

Kiwa Rules for equivalence assessment for fuel standards, fuel certification schemes, maintenance standards and maintenance schemes for NDRHI

Introduction

KIWA provides assessment services for standards and / or schemes claimed as equivalent within the meaning of the Regulations. It does so under contract to the Department. The relevant Department may be identified as BEIS or DESNZ in this document.

An owner of a scheme for ensuring wood fuel quality or for ensuring application of standards of maintenance for biomass appliances may apply for their scheme to be assessed to determine whether it meets the standard of equivalence to schemes identified in the regulation. Any such application shall be governed by these Rules.

Following a successful assessment, KIWA shall make a recommendation through the Department to the Secretary of State with regards to the findings of the assessment. The Secretary of State shall make a decision either to accept or to reject the recommendation provided by Kiwa.

A link to the Kiwa Limited General Terms and Conditions is provided at the end of this document.

Definitions

1. In these Rules

Applicant: means a Scheme Owner or a Standard Owner applying to KIWA for assessment of equivalence of their scheme or standard to those identified in the regulations.

BEIS: means the Department for Business, Energy and Industrial Strategy or any future department with responsibility for the ongoing commitments with regards to the compliance of recipients of the Non-domestic Renewable Heat Incentive.

Change of Control: means a change in the person having “control” of an entity where “control” means, in the case of companies and corporations, beneficial ownership of more than fifty percent of the voting stock, shares, interest or equity and, in the case of any other legal entity, the ability to directly or indirectly control the management and/or business of the legal entity.

DESNZ: means the Department for Energy Security and Net Zero or any future department with responsibility for the ongoing commitments with regards to the compliance of recipients of the Non-domestic Renewable Heat Incentive, formerly the Department for Business, Energy and Industrial Strategy

KIWA: means Kiwa Limited.

Kiwa Limited Board: means the Board of directors of Kiwa Limited.

NCR: means Non-compliance with a requirement for equivalence with the schemes or standards identified in the Regulations identified by Kiwa or notified to Kiwa.

Recognised Equivalent Scheme: means a scheme that has been approved by the Secretary of State in accordance with these Rules.

Recognised Equivalent Standard: means a standard that has been approved by the Secretary of State in accordance with these Rules.

Regulations: means the regulations relating to the Renewable Heat Incentive Scheme and amendments thereto including: Statutory Instrument 2018 No. 611 The Renewable Heat Incentive Scheme Regulations 2018, Statutory Instrument 2021 No. 76 The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulation 2021, Statutory Instrument 2022 No. 159 The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulation 2022 and any relevant amendments made subsequently by the UK government.

Rules: means these Rules for equivalence assessment for fuel certification schemes and maintenance schemes for NDRHI as amended from time to time in accordance with Rule 2.2.

Application for Assessment of Equivalence for Standards OR Schemes

2. Method of Application

2.1. Applications for the assessments of equivalence for Standards or Schemes shall be made by submission of an application form which is available from KIWA on request.

2.2. By applying to have a standard or scheme assessed, an Applicant undertakes to KIWA that if the application is accepted, the Applicant will comply with these Rules and the Regulations. KIWA agrees to comply with these Rules and the Regulations and to notify Producers of any amendments to these Rules within a reasonable time.

3. Payment of Application Fees and Charges

3.1. A fee, subject to quotation, shall be payable in advance of any assessment of equivalence of any relevant standard or scheme and the technical evaluation of the data which will be used to make the recommendation decision.

3.2. The requirement by KIWA for any additional work in connection with an application will necessitate the payment of a charge, which shall be subject to quotation by KIWA and payable in advance of additional assessments. Additional work is work that is not included in the scope of the original quotation. Changes to the standard or scheme notified to Kiwa after the acceptance of a quotation for an assessment may require additional work.

3.3. All fees and charges payable pursuant to these Rules, shall be subject to separate quotation. All fees and charges are payable within 30 days of the date of invoice and will be retained by KIWA irrespective of the outcome of the assessment.

