



# Energy Act 2008

## 2008 CHAPTER 32

### PART 5

#### MISCELLANEOUS

##### *Renewable heat incentives*

#### **100 Renewable heat incentives**

- (1) The Secretary of State may make regulations—
- (a) establishing a scheme to facilitate and encourage renewable generation of heat, and
  - (b) about the administration and financing of the scheme.

[<sup>F1</sup>(1A) Regulations under this section may confer any function on any person.

(1B) Regulations under this section may provide for a function conferred on a person to be exercisable on behalf of another person.]

- (2) Regulations under this section may, in particular—
- (a) [<sup>F2</sup>make provision giving any of the following persons entitlements to payments (“RHI payments”) in specified circumstances—]
    - (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 [<sup>F3</sup>RHI payments];
- [<sup>F4</sup>(ba) make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to an RHI payment may be assigned (whether the person has the entitlement by virtue of regulations under paragraph (a) or regulations under this paragraph);

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- (bb) authorise or require the Secretary of State, the Authority, designated fossil fuel suppliers, or any person with any other administration function, to make an RHI payment—
- (i) to the person who is entitled to the payment by virtue of regulations under paragraph (a), or
  - (ii) where that entitlement has been wholly or partly assigned in accordance with regulations under this section, to the person or persons for the time being enjoying the entitlement or any part of it;
- (c) make provision about the circumstances in which [<sup>F5</sup>RHI payments] may be recovered;
- [<sup>F6</sup>(d) authorise or require a person to provide specified information;]
- (e) require the payment of a levy by designated fossil fuel suppliers <sup>F7</sup>...;
  - (f) make provision about the calculation of the levy;
  - (g) make provision for payments to fossil fuel suppliers in specified circumstances;
  - (h) make provision about the enforcement of obligations imposed by or by virtue of the regulations (which may include a power <sup>F8</sup>... to impose financial penalties);
  - <sup>F9</sup>(i) .....
  - [<sup>F10</sup>(j) authorise the Secretary of State to make payments to a person in respect of the exercise by the person of functions under regulations under this section;
  - (k) make provision about the resolution of disputes relating to the exercise of functions under regulations under this section, including provision about arbitration or appeals (which may, in particular, provide for the person conducting an arbitration or determining an appeal to order the payment of costs or compensation).]
- (3) In this section—
- “Authority” means the Gas and Electricity Markets Authority;
- “biofuel” means liquid or gaseous fuel which is produced wholly from biomass;
- [<sup>F11</sup>“biogas” means gas produced by the anaerobic or thermal conversion of biomass];
- “biomass” means material, other than fossil fuel [<sup>F12</sup>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 section 7 of the Gas Act 1986 (c. 44) (gas transporter licences);
- “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 (c. 76));
  - (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);

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

[<sup>F13</sup> “ other administration function ” means a function relating to the administration of a scheme established under this section, other than a function conferred by regulations under subsection (2)(bb); ]

“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 section 32M of the Electricity Act 1989 (c. 29)).
- [<sup>F14</sup>(i) biogas.]
- (5) Regulations may—
- (a) modify the list of sources of energy and technologies in subsection (4);
  - (b) modify the definition of “biogas” or “biomass” in subsection (3).
- (6) Regulations may 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) Before making regulations under this section which extend to Scotland, the Secretary of State must—
- (a) if the regulations contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
  - (b) in any other case, consult the Scottish Ministers.

#### Textual Amendments

- F1** S. 100(1A)(1B) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(2)**, 57(7)(d)
- F2** Words in s. 100(2)(a) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(a)**, 57(7)(d)
- F3** Words in s. 100(2)(b) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(b)**, 57(7)(d)
- F4** S. 100(2)(ba)(bb) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(c)**, 57(7)(d)
- F5** Words in s. 100(2)(c) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(d)**, 57(7)(d)
- F6** S. 100(2)(d) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(e)**, 57(7)(d)
- F7** Words in s. 100(2)(e) omitted (12.2.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(f)**, 57(7)(d)

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- F8** Words in s. 100(2)(h) omitted (12.2.2015) by virtue of Infrastructure Act 2015 (c. 7), **ss. 51(3)(g), 57(7)(d)**
- F9** S. 100(2)(i) omitted (12.2.2015) by virtue of Infrastructure Act 2015 (c. 7), **ss. 51(3)(h), 57(7)(d)**
- F10** S. 100(2)(j)(k) inserted (12.2.2015) by Infrastructure Act 2015 (c. 7), **ss. 51(3)(i), 57(7)(d)**
- F11** Words in s. 100(3) substituted (6.9.2011) by The Renewable Heat Incentive (Amendment to the Energy Act 2008) Regulations 2011 (S.I. 2011/2195), regs. 1, **2(2)(a)**
- F12** Words in s. 100(3) inserted (6.9.2011) by The Renewable Heat Incentive (Amendment to the Energy Act 2008) Regulations 2011 (S.I. 2011/2195), regs. 1, **2(2)(b)**
- F13** Words in s. 100(3) inserted (12.2.2015) by Infrastructure Act 2015 (c. 7), **ss. 51(4), 57(7)(d)**
- F14** S. 100(4)(i) inserted (6.9.2011) by The Renewable Heat Incentive (Amendment to the Energy Act 2008) Regulations 2011 (S.I. 2011/2195), regs. 1, **2(3)**

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**Commencement Information**

- I1** S. 100 in force at 26.1.2009 by S.I. 2009/45, **art. 2(d)(vi)**

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