



# Energy Act 2011

## 2011 CHAPTER 16

### PART 3

#### MEASURES FOR REDUCING CARBON EMISSIONS

##### *Northern Ireland: renewable heat incentives*

#### **113 Renewable heat incentives in Northern Ireland**

- (1) The Department of Enterprise, Trade and Investment may make regulations—
- (a) establishing a scheme to facilitate and encourage renewable generation of heat in Northern Ireland, and
  - (b) about the administration and financing of the scheme.
- (2) Regulations under this section may, in particular—
- (a) make provision for the Department or NIAUR to make payments, or to require designated fossil fuel suppliers to make payments, in specified circumstances, to—
    - (i) the owner of plant used or intended to be used for the renewable generation of heat, whether or not the owner is also operating or intending to operate the plant;
    - (ii) a producer of biogas or biomethane;
    - (iii) a producer of biofuel for generating heat;
  - (b) make provision about the calculation of such payments;
  - (c) make provision about the circumstances in which such payments may be recovered;
  - (d) require designated fossil fuel suppliers to provide specified information to the Department or NIAUR;
  - (e) make provision for payments to fossil fuel suppliers in specified circumstances;

- (f) make provision about the enforcement of obligations imposed by or by virtue of the regulations (which may include a power for the Department or NIAUR to impose financial penalties);
- (g) confer functions on the Department or NIAUR, or both.

## (3) In this section—

“biofuel” means liquid or gaseous fuel which is produced wholly from biomass;

“biogas” means gas produced by the anaerobic or thermal conversion of biomass;

“biomass” means material, other than fossil fuel or peat, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae;

“biomethane” means biogas which is suitable for conveyance through pipes to premises in accordance with a licence under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 ([S.I. 1996/275 \(N.I. 2\)](#)) (licences to convey gas);

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

“designated fossil fuel suppliers” means—

- (a) if the regulations so provide, a specified class of fossil fuel suppliers, and
- (b) in any other case, all fossil fuel suppliers;

“fossil fuel” means—

- (a) coal;
- (b) lignite;
- (c) natural gas (within the meaning of the Energy Act 1976);
- (d) crude liquid petroleum;
- (e) petroleum products (within the meaning of that Act);
- (f) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (e);

“fossil fuel supplier” means a person who supplies fossil fuel to consumers for the purpose of generating heat;

“functions” includes powers and duties;

“modify” includes amend, add to or repeal;

“NIAUR” means the Northern Ireland Authority for Utility Regulation;

“owner”, in relation to any plant which is the subject of a hire purchase agreement, a conditional sale agreement or any agreement of a similar nature, means the person in possession of the plant under that agreement;

“plant” includes any equipment, apparatus or appliance;

“renewable generation of heat” means the generation of heat by means of a source of energy or technology mentioned in subsection (4).

## (4) The sources of energy and technologies are—

- (a) biomass;
- (b) biofuels;
- (c) fuel cells;
- (d) water (including waves and tides);
- (e) solar power;
- (f) geothermal sources;

- (g) heat from air, water or the ground;
  - (h) combined heat and power systems (but only if the system's source of energy is a renewable source within the meaning given by Article 55F of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)));
  - (i) biogas.
- (5) The Department may by regulations—
- (a) modify the list of sources of energy and technologies in subsection (4);
  - (b) modify the definition of “biofuel”, “biogas” or “biomass” in subsection (3).
- (6) The Department may by regulations make provision, for the purposes of subsection (2)(a)(iii) and the definition of “fossil fuel supplier”, specifying that particular activities do or do not constitute generating heat.
- (7) Any power to make regulations under this section is to be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (8) Regulations under this section may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Regulations under this section may—
- (a) provide for a person to exercise a discretion in dealing with any matter;
  - (b) include incidental, supplementary and consequential provision;
  - (c) make transitory or transitional provisions or savings;
  - (d) make provision generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as conditions specified in the regulations are satisfied);
  - (e) make different provision for different cases or circumstances or for different purposes.

#### **114 Power for Gas and Electricity Markets Authority to act on behalf of Northern Ireland authority in connection with scheme under section 113**

- (1) GEMA and a Northern Ireland authority may enter into arrangements for GEMA to act on behalf of the Northern Ireland authority for, or in connection with, the carrying out of any functions that may be conferred on the Northern Ireland authority under, or for the purposes of, any scheme that may be established, under section 113.
- (2) In this section—
- “GEMA” means the Gas and Electricity Markets Authority;
  - “Northern Ireland authority” means—
    - (a) the Department of Enterprise, Trade and Investment, or
    - (b) the Northern Ireland Authority for Utility Regulation.