

## Comments on the draft regulations for the Renewable Heat Incentive (RHI)

### Introduction

The following comments are based on the version of the [draft regulations](#) published on 10 March 2011, for implementation in July. These comments relate only to the implementation of the decisions in the [RHI main document](#). They do not discuss the REA's views on the decisions themselves, or our view on possible changes to the RHI from 2012 onwards.

For ease of use, this document works through the draft regulations in the order they appear in the published version.

### Comments on the draft regulations: Part 1 – introductory provisions

#### Contents page

|                                   |   |
|-----------------------------------|---|
| sub-heading for Part 3, chapter 1 | Sub-heading: after 'relating to the use', insert 'of' |
| After reg 58                      | 'ERROR' written in                                    |

#### Regulation 2: interpretation

|                                   |   |
|-----------------------------------|---|
| 'date of accreditation'           | After 'relation to', insert 'an'  |
| 'date of accreditation' – (a)(ii) | After 'satisfied,', insert 'the'  |
| 'gasification'                    | Following a meeting of the REA's gasification and pyrolysis group on 5 April, we have sent an alternative definition of 'gasification' to DECC. See also comments on regulation 11  |
| 'installation capacity'           | Several questions arise in relation to CHP capacity. This is particularly sensitive for biogas, as the consequences of having too high a capacity are exclusion from the scheme, rather than simply a lower tariff. We have already made some inputs on this and expect to have further discussions over coming days. Whatever approach is taken, there needs to be as much clarity as possible, so that developers can understand Ofgem's likely decision before specifying a particular piece of equipment. |

|                    |  |
|--------------------|--|
| 'pipe-line system' | After 'same', leave out 'meeting' and insert 'meaning'   |
| 'site'             | The discretion allowed to Ofgem to determine this is very broad. A similar approach in the feed-in tariff has been problematic |

## Part 2 – eligibility and matters relating to eligibility

It is possible that an installation could be eligible under more than one of these regulations. If so (and see comments on Schedule 3) there could be confusion over the appropriate tariff. Is it intended that some or all of these categories are mutually exclusive?

There appears to be nothing to limit the geographical scope of payments under the RHI (either for generation of heat or production of biomethane). The Energy Act 2008 limits the RHI regulations to GB, but is that sufficient to prevent installations in Northern Ireland from applying to Ofgem? Particularly in relation to biomethane, would it be possible for a potential participant in another country to apply for payments for heat generated/biomethane produced outside the UK?

### Regulation 3: renewable heat incentive scheme

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| 3(2) | It is unclear what sort of 'structure' is intended that is not a 'building'. Is a tunnelled underground station eligible? The word 'structure' would appear to preclude use in mines as they have been excavated but not constructed. |
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### Regulation 5: eligible installations generating heat from solid biomass

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|      | Here and elsewhere in the regulations, 'solid' needs clarifying. Under what temperature/atmospheric conditions? This is particularly important since 'liquids' are ineligible.                               |
| 5(b) | Is there a risk that this might exclude some boilers eligible under regulation 24? Possibly another paragraph should be added to this regulation to clarify that this is without prejudice to regulation 24. |

### Regulation 7: eligible installations generating heat using solar collectors

|      |   |
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| 7(b) | unnecessary space between 'it has an' and 'installation capacity' |
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### Regulation 8: eligible installations using heat pumps

|         |  |
|---------|--|
| 8(a)(i) | What is intended by 'geothermal'? If this is intended to mean what is stated in regulation 10, then this should be given as such or there could be confusion.  |
| 8(c)    | Coefficient of performance of 2.9 needs explanation. Under what conditions etc? We understand that further guidance is expected from the European Commission. In the meantime, one option would be to require that this should be measured at B0/W35 measured according to EN14511 |

**Regulation 9: eligible installations generating CHP**

|         |   |
|---------|---|
| 9(1)(b) | No size restriction on biogas (less than 200kW)   |
| 9(2)    | This needs to ensure that a CHP system cannot withdraw from the RO (having previously received the CHP uplift) and claim RHI. Suggested change to first line: after 'it', insert 'or has been'  |
| 9(2)    | We understand the intention is not to exclude installations receiving ROCs for AD or gasification/pyrolysis. The current drafting could also exclude a station accredited as dedicated biomass, even if it has never received the biomass CHP uplift. Suggested change: after 'accredited', insert 'as such'. The status of plant that has received the 1 ROC for EfW with CHP is also unclear. |
| 9(2)    | Footnote reference to RO Order will need to be updated to reflect 2011 Order  |

