
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in Great Britain, establish the Green Gas Support Scheme (“the Scheme”) which runs to 31st March 2041.

The Scheme is a renewable heat incentive scheme to facilitate and encourage the production of biomethane by anaerobic digestion, for injection into the gas grid. To that extent the Scheme replaces the Renewable Heat Incentive Scheme, set out in the Renewable Heat Incentive Scheme Regulations 2018 (S.I. 2018/611), which closed to new applicants, with some exceptions, on 31st March 2021.

The Scheme supports the production of biomethane through a tariff based mechanism, and is funded by levy payments from fossil fuel suppliers.

The Regulations confer functions on the Gas and Electricity Markets Authority (“the Authority”) in relation to the administration of the Scheme.

Part 2 (registration of participants and tariff guarantees) sets out the process by which a person who produces, or proposes to produce, biomethane for injection by anaerobic digestion can apply to be registered as a participant in the Scheme in relation to that production using specified equipment used to produce biomethane (that is, equipment including at least one anaerobic digester).

It provides that the person must first make an application to the Authority for a tariff guarantee. The effect of the tariff guarantee, if granted, is that once they are registered as a participant, they are entitled to be paid the initial tariff that applied on the date of their application for the tariff guarantee (rather than the initial tariff applicable on the date on which they become registered as a participant). It also provides for registered participants to apply to be registered in relation to additional biomethane capacity. The final date on which an applicant may be registered as a participant, and a participant can be registered in relation to additional biomethane, under the Scheme is 30th November 2025.

Part 3 (ongoing obligations on participants) sets out the obligations on participants, including in relation to: the feedstock from which the biomethane may be produced, the spreading of digestate generated from anaerobic digesters, the provision of information to the Authority, and the requirement to produce sustainable biomethane and to submit sustainability audit reports to the Authority.

Part 4 (changes affecting participants) provides for the Authority to review a participant’s registration following a change of circumstances. It also sets out the circumstances in which a person who starts to use equipment to produce biomethane, where that equipment was previously used by a registered participant, can become registered instead as the participant. And it provides for a participant to withdraw from the Scheme.

Part 5 (periodic support payments) sets out a participant’s entitlement to periodic support payments for 15 years from the date of their registration as a participant, and sets out the mechanisms by which initial and subsequent tariffs are calculated.

Part 6 (enforcement: participants) provides for the Authority to take action in the event that a participant fails to comply with an ongoing obligation, or was registered as a participant on the basis of information which was incorrect in a material particular. The Authority may: withhold or reduce a participant’s periodic support payments, correct the level of tariff being paid to a participant, revoke a participant’s registration, and recover overpayment of periodic support payments.

Status: This is the original version (as it was originally made).

Part 7 (the levy) provides that licensed gas suppliers who are fossil fuel suppliers are “scheme suppliers” and liable to make levy payments to the Authority. But it provides that, where the Authority is satisfied that at least 95% of the gas supplied by them in a year was biomethane, a licensed gas supplier is not a scheme supplier in relation to that year, but is an exempt supplier. It sets out the mechanism by which a supplier must notify the Authority, before the start of a year, if they consider it is likely they will be an exempt supplier, and by which the Authority will determine, after the end of the year, whether the supplier is in fact exempt.

Part 7 requires scheme suppliers to lodge levy credit payments, or provide letters of credit, and to make quarterly levy payments in arrears. It provides for the Secretary of State to calculate a levy rate each year, based on factors including the projected scheme expenditure on periodic support payments for that year, and sets out the mechanism by which the Authority calculates the quarterly levy payments of each scheme supplier, based on the number of meter points served by them.

Part 8 (additional obligations on scheme suppliers) sets out the obligations on scheme suppliers to provide information to the Authority, including information about the number of meter points served by them.

Part 9 (changes affecting scheme suppliers) provides that, where a scheme supplier was a provisionally exempt supplier in relation to a year but is not subsequently determined to be an exempt supplier in relation to that year, they are required to make a backdated levy payment in relation to that year. It provides that where a supplier is confirmed to be an exempt supplier in relation to a year, but had not been a provisionally exempt supplier in relation to that year, the Authority must make a refund payment to them in relation to that year. And it provides for a scheme supplier to cease to be a scheme supplier (other than by virtue of being a provisionally exempt or exempt supplier) and for the payment to the Authority, or to the former scheme supplier, of any sums due as a result.

Part 10 (compliance and enforcement: scheme suppliers) provides for the Authority to serve enforcement notices where it is satisfied that a scheme supplier has failed to make payments under the Regulations, to recover sums due together with interest. It makes provision for the Authority to draw down a scheme supplier’s credit cover to settle the amount outstanding. And, where the amount of a scheme supplier’s credit cover is insufficient to cover the amount outstanding, it provides for the Authority to carry out a mutualisation process, whereby the outstanding amount is recovered from the other scheme suppliers. It also provides for the Authority to serve penalty notices where a scheme supplier is in breach of an obligation under the Regulations, and for unpaid amounts to be recovered as a civil debt. It provides for the Authority to maintain a public register of suppliers’ default, and for scheme suppliers to appeal to the High Court in England and Wales, and the Court of Session in Scotland, against the imposition of an enforcement notice or a penalty notice.

Part 11 (administrative functions of the Authority) enables any applicant, participant or former participant to apply to the Authority for a review of any decision affecting them. It requires/enables the Authority to publish guidance in relation to the administration of the Scheme, and requires the Authority to report on the operation of the Scheme to the Secretary of State.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.