

*This Statutory Instrument has been made partly in consequence of a defect in S.I. 2022/159 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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## STATUTORY INSTRUMENTS

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**2022 No. 1096**

# ENERGY

## The Renewable Heat Incentive Scheme (Amendment) Regulations 2022

*Made - - - - 25th October 2022*

*Laid before Parliament 26th October 2022*

*Coming into force in accordance with regulation 1*

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

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.

In accordance with section 148A(1)(b) of the Government of Wales Act 2006<sup>(2)</sup>, the Secretary of State has consulted the Welsh Ministers before making these Regulations.

### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Renewable Heat Incentive Scheme (Amendment) Regulations 2022 and come into force 21 days after the day on which they are laid before Parliament.

(2) These Regulations extend to England and Wales, and Scotland.

### **Amendment of the Renewable Heat Incentive Scheme Regulations 2018**

2. The Renewable Heat Incentive Scheme Regulations 2018<sup>(3)</sup> are amended as follows.

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(1) 2008 c. 32. Section 100 was amended by section 51 of the Infrastructure Act 2015 (c. 7) and by S.I. 2011/2195. Section 51 also amended section 105 of the Energy Act 2008 (parliamentary control of subordinate legislation) and inserted subsections (3A) to (3I) concerning provisions which require the affirmative resolution procedure. By virtue of section 105(3A) to (3I), these Regulations do not attract the affirmative procedure.

(2) 2006 c. 32. Section 148A was inserted by the Wales Act 2017 (c. 4), section 55(1).

(3) S.I. 2018/611, amended by S.I. 2018/635, 2019/1052, 2020/650, 2021/76 and 2022/159.

### **Insertion of Regulation 51A (interpretation)**

3. Before regulation 52 (review of accreditation or registration following notification of a change in circumstances), insert—

#### **“Interpretation**

**51A.** In this Part, “proposed plant” has the meaning given in regulation 52A(1A).”.

### **Amendment of regulation 52A (modification of installation capacity - shared ground loop systems)**

4. In regulation 52A (modification of installation capacity - shared ground loop systems)—

(a) for paragraph (1) substitute—

“(1) This regulation applies to—

- (a) an accredited RHI installation which is a ground source heat pump or a shared ground loop system;
- (b) a proposed plant.”;

(b) after paragraph (1) insert—

“(1A) A “proposed plant” is a ground source heat pump or a shared ground loop system which a person (the “relevant person”) proposes to construct and operate and in respect of which either—

- (a) (i) the Authority has granted a tariff guarantee;
- (ii) the Authority has re-issued a notice under regulation 35(7B) or (8B); and
- (iii) no accreditation has been granted under regulation 30; or
- (b) (i) the Authority has granted an extension of time to the relevant person under regulation 3B(6); and
- (ii) no accreditation has been granted under regulation 30.

(1B) Where this regulation applies to a proposed plant—

(a) the relevant person must notify the Authority of any plan to modify capacity (as defined in paragraph (2)) in accordance with this regulation as if—

- (i) references to the accredited RHI installation were references to the proposed plant;
- (ii) references to the participant were references to the relevant person;

(b) on receipt of a notification made under paragraph (2)—

(i) the Authority must not review the plan to modify capacity or send the relevant person a written notice under paragraph (6) until the proposed plant has been accredited under regulation 30;

(ii) in the event that either—

(aa) no application for accreditation under regulation 30 in respect of the proposed plant has been made before 1st April 2023; or

(bb) the Authority has rejected an application for accreditation under regulation 30 in respect of the proposed plant,

the Authority must send the relevant person a written notice stating that it will not review the plan to modify capacity.”;