**Regulation 10: eligible installations using geothermal sources**

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| 10 | Is 'the surface of solid earth' intended to exclude offshore geothermal, or could the seabed be 'solid earth'? |
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**Regulation 11: eligible installations using biogas**

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| 11(c) | See also our comments on regulation 2. This is a fairly blunt way of trying to prevent gasifying boilers being able to claim this tariff. It would be better if gasifying boilers were explicitly excluded from this regulation, although the definition REA has proposed would help address this. |
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**Regulation 12: other eligibility requirements for technologies**

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| 12(1) | After 'to', leave out 'regulations 4(1)(b)' and insert 'by regulation 4(b)'  |
| 12(2) | What is a 'CHP system'? If an installation is the generator etc and pipework to a user, what happens if that first user goes bankrupt and new pipework is installed to connect to a new customer. Would the commissioning of that new pipework be the point at which the plant was 'first commissioned as a CHP system'? |
| 12(2) | As drafted, it appears that a plant commissioned as power only and using fossil fuel could convert to renewables and CHP on or after 15 July 2009 and receive be eligible for RHI on heat output. Is that the intention?   |

**Regulation 14: eligible installations comprised of more than one plant**

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| 14(1) | Reason for specific reference to 43(5)(b) is unclear. See also comments on regulation 43 |
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**Regulation 17: metering of complex systems**

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| 17(3)(a) | Need to include 'any steam returned to the plant' in metering requirement |
| 17(3)(a) | Should finish with ';and'   |
| 17(4)    | Change '4' to 'b'   |
| 17(5)    | Change '5' to '4'   |
| 17(5)    | After 'equipment', leave out 'and' and insert 'or'                        |

### **Regulation 20: matters related to all heat measuring equipment**

|    |   |
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| 20 | Needs to be some requirement for meters to be protected against tampering |
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## **Part 3 – ongoing obligations for participants**

### **Regulation 22: interpretation**

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| 'in this chapter' | Some of these terms are used elsewhere (and landfill gas is not used in this chapter at all). Should read 'in this part' |
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### **Regulation 23: solid biomass contained in municipal waste as a source of energy**

|               |  |
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| 23            | Although this is a policy point, there is a practical difficulty in restricting waste to municipal only. It will be extremely difficult or impossible to differentiate between municipal and commercial/industrial waste. If the reason for non-inclusion is a belief that this is unlikely to come forward without progress on measuring techniques then it should still be included, to send a clear message of encouragement and intent. We understand that a similar logic has led to the inclusion of regulation 26, despite the low likelihood of gasification/pyrolysis being installed smaller than 200kW. |
| 23            | There seems to be a mismatch between 23(2)(b), which sets the 50% level by reference to energy content and 23(7)(a), which refers to 'the proportion of municipal waste'. It would be preferable for this to refer either to 'the proportion of solid biomass' (which is effectively defined by reference to energy content) or refer directly to energy content. Having said that, since this text replicates the RO Order, it may be preferable to leave this drafting as it is, for the sake of consistency.  |
| 23(2)         | The requirement for the proportion of biomass to be a minimum of 50% is a serious misalignment with the RO, particularly as the deemed biomass content of municipal waste under the RO is due to fall to 35% in a few year's time.   |
| 23(3)         | There is no requirement for the Authority to make its decision on fossil fuel reasonably. See also regulation 24   |
| 23(6)(7)      | There is a mismatch between the draft regulation and the policy document. The policy document states simply an intention to deem the biomass content at 50%, whereas the draft regulations require the same process as the RO. Accessing the 50% under the RO has proved difficult, and this has proved a barrier to financing for some developers. We recommend this be redrafted to reflect the policy document.   |
| 23(8)(a)(iii) | The power for Ofgem to require sampling is broad, even if it is satisfied under paragraph 7 as to the fossil fuel content – and there are no restrictions on the exercise of this power. If this is needed for flexibility, then more information will be needed in Ofgem's guidance on how this will be used.   |

