per unit of biomethane injected (0.91).



**Status:**

Point in time view as at 01/03/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the The Renewable Heat Incentive Scheme Regulations 2018, PART 3.