(c) for paragraph (4)(b)(iv) substitute—

- “(iv) a declaration that the participant will be the owner, or one of the owners, of each additional ground source heat pump or, where the participant will not be the owner, or one of the owners, of an additional ground source heat pump, evidence, in such manner and form as the Authority may request, to enable the Authority to satisfy itself—
  - (aa) that the participant will be able to comply with their ongoing obligations in respect of the additional ground source heat pump;
  - (bb) of the matters mentioned in paragraph (7)(ba).”;
- (d) in paragraph (7), after sub-paragraph (b) insert—
  - “(ba) where the participant is not the owner, or one of the owners, of an additional ground source heat pump, the participant has authority from the owner, or one of the owners, of the additional ground source heat pump to—
    - (i) notify the Authority of the plan to modify capacity; and
    - (ii) be the participant for the purposes of the Scheme.”;

**Amendment of regulation 52B (budget allocation for modification of installation capacity - shared ground loop systems)**

5. In regulation 52B (budget allocation for modification of installation capacity - shared ground loop systems), after paragraph (3), insert—

“(3A) For the purposes of paragraph (3), a plan to modify capacity notified in relation to a proposed plant is deemed to be received by the Authority on the date the proposed plant becomes accredited under regulation 30.”.

**Amendment of Schedule 4A (solid biomass which is wood: criteria for woodfuel quality)**

6. In Schedule 4A (solid biomass which is wood: criteria for woodfuel quality)—

- (a) in paragraph 2, at the beginning insert “Subject to paragraph 2A.”;
- (b) after paragraph 2, insert—

“2A. The requirement in paragraph 2 is disapplied—

- (a) for a period of 12 months beginning with the day on which these Regulations come into force;
- (b) for any period specified in a notice under paragraph 2B.

**2B.**—(1) If the Secretary of State considers that there is a significant disruption or a threat of a significant disruption to the supply of wood pellets to Great Britain, the Secretary of State may by notice temporarily disapply the requirement in paragraph 2.

(2) Before disapplying the requirement, the Secretary of State must—

- (a) obtain the consent of the Scottish Ministers; and
- (b) consult the Welsh Ministers.

(3) A notice under sub-paragraph (1) must specify the period for which the requirement will be disapplied, which must not be longer than 12 months.

(4) The Secretary of State must publish a notice under sub-paragraph (1) in such manner as the Secretary of State considers appropriate.”;

- (c) in paragraph 3, for “EN 15234-2:2012” substitute “EN 15234-1:2011(4)”;
- (d) in paragraph 4, for the words “in” to the end substitute—

“in—

- (a) subject to paragraph 4A, paragraph 2;
- (b) paragraph 3.”;
- (e) after paragraph 4, insert—

“**4A.** Paragraph 4(a) does not apply for any period for which the requirement in paragraph 2 is disapplied.”.

25th October 2022

*Callanan*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial  
Strategy

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Renewable Heat Incentive Scheme Regulations 2018 (S.I. 2018/611) (“the 2018 Regulations”). The 2018 Regulations provide for a scheme under which owners of plants which generate heat from specified renewable sources and meet specified criteria, and producers of biomethane for injection, may receive prescribed tariffs for heat used for eligible purposes.

Regulation 3 inserts a definition of “proposed plant”. Regulation 4 amends the requirements under the 2018 Regulations to notify the Gas and Electricity Markets Authority (the “Authority”) of a plan to modify the capacity of a ground source heat pump or shared ground loop system.

Regulation 5 makes amendments to the process by which the Authority decides whether the budget allocation published by the Secretary of State prevents it from approving a plan to modify capacity.

Regulation 6 temporarily disapplies certain requirements relating to the fuel quality criteria. It also gives the Secretary of State the power to disapply those requirements in the future provided certain conditions are met. The amendments made by regulation 6 will also affect the Domestic Renewable Heat Incentive Scheme Regulations 2014 (S.I. 2014/928), as the definition of “approved sustainable fuel” in those Regulations references regulation 51 of the 2018 Regulations.

Regulation 6 also corrects an incorrect reference to an industry standard in paragraph 3 of Schedule 4A to the 2018 Regulations.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

Copies of British Standards referred to in these Regulations can be obtained from [www.bsigroup.com](http://www.bsigroup.com) and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL (telephone number 0345 086 9001).