**Regulation 24: solid biomass as a source of energy in accredited RHI installations with an installation capacity of 1MWth or above**

|          |  |
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| 24       | See comments on regulation 5 above. Need to be sure that installations using contaminated fossil fuel (some of which could have a fossil fuel contamination greater than 10%) are not excluded under regulation 5  |
| 24(4)(b) | As in regulation 23, there is no requirement on the Authority to make its decision reasonably  |
| 24(4)(c) | As discussed at a meeting on 1 April, the policy intent is that fuels with a fossil fuel contamination greater than 10% could be used, so long as this level is not exceeded for the quarter as a whole. This could include using biomass with no fossil contamination to raise the overall average. This sub-paragraph does not allow this as drafted. The last line (percentage of the energy content of the <b>contaminated</b> solid biomass as a whole) would only allow this to be done if contaminated solid biomass were used – ie biomass with 1% fossil contamination could still be used to raise the average, but not if it had no contamination. Removal of the word 'contaminated' from the last line deals with this. |
| 24(7)    | In the third line, replace 'option' with 'opinion'   |
| 24(9)    | 'sustainability information' is never defined (or used at any point in schedule 2). Since 'sustainability' can have multiple meanings, the word 'sustainability' may as well be removed here.  |

**Regulation 25: solid biomass as a source of energy in accredited RHI installations with an installation capacity of between 45kWth and 1MWth**

|          |   |
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| 25(5)    | In the second line, replace 'option' with 'opinion'   |
| 25(6)(a) | Setting the contamination threshold as 'is under 10%' is inconsistent with regulation 24. Suggest this should read 'does not exceed 10%'  |
| 25(6)(b) | After 'as', insert 'to'   |
| 25(6)    | Sentence after 25(6)(b) is wrong('the Authority may request the participant must arrange..'). This could be resolved if initial line begins 'the Authority may request the participant <b>to</b> arrange..' and then continuing as drafted. There would then probably need to be a 25(7) saying that participants must comply with a request made under 25(6) |

**Heading for chapter 2**

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|--|---|
|  | After 'relation', leave out 'for' and insert 'to' |
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**Regulation 26: biogas which has been produced from gasification or pyrolysis**

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| 26    | There is no definition of 'feedstock' here or elsewhere. We're not aware of any problems with this, but there is potential – especially if eligibility for the RHI depends on it (ie currently non-municipal solid waste is not eligible)     |
| 27(3) | Participants are allowed to use fossil fuel for ancillary purposes, but there is no replication of the powers to request samples from Ofgem in 24(8). The need for sampling would be less likely, but is it still worth providing the powers? |

### Regulation 28: biomethane producers

|          |  |
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| 28       | There is no requirement for a participant either not to have received a grant or to have paid it back. See also our comments on regulation 33  |
| 28(2)    | 'composition requirements' is not defined in either regulation 23 or 24. Probably best not to invent a new term?   |
| 28(4)(d) | Following recent discussions with DECC we suggest that 'biogas plant' is understood to include the clean-up/gas purification stage which follows biogas/syngas production in a digester/gasifier   |
| 28(6)    | It seems excessive for biomethane producers to have to retain records for up to 20 years. This might potentially leave them open to greater risk of having payments clawed back – particularly as there is currently no time limit on how long after the event this can be done under regulation 50. |
| 28(7)    | 'sustainability information' is not defined. See comment on 24 (9) above   |

### Regulation 29: ongoing obligations relating to other matters

|       |  |
|-------|--|
| 29(a) | After 'fuel', leave out 'use' and insert 'used'  |
| 29(b) | After 'in', leave out 'chapter' and insert 'chapters'  |
| 29(g) | The statement of eligibility does not necessarily include the information on which if any of regulations 23, 24 or 25 apply – regulation 32(6)(g)  |
| 29(i) | This is too broad. Must the Authority be notified if plant is repainted or a change occurs naturally (ie a small amount of rust)? This could be refined by referring to a 'change made' or 'material change' etc. If this power is retained, will need guidance from Ofgem as to what their expectations are |

### Regulation 30: Ongoing obligations in relation to metering

|       |  |
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| 30(1) | Requirement to keep evidence should also refer to evidence that meter has not been tampered with etc. See also comments on regulation 20 |
| 30(3) | The start of the first line of page 16 should be marked '(c)'  |

### Regulation 31: Ongoing obligations in relation to the provision of information

|       |  |
|-------|--|
| 31(2) | Provision of information 'within 7 days or such other date as the Authority may specify' may be difficult to comply with. Perhaps this should read 'or such other <b>later</b> date'. Even then, there will be occasions when information cannot be provided within 7 days (and these may not be working days). Suggest this power should be amended by ' <b>where practicable</b> , information requested by the Authority..' |
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## Part 4 – accreditation and registration

