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STATUTORY INSTRUMENTS

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**2021 No. 1335**

**The Green Gas Support Scheme Regulations 2021**

**PART 1**

Introductory

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Green Gas Support Scheme Regulations 2021 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales and Scotland.

**Interpretation**

2.—(1) In these Regulations—

“acceptable letter of credit” has the meaning given in regulation 43(3);

“additional biomethane<sup>(1)</sup>” has the meaning given in regulation 8(7)(a);

“additional credit cover” has the meaning given in regulation 52(1)(c);

“anaerobic digester” means a plant which produces biogas<sup>(2)</sup> by anaerobic digestion;

“anaerobic digestion” means the bacterial fermentation of biomass<sup>(3)</sup> in the absence of oxygen;

“applicant” means a person who makes an application for a tariff guarantee, or an application for registration under regulation 5;

“approved sustainable fuel” means solid biomass which is listed under a scheme approved by the Secretary of State in accordance with Schedule 2;

“backdated levy payment” has the meaning given in regulation 49(2);

“central register” has the meaning given in regulation 6(1);

“certified biomethane” has the meaning given in regulation 38(15)(c);

“commissioned”, in relation to equipment used to produce biomethane for injection, means—

(a) the completion of such procedures and tests as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of equipment in order to demonstrate that it is capable of producing biomethane for injection, and

(b) every anaerobic digester which is part of that equipment has produced biogas which has been upgraded to biomethane and injected;

“connected person”, in relation to an applicant, a participant, or a licensed gas supplier, means any person connected to them within the meaning of section 1122 of the Corporation Tax Act 2010<sup>(4)</sup>;

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(1) See section 100(3) of the 2008 Act for the definition of “biomethane”.

(2) See section 100(3) of the 2008 Act for the meanings of “plant” and “biogas”.

(3) See section 100(3) of the 2008 Act for the definition of “biomass”.

(4) 2010 c. 4.

“consumer prices index” means—

- (a) the consumer prices index calculated and published by the Statistics Board<sup>(5)</sup>, or
- (b) where the index is not published for a year, any substituted index or figures published by the Statistics Board;

“credit cover requirement” has the meaning given in regulation 41;

“current information” means information which is no more than five working days out of date;

“date of registration”, in relation to a producer of biomethane, means the first day which falls on or after the date of receipt by the Authority<sup>(6)</sup> of the application for registration on which the application was, in the Authority’s opinion, properly made;

“digestate” means any substance, except biogas, which is generated from an anaerobic digester;

“eligible biomethane” has the meaning given in regulation 27(2);

“energy content” means the energy contained within a substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of BS 7420:1991 (Guide for the determination of calorific values of solid, liquid and gaseous fuels (including definitions))<sup>(7)</sup>;

“energy crop” has the meaning given in regulation 12(10)(b);

“enforcement notice” has the meaning given in regulation 53(1);

“environmental permit” means a permit issued in accordance with the provisions of the Environmental Permitting (England and Wales) Regulations 2016<sup>(8)</sup>, or the Pollution Prevention and Control (Scotland) Regulations 2012<sup>(9)</sup>;

“equipment used to produce biomethane” means the equipment integral to the production of biomethane for injection, including any anaerobic digester;

“exempt supplier” has the meaning given in regulation 38(10)(c)(i);

“existing credit cover” has the meaning given in regulation 42(6);

“financial penalty” means a financial penalty imposed in accordance with regulation 57;

“financial year” means a 12 month period beginning with 1st April and ending with the following 31st March;

“gas transporter” means the holder of a licence granted under section 7 of the Gas Act 1986<sup>(10)</sup>;

“guaranteed tariff” has the meaning given in regulation 4(9);

“GWh” means gigawatt hours;

“initial tariff” means the tiered tariff calculated in accordance with regulation 22;

“injection” means the introduction of gas into a pipe-line system operated by a gas transporter, and “injected” is to be construed accordingly;

“kWh” means kilowatt hours;

“kWhth” means kilowatt hours thermal;

“levy credit payment” has the meaning given in regulation 42(2)(a)(iii);

(5) The Statistics Board was established by section 1 of the Statistics and Registration Service Act 2007 (c. 18).

(6) The “Authority” means the Gas and Electricity Markets Authority (see section 100(3) of the 2008 Act).

(7) The ISBN for the English language version of this standard is ISBN 0 580 19482 5. This standard was published by the British Standards Institution on 28th June 2011. Copies are available at [www.bsigroup.com](http://www.bsigroup.com) and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL.

(8) S.I. 2016/1154; relevant amending instruments are S.I. 2018/110 and 428, and 2019/39.

(9) S.S.I. 2012/360; relevant amending instruments are S.S.I. 2014/267, 2016/39 and 2017/446.

(10) 1986 c. 44. Section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and amended by section 76 of, and paragraph 4 of Schedule 6 and Schedule 8 to, the Utilities Act 2000 (c. 27), by section 149(5) of the Energy Act 2004 (c. 20), and by S.I. 2011/2704.

