
STATUTORY RULES OF NORTHERN IRELAND

2011 No. ***

ENERGY

**Renewable Heat Incentive Regulations (Northern
Ireland) 2011**

Made - - - 2011

Coming into operation - - 2011

[The Department of Enterprise, Trade and Investment makes the following Regulations in exercise of the powers conferred on it by section [●] of the Energy Act 2011 for the purposes of establishing in Northern Ireland an incentive scheme to facilitate and encourage the renewable generation of heat and the production and injection of biomethane and making provision regarding its administration.]

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Renewable Heat Incentive Regulations (Northern Ireland) 2011 and shall come into operation on [●] 2011.

Interpretation

2. In these Regulations—

“accreditation” means approval by the Authority of an eligible installation as an accredited RHI installation in accordance with part 4;

“accredited RHI installation” means an eligible installation which has been given accreditation;

“anaerobic digestion” means the bacterial fermentation of biomass in the absence of oxygen;

[“Authority” means the Gas and Electricity Markets Authority;]

“biogas plant” means a plant which produces biogas by anaerobic digestion, gasification or pyrolysis;

“CHP” means combined heat and power;

“class 2 heat meter” means a heat meter which complies with the relevant requirements set out in Annex 1 of the Measuring Instruments Directive, the specific requirements and conformity assessment procedures listed in Annex MI-004 of the Measuring Instruments Directive and falls within accuracy class 2 as defined in Annex MI-004 of that Directive;

“combined installation capacity” means the installation capacity of one or more plants;

“commissioned” means, in relation to an eligible installation, the completion of such procedures and tests as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of eligible installation in order to demonstrate it is capable of operating and delivering heat to the premises or process for which it was installed;

“component unit” means two or more plants complying with the provisions of regulation 14(2)(a)-(c);

“conversion date” means the date on which a plant was first commissioned as a CHP system;

“date of accreditation” means, in relation to accredited RHI installation, the later of—

- (a) (i) the date on which an application for accreditation is received by the Authority, provided the application is properly made and the Authority is satisfied that the eligibility criteria imposed by these Regulations, as applicable, were met at the time of receipt, or
- (ii) where the Authority is not so satisfied, first date after receipt of an application for accreditation on which the Authority is satisfied that the applicable eligibility criteria were met, and
- (b) the date on which the plant was first commissioned;

“Department” means the Department for Trade, Enterprise and Investment;

“eligibility criteria” means the eligibility criteria specified in regulations 4 to 21 of Part 2;

“eligible installation” means a plant which satisfies the eligibility criteria;

“eligible purpose” means one of the purposes specified in regulation 3(2);

“EN 45011” means British Standard EN 45011 which prescribes certain requirements for bodies operating product certification systems;

“gasification” means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or all of the following: oxides of carbon, methane and hydrogen;

“gas conveyor” means the holder of a licence to convey gas from one place to another in an area authorised by a licence granted under Article 8(1)(a) of the Gas Order;

“Gas Order” means the Gas (Northern Ireland) Order 1996;

“ineligible purposes” means a purpose which is not an eligible purpose;

“injection” means the introduction of gas into a pipe-line system operated by a gas conveyor;

“installation” means one or more plants;

“installation capacity” means the total installed peak heat output capacity of a plant or accredited RHI installation;

“kWth” means kilowatt thermal;

“kWhth” means kilowatt hours thermal;

“MWth” means megawatt thermal;

“MWthh” means megawatt hours thermal;

[“MCS” means the Microgeneration Certification Scheme²⁶ or equivalent schemes accredited under EN 45011²⁷ which certify Microgeneration products and installers in accordance with consistent standards;]

“Measuring Instruments Directive” means Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments²⁸;

“municipal waste” has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003²⁹;

“NIRO” means the Renewables Obligation (Amendment) Order (Northern Ireland) 2010;

“ongoing obligations” means the ongoing obligations specified in part 3;

“participant” means an owner of an accredited RHI installation or a producer of biomethane who has registered with the Authority;

"pipe-line system" means a system of pipes (together with any apparatus and works associated therewith) for the conveyance of gas, not being—

- (a) a system of pipes constituting or comprised in apparatus for heating or cooling or for domestic purposes; or
- (b) a system of pipes wholly situated—
 - (i) within the site of any apparatus or works to which certain provisions of the Factories Act (Northern Ireland) 1965³⁰ apply by virtue of section 125(1) of that Act (building operations and works of engineering construction);
 - (ii) within the boundaries of any land occupied as a unit for purposes of agriculture (within the meaning of the Agriculture Act (Northern Ireland) 1949³¹), where the system of pipes is designed for use for purposes of agriculture; or
 - (iii) in premises used for the purposes of education or research;³²

“preliminary accreditation” in relation to a plant, means accreditation of the plant by the Authority as one which (when commissioned) will be capable of meeting the eligibility criteria;