### Regulation 32: applications for accreditation

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| 32 | There are no performance commitments for Ofgem in the regulations. Accepting that the initial months will be slower, there needs to be clear information for potential participants on the likely timing of approving their application. If not in the regulations, this should be clearly stated in |
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|       | Ofgem's guidance. In practice, provision of well-informed advice via a helpline will make a big difference as it should reduce delays and further queries once applications have been submitted  |
| 32    | What recourse is open to applicants to appeal against Ofgem's initial decision? If nothing else, this should indicate what the applicant would need to do in order to achieve accreditation, not just the narrowest interpretation of the reasons for Ofgem's decision to reject an application. |
| 32(1) | After 'to', insert 'regulation'  |
| 32(7) | This should presumably end 'giving reasons <b>for its decision</b> '   |

### **Regulation 33: exceptions to accreditation applicable to all eligible installations**

|          |  |
|----------|--|
| 33(1)(b) | Cut-off date is that on which the regulations 'come into force'. Elsewhere, 'commencement' is used – see 19(1). Any reason for the difference?   |
| 33(1)(b) | What if the body that made the original grant no longer exists?  |
| 33(1)(b) | It is possible that the final agreement on state aids will be that grants might be partially repaid. Does this sub-paragraph allow for that? This needs to be included or provision for some form of discretion for Ofgem.   |
| 33(2)    | We understand that this is a complex area, and not entirely within the UK Government's control, but clarity on which grants must be repaid will be needed, both for historic ones and any in the future. We also note that this would not exclude schemes benefitting from CERT, CESP etc. Although it is a matter for Treasury, clarity will also be needed on other measures such as ECAs and EIS. |
| 33(2)    | Is the meaning of 'public authority' self-evident, or does it need further definition?   |
| 33(4)    | Replace 'eligibility obligations' with 'eligibility criteria or ongoing obligations'   |

### **Regulation 34: changes in ownership**

|          |  |
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| 34       | It needs to be made clear that the ongoing obligations and requirement to comply with the eligibility criteria fall to the new owner, following a successful transfer of ownership. Assuming this is the case, there do not appear to be sanctions the Authority can take against the former owner, in the event of his not behaving constructively. |
| 34(5)(a) | As there is no general definition of 'central register', this should probably be altered to read: 'update the central register referred to in regulation 32(6)(d)'   |
| 34(6)    | Second line: after 'accredited RHI installation the', remove 'accreditation'   |
| 34(6)    | First line of page 18: after 'will' insert 'be'  |

### **Regulation 35: producers of biomethane**

|          |   |
|----------|---|
| 35(4)(b) | Is this the same central register referred to in regulation 32(6)(d) or a different one?          |
| 35(5)    | Second line: replace 'eligibility obligations' with 'eligibility criteria or ongoing obligations' |

### **Regulation 36: preliminary accreditation**

|           |  |
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| 36        | Should the ability to obtain preliminary accreditation not also be extended to biomethane producers? This is particularly important given that preliminary accreditation is one possible reference point that could be used when considering how to treat projects in the pipeline when changes are made to the scheme in future.  |
| 36(3)     | Installations 50MW and above do not have to receive planning consent under TCPA as they are covered by the Planning Act 2008. As drafted, it would therefore be extremely easy for an installation of that size to demonstrate compliance with 36(3)(b). Note that the Planning Act will be changed significantly by measures currently going through Parliament in the Localism Bill so any references in the RHI regulations would have to work for both before and after any changes take effect.   |
| 36(8)     | The numbering for paragraphs from here to the rest of the regulation is wrong. First line reference to paragraph '8' should read '9'   |
| 36(9)     | Change reference to paragraph '7' to '8'   |
| 36(10)(a) | After 'preliminary accreditation of', leave out 'an' and insert 'a'  |
| 36(10)    | Add a further sub-paragraph to require the Authority to notify the applicant of any amendments or additions to the conditions attached to the preliminary accreditation – not required at present if these change under paragraph (8)  |
| 36(10)    | Although decisions on treatment of installations that have received preliminary accreditation should tariff rates change have not been taken, some information should be provided to the potential participant on how that installation would be treated if it were able to apply for full accreditation at that point. Given potential ambiguities around installation capacity, specifying Ofgem's view of the installation capacity would help here, without committing Ofgem to a decision on the tariff level received (although this would obviously be preferable). The drafting already allows for preliminary accreditation to be altered on conversion to full accreditation should any of the conditions in paragraph (7) apply but this would give some comfort to developers. |
| 36(11)    | Change reference to paragraph '9' to '10'  |
| 36(11)    | If our recommendation above for 36(10) on requiring the Authority to notify changes to attached conditions is accepted, then the reference here to the date on which conditions are to take effect should also include changes to those conditions.  |
| 36(12)    | Change reference to paragraph '2' to '3'   |