- “levy rate” has the meaning given in regulation 39(1);
- “licensed gas supplier” means the holder of a licence under section 7A(1) of the Gas Act 1986**(11)**;
- “local and national laws” means laws applying in the locality in which the site is situated, whether made at a local or national level;
- “maximum additional capacity” has the meaning given in regulation 8(7)(b);
- “maximum initial capacity” has the meaning given in regulation 4(17);
- “meter point” means a supply meter point within the meaning given in the Uniform Network Code (as defined in section 36C(7) of the Gas Act 1986)**(12)**;
- “meter point data”, in relation to a scheme supplier, means the number of meter points served by that scheme supplier on any given day;
- “meter readings” has the meaning given in regulation 9(10)(c);
- “mutualisation payment” has the meaning given in regulation 56(5)(b)(i);
- “mutualisation process” has the meaning given in regulation 56(1);
- “network entry agreement” means an agreement between a person who injects biomethane and a gas transporter under which the person who injects biomethane is entitled to inject biomethane into the pipe-line system operated by that gas transporter;
- “ongoing participant obligation” means an obligation specified in Part 3;
- “original biomethane” means biomethane which is produced by a relevant producer (within the meaning given in regulation 17) and which falls within that producer’s maximum initial capacity;
- “participant” means a producer of biomethane who is registered on the central register in relation to the production of biomethane using the equipment used to produce biomethane specified in the register, and references to a “participant” are to that person’s registration as a participant in relation to that equipment used to produce biomethane;
- “penalty notice” has the meaning given in regulation 57(1);
- “periodic support payments” has the meaning given in regulation 18;
- “pipe-line system” has the meaning given in section 5(10) of the Gas Act 1986**(13)**;
- “producer of biomethane” means a producer of biomethane for injection by anaerobic digestion;
- “properly made”—
- (a) in the case of an application for a tariff guarantee made under regulation 4, means an application which provides the information required by regulation 4(4),
  - (b) in relation to an application for registration made under regulation 5, means an application which provides the information required by or under regulation 5(2), (4) and (5), and
  - (c) in relation to an application to be registered in respect of additional biomethane made under regulation 8, means an application which provides such of the information referred to in regulation 5(4) and (5) as the Authority may require;
- “provisionally exempt supplier” has the meaning given in regulation 38(6);

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**(11)** Section 7A was inserted by section 6(1) of the Gas Act 1995 and amended by paragraph 2(1) of Schedule 6 to the Utilities Act 2000, and by section 149(7) of the Energy Act 2004.

**(12)** Section 36C(7) was inserted by section 81(1) of the Energy Act 2011 (c 16). See paragraph A4.1.1 of the Transportation Principal Document of the Uniform Network Code, issued on 24th July 2020, for the definition of “supply meter point”. Copies of that document are available at [www.gasgovernance.co.uk/TPD](http://www.gasgovernance.co.uk/TPD). Hard copies are not available.

**(13)** Section 5(6) to (10) was inserted by section 149(3) of the Energy Act 2004.

“quarter” means—

- (a) the period beginning with 30th November 2021 and ending with 31st December 2021,
- (b) the period beginning with 1st January 2022 and ending with 31st March 2022,
- (c) a period of three months beginning with 1st January, 1st April, 1st July, or 1st October in any scheme year beginning with or after 1st April 2022;

“quarterly levy payment” has the meaning given in regulation 40;

“relevant tariff” means the tariff applicable to the production of biomethane;

“the Scheme” has the meaning given in regulation 3;

“scheme schedule” has the meaning given in regulation 63(2);

“scheme supplier” has the meaning given in regulation 38;

“scheme year” means—

- (a) the period beginning with 30th November 2021 and ending with 31st March 2022 (“the first scheme year”),
- (b) the financial year beginning with 1st April in any of the years 2022 to 2040;

“subsequent tariff” means the tiered tariff calculated in accordance with regulation 25;

“tariff” means the payment rate per kWh in respect of biomethane injection;

“tariff end date” means the last day of the tariff lifetime;

“tariff guarantee” means a guarantee granted in accordance with regulation 4(6);

“tariff lifetime”, in relation to a participant, means the period for which that person is eligible to receive periodic support payments;

“tariff start date”—

- (a) in relation to original biomethane in respect of which a participant is registered, means the date of registration for that biomethane,
- (b) in relation to additional biomethane in respect of which a participant is registered, means the date of registration for that additional biomethane;

“tiered tariff” means a tariff for which different rates are specified for numbered tiers;

“total mutualisation amount” has the meaning given in regulation 56(4);

“waste” has the meaning given in section 75(2) of the Environmental Protection Act 1990<sup>(14)</sup>;

“waste management licence” means a licence issued in accordance with the Waste Management Licensing (Scotland) Regulations 2011<sup>(15)</sup>;

“working day” means any day other than—

- (a) a Saturday, Sunday, Good Friday, or Christmas Day, or
- (b) a day which is a bank holiday in England, Wales or Scotland under section 1 of the Banking and Financial Dealings Act 1971<sup>(16)</sup>.

(2) Except in regulation 4 (application for tariff guarantee and budget allocation) and 28 (reconciliation payments), where these Regulations provide for a figure to be rounded, that figure must be rounded to the nearest hundredth of a penny, with any two hundredth of a penny being rounded upwards.

<sup>(14)</sup> 1990 c. 43. Section 75(2) was substituted by S.I. 2011/988.

<sup>(15)</sup> S.S.I. 2011/228.

<sup>(16)</sup> 1971 c. 80.

### **The Green Gas Support Scheme**

3. A scheme to be known as the Green Gas Support Scheme, which is a scheme to facilitate and encourage the production of biomethane for injection by anaerobic digestion (“the Scheme”)(17), is established in accordance with these Regulations.

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(17) Section 100 of the 2008 Act enables the Secretary of State to make Regulations establishing a scheme to facilitate and encourage “renewable generation of heat”, which means the generation of heat by means of sources of energy including biogas.