“process” means any process other than the generation of electricity;

“pyrolysis” means the thermal degradation of a substance in the absence of an oxidising agent (other than that which forms part of the substance itself) to produce char and one or both of gas and liquid;

²⁶ Details of which are available at www.microgenerationcertification.org

²⁷ ISBN 0580294153. Copies can be obtained from the British Standards Institution at www.bsigroup.com

²⁸ OJ L 135, 30.4.2004, p. 1, amended by Commission Directive 2009/137/EC (OJ L 294, 11.11.2009, p. 7)

²⁹ 2003 c.33

³⁰ 1965 Chapter 20

³¹ 1949 Chapter 2

³² As extracted from the Gas (Northern Ireland) Order 1996

“periodic support payment” is the sum payable to a participant per quarterly period in accordance with part 5;

“quarterly period” means the first, second, third or fourth quarter of any year commencing on, or on the anniversary of, a participant’s tariff start date;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Office of National Statistics; or
- (b) where the index is not published for a year, any substituted index or figures published by that Office;

“RHI” means an incentive scheme to facilitate and encourage the renewable generation of heat;

“scheme” means the incentive scheme established by these Regulations;

“site” means the premises to which are attached one or more accredited RHI installations or eligible installations to be determined by the Authority by reference to one or more of the following—

- (a) geographical proximity,
- (b) street address,
- (c) ordnance survey grid reference
- (d) any other factors which the Authority in its discretion considers relevant:

“solar collector” means a liquid filled flat plate or evacuated tube solar collector;

“steam measuring equipment” means all the equipment needed to measure to the Authority’s satisfaction the mass flow rate and energy of steam and must include the following components—

- (a) a flow meter,
- (b) a digital integrator or calculator able to calculate the cumulative energy in kWth which has passed a specific metering point;

“tariff” means the payment rate per kWhth in respect of an accredited RHI installation and per kWth in respect of biomethane injection;

“tariff end date” means the last day of the tariff lifetime;

“tariff lifetime” means the period for which an accredited RHI installation or a participant who is a producer of biomethane is eligible to receive periodic support payments;

“tariff start date” means the date of accreditation of an eligible installation or, in relation to a producer of biomethane, the date on which an application for registration was properly made.

Renewable heat incentive scheme

- (1) These Regulations establish an incentive scheme to facilitate and encourage the renewable generation of heat and the production and injection of biomethane and make provision regarding its administration.
- (2) Subject to paragraph (3), the Authority will pay participants periodic support payments in accordance with part 5 for heat used for any of the following eligible purposes—

- (a) space heating;
 - (b) water heating; or
 - (c) process heating,
- where the heat is used in a building or other enclosed structure.
- (3) The Authority will pay participants who are producers of biomethane for injection periodic support payments calculated in accordance with part 5.

PART 2

ELIGIBILITY AND MATTERS RELATING TO ELIGIBILITY

Eligibility criteria for technologies

Eligible installations

4. A plant is an eligible installation if—
- (a) either regulation 5, 6, 7, 8, 9, 10 or 11 is satisfied;
 - (b) the eligibility requirements set out in regulation 12 are satisfied;
 - (c) it complies with the eligibility criteria in relation to metering set out in regulations 16 to 21; and
 - (d) regulation 15 does not apply.

Eligible installations generating heat from solid biomass

5. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with all of the following requirements—
- (a) it generates heat from solid biomass;
 - (b) the heat from the solid biomass is generated using equipment specifically designed and installed to use solid biomass as its only primary fuel source; and
 - (c) in the case of a plant with an installation capacity of [45kWth] or less, it complies with regulation 13.

Eligible installations generating heat from solid biomass contained in municipal waste

6. Subject to regulations 12 and 15, a plant is an eligible installation if it generates heat from solid biomass contained in municipal waste.

Eligible installations generating heat using solar collectors

7. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with all of the following requirements—
- (a) it generates heat using a solar collector;
 - (b) it has an installation capacity of less than [200kWth]; and

- (c) in the case of a plant with an installation capacity of [45kWth] or less, it complies with regulation 13.

Eligible installations using heat pumps

8. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with all of the following requirements—
 - (a) it is a heat pump and generates heat using naturally occurring energy stored in the form of heat from one of the following sources—
 - (i) the ground other than geothermal;
 - (ii) surface water; or
 - (iii) [air];
 - (b) in the case of a heat pump with an installation capacity of [45kWth] or less, it complies with regulation 13; and
 - (c) the heat pump meets a coefficient of performance of at least [2.9].