## **Part 5 – periodic support payments**

### **Regulation 37: payment of periodic payments to participants**

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| 37(4) | Second line: after 'biomethane will' insert 'be' |
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### **Regulation 38: periodic payments for simple systems**

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| 38 | We note that neither 'simple' nor 'complex' are terms used in the Order itself. Care will need to be taken that this remains the case (or the link between the terms and the definition given in 38(1) is explicitly given. Also, the conditions to receive payments as a simple system (regulation |
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|       |  |
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|       | 38) are not exactly the same as those for metering (regulation 16). <sup>1</sup> It would be possible for an installation to be simple for the purposes of periodic support payments and complex for the purposes of metering. Ofgem's guidance will need to ensure this does not lead to confusion. |
| 38(2) | The reference to 'A' being 'the tariff fixed by the Authority' should probably refer explicitly to this being done under 37(4) or as in the statement of eligibility under 32(6)(g)(ii)  |

### **Regulation 39: periodic payments for complex systems**

|       |   |
|-------|---|
| 39    | See comments above on use of 'simple' and 'complex'   |
| 39(2) | The logic behind the formula is not immediately obvious either from the regulations or the policy document. Ofgem's guidance will need to explain that, where heat is produced not entirely for eligible purposes, the heat generated by the accredited installation will be allocated between all uses of it. This means potentially that some heat generated by renewables and otherwise eligible for the RHI will not be counted or rewarded |
| 39(2) | First line: after 'participants will be paid a', leave out 'period' and insert 'periodic'   |
| 39(2) | Second line: after 'one of the following', leave out 'equation' and insert 'equations'  |
| 39(2) | See comments above on 38(2) for the tariff 'fixed by the Authority'   |

### **Regulation 41: fossil fuel contamination adjustment to periodic support payments for producers and combusters of biogas produced from gasification and pyrolysis**

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| 41(1) | After 'participants', leave out 'producing and'. Can't see the rationale for including these words in, as it doesn't seem necessary to enable regulation 42. |
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### **Regulation 42: periodic support payments to producers of biomethane**

|       |  |
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| 42    | We have already had some discussions with DECC on how the element D is to be calculated. This will need to be able to assess various situations in which heat is added to the clean-up/gas purification plant – whether from renewables, a fossil gas boiler or CHP. |
| 42(1) | After 'will be paid a', leave out 'period' and insert 'periodic'   |

## **Part 6 – additional RHI capacity**

### **Regulation 43: treatment of additional RHI capacity**

|          |  |
|----------|--|
| 43(4)    | Leave out 'paragraphs' and insert 'paragraph'                        |
| 43(5)(d) | After 'in accordance with', insert 'sub-'                            |
| 43(7)    | The treatment of additional capacity first commissioned more than 12 |

<sup>1</sup> Apart from word ordering, the substantive difference is that a simple metering system requires that 'the building or other enclosed structure to which the heat is supplied is located on the same site' as the plant generating and supplying heat (regulation 16(1)(a)), whereas this is not required for a simple calculation of the periodic support payment under regulation 38.

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|  | months after the first commissioning of the accredited RHI installation does not seem to be in line with the policy document |
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## Part 7 – enforcement

Although we support the need for credible enforcement powers, this must be balanced with the need not to be overly heavy-handed in the way the scheme is administered. We go into specifics below, but in general we are concerned that several of these powers are too broad. As the severity of the action open to Ofgem is increased, this is not always matched by increased checks and balances. It should also be noted that the power to withhold payments even for a few months could, in itself, be a serious sanction with significant consequences.

This is an additional concern in the absence of requirements for Ofgem to have regard to the materiality of the breach and/or to act proportionately – or to provide appropriate compensation in the event of it being at fault. In order for participants to have confidence on this point, they would also need to be confident in the appeals process, which is yet to be outlined – a significant omission given the policy decision has already been taken that this will be internal.

Whatever powers are granted to Ofgem, the guidance will have to spell out how and in what circumstances it intends to use them.