NOTE: Site visits are not expected for this service but the clauses 3.4 and 3.5 retained in case this need should arise.

3.4. If an Applicant fails to provide facilities for an assessment visit for which the Applicant has been given reasonable notice, or cancels an arranged assessment visit by giving KIWA less than fourteen days' notice of cancellation, the Applicant shall be responsible for payment of KIWA's fees and charges for such visit or assessment in full. This is typically 50% of the total Visit Fee plus any unrecoverable expenses (air fares, hotels etc.). Cancellation of a visit more than two weeks in advance of the visit will result in an administration charge of £150 plus any unrecoverable expenses (air fares, hotels etc.). A visit should not be scheduled if the date requested is less than 14 days ahead.

3.5 Additional fees may be charged at the discretion of KIWA, should the applicant:

- Cancel a scheduled assessment visit (see Rule 3.4)
- Require a revisit/additional office visit

- Request additional certificates
- Request to change address/details of approval more than once

4. Requirements for the Approval of a Scheme or Standard

4.1. KIWA will recommend approval of an Applicant's scheme OR an Applicant's standard if the following requirements are met:

- a) The applicant meets the requirements set by DESNZ for the owner or operator of a relevant scheme or standard.
- b) The scheme or standard includes the key elements required to deliver the objectives
- c) The requirements embodied in the key elements will ensure that the objectives are delivered in a robust and reliable manner.
- d) The applicant is responsible for demonstrating compliance with the equivalence requirements and with these rules.

5. Initial Review of the Documentation

5.1 Following receipt of a completed application, an initial review of the supporting documentation received shall be undertaken by KIWA.

5.2 For each application the documentation required to be submitted shall provide, as a minimum, the following:

- Evidence of the competence of the applicant to undertake the activities necessary for ownership of a product certification scheme OR operation of a standards management system
- The definition and rules of the scheme OR the complete standard.
- Description of the mechanisms by which the scheme OR standard has been developed
- Description of the mechanisms by which the scheme OR standard will be maintained and governed
- Description of the mechanisms by which the elements of the scheme are to be implemented.

A checklist is provided in the KIWA application forms.

5.3. The Applicant shall ensure that all documentation is provided in English OR is accompanied by a verified translation into English.

NOTE: Site visits are not expected for this service but clause 6 is retained in case this need should arise.

6. Assessment Visits - schemes

6.1. The equivalence assessment will be focussed on documentation however if a site assessment visit is identified as necessary to complete the assessment of equivalence then the Applicant shall permit KIWA's appointed representative to complete the assessment process by assessing the operation of the scheme and the Applicant shall provide them with all necessary facilities to undertake this assessment. This assessment shall cover all the elements of the scheme required to achieve equivalence, together with such other items as may from time to time be prescribed and published by KIWA.

6.2. The extent of any site visit assessment shall be prescribed by KIWA having regard to the range and scale of the facilities. This will be decided by KIWA and be reviewed on a case by case basis.

6.3. The individual responsible for the scheme or any deputy, as appropriate, shall be present throughout assessment visits.

7. Appraisal of Application

7.1. When considering an application KIWA shall do one of the following:

- a) Assess the standard or scheme as meeting the requirements set out in these Rules; or
- b) Defer further assessment of the application for a period because the requirements of Rule 4 are not yet met. Such failures shall be notified to the Applicant. Under these circumstances a further assessment of the applicant may be necessary for which a fee, subject to separate quotation by KIWA, will be payable in accordance with Rule 3.3; or
- c) Reject the application on such grounds as are notified to the Applicant and to the SoS.

7.2. If the Applicant has not complied with the requirements of Rules 4, 5, and 6 so as to enable KIWA to complete the assessment of the equivalence of the scheme within a period of twelve months after the date of the application KIWA may cancel the application or extend the validity of the application subject to the payment of a fee to be determined from time to time by KIWA.