Eligible installations generating CHP

9. (1) Subject to regulations 12 and 15 and to paragraph (2), a CHP system is an eligible installation if it generates heat using one of the following sources of energy—
 - (a) solid biomass;
 - (b) biogas produced from anaerobic digestion, gasification or pyrolysis; or
 - (c) naturally occurring heat located at least [500 metres] beneath the surface of solid earth.
- (2) A CHP system is not an eligible installation if it is a qualifying CHP generating station within the meaning of Article 2 of the NIRO and is accredited under that Order.

Eligible installations using geothermal sources

10. Subject to regulations 12 and 15, a plant is an eligible installation if it generates heat utilising naturally occurring heat located at least [500 metres] beneath the surface of solid earth.

Eligible installations using biogas

11. Subject to regulations 12 and 15, a plant is an eligible installation if it complies with the following requirements—
 - (a) it generates heat using biogas produced from anaerobic digestion, gasification or pyrolysis;
 - (b) it has an installation capacity of less than [200kWth]; and
 - (c) combustion of the biogas takes place in a separate plant to the biogas plant in which it was produced.

Other eligibility requirements for technologies

- 12.** (1) The eligibility requirements referred to in regulation 4(b) are—
- (a) installation of the plant was completed and the plant was first commissioned on or after [1st September 2010];
 - (b) the plant was new at the time of installation;
 - (c) the plant uses water or steam as a medium for delivering heat to the space, water or process; and
 - (d) heat generated by the plant is used for an eligible purpose.
- (2) A CHP system with a conversion date which is on or after [1st September 2010], will be deemed to be a new plant completed and first commissioned for the purposes of paragraph (1)(a) and (b), on the conversion date.

MCS certification for microgeneration heating equipment

- 13.** The requirements of this regulation are that the plant for which accreditation is being sought is certified under the MCS and its installer was certified under MCS at the time of installation.

Eligible installations comprised of more than one plant

- 14.** (1) Subject to paragraph (2) and regulation 43(5)(b) an eligible installation may not be comprised of more than one plant.
- (2) Where two or more plants—
- (a) use the same source of energy;
 - (b) form part of a common heating system; and
 - (c) neither plant is an accredited RHI installation;
- the Authority must treat those component units as one plant and that plant may be an eligible installation where, subject to paragraph (3), each component unit complies with regulation 4.
- (3) For the purpose of regulations 7(b) and 11(b), the installation capacity of an eligible installation comprised of more than one plant is the combined installation capacity of all plants comprising that eligible installation.

Excluded plants

- 15.** (1) For the purposes of regulation 4, the following plants are not eligible installations—
- (a) a plant which is generating heat solely for the use of one domestic premises;
 - (b) a plant which is generating heat solely for an ineligible purpose; or
 - (c) [anaerobic digestion plant in receipt of support under the NIRO].

- (2) For the purposes of this regulation, domestic premises means a single, self contained premises used wholly or mainly as a private residential dwelling where the fabric of the building has not been adapted for non-residential use.

Eligibility criteria and matters relating to metering

Metering of plants in simple systems

- 16.** (1) This regulation sets out the eligibility criteria in relation to metering for a plant where—
- (a) the plant is generating and supplying heat solely for eligible purposes and the building or other enclosed structure to which the heat is supplied is located on the same site;
 - (b) no heat generated by the plant is delivered by steam; and
 - (c) the plant is not a CHP system.
- (2) Where this regulation applies, a class 2 meter must be installed to measure the heat in kWhth generated by the plant.

Metering of complex systems

- 17.** (1) This regulation sets out the eligibility criteria in relation to metering for a plant where regulation 16 does not apply.
- (2) Subject to regulation 19, where heat generated by a plant is delivered by water, class 2 heat meters must be installed to measure the kWhth of heat generated by that plant and used for an eligible purpose.
- (3) Subject to regulation 19, where heat generated by a plant is delivered by steam, the following must be installed—
- (a) steam measuring equipment to measure the steam generated by the plant and used for eligible purposes; and
 - (b) a class 2 heat meter to measure any condensate which returns to the plant.
- (4) Where more than one plant is supplying heat to a heating system, steam measuring equipment and class 2 heat meters must be installed, as appropriate, to measure the heat output in kWhth of all plants supplying heat to that heating system.

Shared meters

- 18.** (1) Except where paragraph (2) applies, the heat generated by a plant must be metered separately.
- (2) Where two or more plants—
- (a) use the same source of energy;
 - (b) will be eligible to receive the same tariff;
 - (c) will share the same tariff start date and tariff end date; and
 - (d) it is the Authority's opinion that a single meter is capable of metering the heat generated by all of those plants;

the heat generated by those plants may be metered using one meter.

Metering of CHP systems generating electricity before [1st September 2010]

19. (1) In relation to CHP systems first commissioned on or after [1st September 2010] which were generating electricity from renewable sources prior to that date, any existing heat meter or steam measuring equipment installed before the commencement of these Regulations may continue to be used by a participant to measure the heat generated and used provided the CHP system was registered under the CHPQA before the date of commencement of these Regulations.
- (2) [For the purpose of this regulation, “CHPQA” means the Combined Heat and Power Quality Assurance Standard, Issue 3, January 2009, as published by the Department for Environment, Food and Rural Affairs.]