### **Regulation 47: power to suspend periodic support payments where ongoing failure to comply**

|       |  |
|-------|--|
| 47(1) | There is no greater constraint on how Ofgem uses this power than that under regulation 46 (it only needs to be satisfied). A failure to comply with an eligibility criterion or ongoing obligation could be relatively trivial, so we suggest a requirement that such non-compliance is material. We believe this is necessary given that payments lost under this regulation will not be recovered. |
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### **Regulation 48: power to stop participants' periodic support payments**

|       |   |
|-------|---|
| 48(1) | After 'satisfied that there' insert 'is or'. See 49(1) for comparison                                       |
| 48    | No requirement for the Authority to act proportionately – although this is included in regulation 49(3)     |
| 48    | No requirement for the Authority to provide evidence in support of its decision, although required in 49(d) |

### **Regulation 49: power to reduce periodic support payments**

|          |   |
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| 49(4)(a) | After 'the participant has failed' remove 'or may be failing'. This action should only be taken if the Authority is 'satisfied' so it shouldn't be in doubt of whether the participant is failing to comply |
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### **Regulation 50: overpayment notices and offsetting**

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| 50 | There should be some time limit set on how long after the event Ofgem can reclaim overpaid amounts. This power cannot remain completely open-ended. |
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| 50(1)(a) | What if the participant refuses to pay the sum required by Ofgem? It does not appear that there is any further action it can take. The other sanctions provided in regulations 44-49 and 51 all relate to failure to comply with eligibility criteria or ongoing obligations – which doesn't appear to include this regulation. See also comments on regulation 34. |
| 50(2)    | As in regulation 48, there should be a requirement for the Authority to provide evidence in support of its decision – as required in 49(d)  |
| 50       | The Authority should exercise restraint in exercising this power, particularly in relation to time periods for repayments, if the overpayments arise from Authority error. If this is not included in the regulations it will need to be explicit in Ofgem's guidance   |

## Part 8 – withdrawal of sanctions

See comments above on Part 7.

### Regulation 52: withdrawal of part 7 sanctions

|       |  |
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| 52(3) | First line: after 'Authority' leave out 'in' |
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## Part 10 – administrative functions of the Authority and notices

### Regulation 56: reporting obligations

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| 56(1)(a)(v) | Sustainability information is never explicitly defined. See comments on regulations 24 and 28 |
| 56(3)       | It may be implicit, but there are no requirements on the timing of Ofgem's quarterly reports  |

## Schedules

### Schedule 1: information to be provided on application for accreditation or registration

|                |   |
|----------------|---|
| 1(1)(j)        | After 'municipal', leave out 'solid'  |
| 1(1)(j)        | No references given for the Environmental Permitting Regulations or Waste Incineration Directive                  |
| 1(1)(q)        | After 'equipment supplying heat', leave out 'to'. It is possible this change does not reflect the drafting intent |
| 1(1)(r)        | It should be allowable that evidence could also be provided by the participant rather than the installer          |
| 1(1)(s)(v)(aa) | After 'has', leave out 'with'   |
| 1(1)(s)(v)     | Ofgem's guidance will need to be clear on what constitutes 'an independent report by a competent person'          |

### Schedule 2: provision of information in relation to use of biomass in certain circumstances

|               |   |
|---------------|---|
| 1(2)          | After 'falls within paragraph', leave out '(2)' and insert '(1)'        |
| 1(2)(a)(viii) | After 'biomass used was an energy crop', leave out 'of' and insert 'or' |
| 1(2)(a)(viii) | Use of 'consignment' is questionable here. May be redundantly           |

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|-------------|--|
| (aa)        | replicated error from the text in the RO Order – particularly since reporting under 1(4) is quarterly rather than by consignment |
| 1(2)(a)(ix) | Doesn't seem to be a good reason for retaining the square brackets around 'or any matter from which it was derived'              |
| 1(5)(a)     | After 'giganteus', leave out ')' and insert '('  |
| 1(5)(a)     | After 'perennial', leave out 'granss' and insert 'grass'   |
| 1(5)(c)     | Leave out 'populous' and insert 'populus'  |

### **Schedule 3: tariffs participants**

This table needs reworking. In particular, it is not explicit under what tariffs CHP from the various technologies would be treated – from deep geothermal, solid biomass, biogas etc. Many of the terms used are also not established elsewhere in the regulations. If they are retained, this schedule will need to define these and link them explicitly to other parts of the regulations.

|                          |   |
|--------------------------|---|
| Title                    | Presumably this should read 'tariff participants', or 'rates of periodic support payments for participants'   |
| Small commercial biomass | Leave out 'solid' in 'municipal solid waste'.   |
|                          | The second 'small commercial biomass' (ie the one on page 32) should read 'small commercial ground source'. It is also not explicit what tariffs deep geothermal would be eligible for (ie an installation eligible by virtue of regulation 10) |

5 April 2011