APPROVED EQUIVALENT SCHEMES OR STANDARDS

8. Effect of Approval

8.1. A recommendation for Approval as an equivalent scheme is made to the SoS for a scheme that is assessed and found to comply with the requirements set out in these Rules and KIWA is satisfied that the required conditions have been met and all fees have been paid.

9. Change of Scheme Owner's or Standard Owner's Particulars or Changes to an Approved Scheme or an Approved Standard

9.1. A Scheme Owner shall give written notice to KIWA if during the assessment period for any of:

- a) change in the location or method of operation of any Approved Scheme OR Approved Standard;
- b) change or modification to an Approved Scheme OR Approved Standard;
- c) change of Control in relation to the Scheme Owner OR to the Standard Owner;
- d) change to any significant particulars or declarations upon the basis of which a scheme or standard was assessed to be equivalent to those identified in the Regulations.

Such notice shall be given within thirty days of any such change becoming effective and shall provide full details of the relevant change.

9.2. Where in the opinion of KIWA the changes notified by a Scheme Owner OR by a Standard Owner are such that the conditions under which the assessment is being made are significantly affected, the Scheme Owner OR Standard Owner shall, if KIWA so requires:

- a) make a new application for Assessment under these Rules; or
- b) make information available, as required by Rule 10, for an additional assessment to be made to confirm continued compliance with the Rules. There will be a fee for any such assessment, which shall be subject to quotation by KIWA. The provisions of Rule 3.4 shall apply in relation to cancellation of any assessment.

10. Not used

Change of recommendation regarding Scheme or Standard

11. Reversal of recommendation

11.1. KIWA may, at any time, change its recommendation to the Secretary of State, without prior notice to the Scheme Owner or Standard Owner if:

- Evidence is received that the Scheme or Standard has been changed without notification being given to Kiwa in accordance with Rule 9.
- Evidence is received that the owner of an Approved Scheme is not ensuring that any body delivering it is complying with its requirements as approved.

Evidence is received that the owner of an Approved Standard is not ensuring that any body applying it is complying with its requirements as approved.

- Recommendation for reversal is made by the Assessment Decision Maker
- KIWA is of the reasonable opinion that the Scheme Owner or Standard Owner has failed to comply with these Rules, or the Regulations in respect of an Approved Scheme OR and Approved Standard.

12. Appeals

12.1. A Scheme Owner OR Standard Owner ('the appellant') may make written representations to KIWA against any decision of KIWA to refuse the appellant's application for the assessment of a scheme or of a standard as equivalent to those identified in the regulation or to change their recommendation to the Secretary of State to reject the claim of equivalence, other than a decision made pursuant to Rule 11.1 (non-payment of fees). Such written representations setting out the grounds upon which they are made shall be served on KIWA, by recorded delivery, within fourteen days of the date of the notification of the decision.

12.2. No person who participated in making the recommendation being disputed shall participate in KIWA's consideration of the appellant's representations. KIWA shall rule on the appellant's representations within a reasonable time and shall promptly communicate its ruling, containing a short statement of reasons, to the appellant by recorded delivery.

12.3. If the appellant does not accept KIWA's ruling made pursuant to Rule 12.2, it may make a final appeal by sending KIWA written notice of appeal setting out the grounds upon which the appeal is made and having annexed to it copies or particulars of all documents and other evidence to be relied upon at the hearing of the appeal. Such notice shall be sent to KIWA by recorded delivery so as to arrive at KIWA's registered office within twenty-eight days of the date of recorded dispatch of the ruling made pursuant to Rule 12.2, and the notice shall be accompanied by such monetary deposit as KIWA may from time to time prescribe. If no appeal is made in accordance with this Rule, the appellant will be deemed to have accepted KIWA's ruling made pursuant to Rule 12.2.