Matters related to all heat measuring equipment

20. All meters and steam measuring equipment installed in accordance with these Regulations must, where applicable, be—
- (a) calibrated prior to installation;
 - (b) duly marked with the CE marking and supplementary metrology markings as specified in Articles 7 and 17 of the Measuring Instruments Directive;
 - (c) in relation to eligible installations generating using solar collectors, calibrated correctly for any water/ethylene glycol mixture;
 - (d) in relation to the temperature and pressure components of steam measuring equipment, capable of displaying that they are operational and of specifying which steam properties they are metering;
 - (e) in relation to the flow meter of steam measuring equipment, capable of displaying the current steam mass flow rate and the total mass of steam which has passed through it since it was installed; and
 - (f) properly installed in accordance with manufacturer’s instructions.

Additional metering requirements for combusters of biogas

21. (1) This regulation sets out additional eligibility requirements in relation to metering where a plant is generating heat from biogas.
- (2) Where this regulation applies—
- (a) a class 2 heat meter must be installed to meter any heat directed from the plant combusting the biogas to the biogas plant; or
 - (b) a class 2 heat meter must be installed to meter any heat to the biogas plant derived from any source other than the biogas itself.

PART 3

ONGOING OBLIGATIONS FOR PARTICIPANTS

Ongoing obligations relating to the use solid biomass to generate heat

Interpretation

22. In regulations 22 to 25—

“allocating authority”, and “waste disposal authority” have the same meaning as in section 24 of the Waste and Emissions Trading Act 2003;

“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 British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions) published by the British Standards Institute on 28th June 1991³³;

“landfill gas” means gas formed by the digestion of material in a landfill;

“standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the accredited RHI installation;

“[waste collection authority]” shall mean [to be defined];

“waste” has the same meaning as in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997.

Solid biomass contained in municipal waste as a source of energy

- 23.** (1) This regulation applies to participants generating heat in an accredited RHI installation from solid biomass contained in municipal waste.
- (2) The proportion of solid biomass contained in the municipal waste—
- (a) is to be determined by the Authority;
 - (b) is the energy content of the municipal waste used by the participant as a whole in any quarterly period less the energy content of any fossil fuel from which that municipal waste is in part composed or derived expressed as a percentage of the energy content of the municipal waste as whole; and
 - (c) must be a minimum of [50] per cent.
- (3) A participant must demonstrate to the Authority’s satisfaction what proportion of the municipal waste used in any quarterly period is, or is derived from, fossil fuel to enable the Authority to determine the proportion of solid biomass contained in the municipal waste in accordance with paragraph (2).
- (4) Participants may use fossil fuel in an accredited RHI installation for the following permitted ancillary purposes—

³³ ISBN 0580194825. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/.

- (a) cleansing other fuels from the accredited RHI installation's combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
 - (b) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
 - (c) the ignition of fuels of low or variable calorific value;
 - (d) emission control; and/or
 - (e) in relation to accredited RHI installations which are CHP, standby generation or the testing of standby generation capacity.
- (5) The energy content of the fossil fuel used during any quarterly period for the permitted ancillary purposes specified in paragraph (4) must not exceed ten per cent of the energy content of all the energy sources used by that accredited RHI installation to generate heat during that quarterly period.
- (6) Without prejudice to paragraph (3), when determining the proportion of solid biomass contained in municipal waste, the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the energy content of the municipal waste is, or is derived from fossil fuel.
- (7) Subject to paragraph (8), where a participant using municipal waste produces to the Authority—
- (a) data published by an allocating authority, a waste disposal authority or a waste collection authority, demonstrating that the proportion of municipal waste used by that participant which is, or is derived from fossil fuel, is unlikely to exceed [50] per cent; and
 - (b) evidence that the municipal waste used has not been subject to any process before being used that is likely to have materially increased that proportion,
- the Authority may accept this as sufficient evidence for the purposes of paragraph (3) of the fact that the proportion of the municipal waste used which is, or is derived from, fossil fuel is [50] per cent.
- (8) Where—
- (a) municipal waste is used in an accredited RHI installation and—
 - (i) the Authority is not satisfied as to the matters identified in paragraphs (5) or (7);
 - (ii) a participant is claiming that the proportion of that municipal waste which is, or is derived from fossil fuel is less than [50] per cent; or
 - (iii) the Authority so requests,

the participant must arrange for samples of the municipal waste used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such municipal waste, to be taken by a person, and analysed in a manner approved by the Authority, and for the results of that analysis to be made available to the Authority.