12.4. The appellant's appeal pursuant to Rule 12.3 shall be heard by an Appeal Committee of three persons drawn from KIWA's Appeals Panel, whose members shall be appointed for such period as the KIWA Group Board shall determine. The Appeal Committee shall be appointed by the Group Chairman and shall comprise one member of the KIWA Group Board (who shall act as chairman of the Appeal Committee) and two persons who are not members of the KIWA Group Board. No member of the Appeal Committee shall have had any prior involvement with or any other vested interest in the decision under appeal. KIWA shall notify the appellant of the composition of the Appeal Committee by recorded delivery as soon as practicable after the Appeal Committee has been appointed, and the appellant shall have the right within fourteen days after receipt of such notification to object to the composition of the Appeal Committee by giving KIWA written notice by recorded delivery of the grounds for such objection. The grounds for such objection shall be referred to the Group Chairman whose decision thereon (which shall be final) shall be notified to the appellant as soon as practicable after it is made.

12.5. As soon as the composition of the Appeal Committee has been finalised, KIWA shall give the appellant a minimum of twenty-eight days' notice, sent by recorded delivery of the date, place and time of the hearing of the appeal. KIWA and the appellant shall each provide to the other all papers upon which it intends to rely at the hearing of the appeal not less than seven days before the hearing of the appeal.

12.6. The hearing of the appeal will be held in private unless the appellant requests that it be held in public. Subject to the Rules, the Appeal Committee shall have power to regulate its own practice and procedure, and

the chairman of the Appeal Committee shall have power to extend any period within which anything is required to be done pursuant to Rules 12.3 to 12.9. The Appeal Committee shall have the power to consider all the evidence available when the decision appealed against was made and any new evidence and to call witnesses. The appellant shall be given a full and fair opportunity of being heard and of calling witnesses and cross examining any other witnesses testifying before the Appeal Committee and shall be allowed to appear in person or to be represented by solicitors or counsel or any other person.

12.7. The Appeal Committee shall have full powers to:

- a) uphold the appeal and either to reverse or modify the decision appealed against, subject to any conditions that the Appeal Committee may apply;
- b) to reject the appeal; and
- c) make such order for the payment of the costs of the appeal as it thinks fit.

12.8. The sum deposited pursuant to Rule 12.3 shall be applied in such manner as the Appeal Committee may decide. In the absence of any order by the Appeal Committee to the contrary, each party shall bear its own costs.

12.9. The decision of the Appeal Committee shall be final and conclusive and shall be binding on KIWA and the appellant. The decision, which shall include a brief statement of reasons, shall be communicated in writing to both the appellant and KIWA as soon as practicable after it is made.

13. Confidentiality

All information, acquired and held by KIWA in respect of an applicant or Scheme Owner of an approved scheme or Standard Owner of an approved standard shall be held by KIWA in confidence and, except as required by any regulatory or accreditation body, by law, by these Rules or to confirm compliance with the Rules, shall not be disclosed by KIWA to any third party (other than DESNZ, Ofgem and The Secretary of State) without the prior written agreement of the enterprise concerned.

14. Data Protection

14.1 KIWA may keep and use personal data (such as contact details) about officers and employees of Owners of Approved Schemes OR Owners of Approved Standards for all purposes that KIWA requires to ensure compliance with the Rules, including, but not limited to, the disclosure to third parties of the identity of such officers and employees. Personal data will be kept according to the conditions set out in our Privacy Policy: <https://www.kiwa.com/49b895/globalassets/uk/kiwa-uk-group-privacy-policy.pdf>

15. Law and Jurisdiction

The registration process and the validity, construction and performance of these Rules shall be governed by English Law.

Kiwa Limited Registered in England No. 03473056

Registered office: Kiwa Limited
 Kiwa House
 Malvern View Business Park
 Stella Way, Bishops Cleeve
 Cheltenham, GL52 7DQ, UK

Kiwa Limited General Terms and Conditions are available here:

<https://www.kiwa.com/globalassets/uk/tcs/kiwa-limited-terms-and-conditions-3.1.-final.pdf>

<https://www.kiwa.com/4a1e48/globalassets/uk/pages/kiwa-uk-group-general-terms-and-conditions.pdf>

Kiwa Limited is Part of the Kiwa Group