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STATUTORY INSTRUMENTS

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**2021 No. 1335**

**The Green Gas Support Scheme Regulations 2021**

**PART 5**

**Periodic support payments**

**Interpretation of this Part**

**17. In this Part—**

“assessment date” means each 31st January, 30th April, 31st July, and 31st October in the period beginning with 30th November 2021 and ending with 30th November 2025;

“estimated energy from biomethane”, in relation to an assessment date and a relevant producer, as expressed in kWh means—

$$FR \times T \times 10 \times P$$

where—

- (a) FR is the estimated flow rate,
- (b) T is, where the relevant producer is a participant, has made an application for registration or is a proposed producer of biomethane in relation to which there is a pending tariff guarantee, the number of hours in the 12 month period beginning with the assessment date, and
- (c) P is the proportion of biomethane which is calculated as follows—

$$\frac{E}{B}$$

where—

- (i) E is the amount of eligible biomethane in kWh injected by all producers of biomethane who have been registered and in relation to which periodic support payments have been received, and
- (ii) B is the amount of all biomethane in kWh injected by such producers in the quarters for which periodic support payments have been received,

but where the value of either E or B, or both, is 0 (zero), the value of P is to be determined by the Secretary of State;

“estimated flow rate”, in relation to an assessment date and a relevant producer, means—

$$\frac{B}{H}$$

where—

- (a) B is the volume expressed in cubic metres of biomethane that the relevant producer has declared as being the amount which that relevant producer expects will be produced for injection each year once injection has commenced (or if more than one declaration has been given, the volume identified in the latest declaration), or 0 (zero) if no such declaration has been given, and

(b) H is the total number of hours in the 12 month period beginning with the assessment date; “estimated residual energy from biomethane”, in relation to a proposed producer of biomethane in respect of which there is a pending tariff guarantee, means—

$$B \times \frac{M}{Y}$$

where—

- (a) B is the estimated energy from biomethane in excess of 250GWh,
- (b) M is the number of hours in the period beginning with the later of the assessment date or the date identified by the applicant as the date on which injection is expected to commence, and ending 12 months after the assessment date, and
- (c) Y is the number of hours in the 12 month period beginning with the assessment date; “estimated spend”, in relation to an assessment date and a relevant producer, means—
  - (a) except where paragraph (b) applies, the estimated energy from biomethane multiplied by the initial tariff or subsequent tariff, or
  - (b) in relation to a person who proposes to produce biomethane in respect of which there is a pending tariff guarantee—
    - (i) biomethane up to 250GWh multiplied by the initial tariff or subsequent tariff applicable to that estimated energy from biomethane, and
    - (ii) the estimated residual energy from biomethane, if any, multiplied by the initial tariff or subsequent tariff applicable to that estimated energy from biomethane;

“forecast for expenditure”, in relation to an assessment date, means the sum as at that assessment date of the estimated spend for each relevant producer;

“pending tariff guarantee” means a tariff guarantee which has been granted but does not include a case where—

- (a) the producer of biomethane in respect of which the tariff guarantee was granted is registered as a participant,
- (b) an application for registration has been made in respect of such a producer of biomethane, or
- (c) a tariff guarantee has been revoked;

“relevant producer” means—

- (a) a participant who produces or proposes to produce biomethane for injection by anaerobic digestion,
- (b) a person who produces or proposes to produce biomethane for injection by anaerobic digestion who has made an application for registration but does not include a person who has made an application—
  - (i) which has been rejected by the Authority, or
  - (ii) which has been withdrawn by the applicant, or
- (c) a producer of biomethane in respect of which there is a pending tariff guarantee.

### **Periodic support payments**

**18.** Subject to Part 6 (compliance and enforcement: participants), the Authority must make payments (“periodic support payments”) to participants in accordance with this Part out of funds available to it for the purposes of the Scheme.

## **Publication of tariffs**

**19.** The Authority must—

- (a) by 15th March, 15th June, 15th September and 15th December in each scheme year (“the tariff publication date”) publish the initial tariff applicable where a tariff start date falls within the quarter immediately following the relevant tariff publication date, and
- (b) on or before 1st April in each scheme year, publish the subsequent tariff applicable for the period beginning with 1st April of that year and ending with 31st March of the following year.

## **Expenditure forecast statement and tariff change notice**

**20.**—(1) The Secretary of State must publish a statement in accordance with this regulation (“an expenditure forecast statement”).

(2) The expenditure forecast statement must be published by 1st March, 1st June, 1st September and 1st December in each scheme year, beginning with 1st March 2022.

(3) For that purpose the Secretary of State must determine the forecast for expenditure in relation to relevant producers, as at the assessment date immediately preceding the date on which the expenditure forecast statement is to be published (“the latest assessment date”).

(4) An expenditure forecast statement must set out the forecast for expenditure in relation to relevant producers, as at the latest assessment date.

(5) If the new initial tariff will be different from the former initial tariff—

- (a) as a result of a forecast referred to in paragraph (3), and by virtue of regulation 22(2) (calculation of initial tariffs and tariff review), or
- (b) by virtue of regulation 22(4),

the Secretary of State must publish with the expenditure forecast statement a notice (a “tariff change notice”) setting out the new initial tariff and the date on which it will take effect.

(6) For the purposes of paragraph (5)—

- (a) “new initial tariff” means the initial tariff for biomethane produced for injection, having a tariff start date which falls within the next quarter, and
- (b) “former initial tariff” means the initial tariff that would have been applicable to the biomethane produced for injection if the tariff start date had fallen on the day immediately preceding the commencement of that quarter.

## **Calculation and payment of periodic support payments to participants**

**21.**—(1) Periodic support payments are payable for 15 years from the tariff start date.

(2) Paragraph (1) is subject to—

- (a) regulation 8 (additional biomethane),
- (b) regulation 14 (review of registration following notification of a change in circumstances),
- (c) regulation 15 (change of producer of biomethane),
- (d) regulation 16 (withdrawal of participant),
- (e) regulation 29 (power to temporarily withhold periodic support payments to investigate alleged non-compliance),
- (f) regulation 30 (power to withhold periodic support payments: further provisions),
- (g) regulation 31 (power to reduce a participant’s periodic support payments),
- (h) regulation 32 (revocation of registration),

- (i) regulation 33 (power to correct the level of tariff being paid to a participant), and
  - (j) regulation 34 (overpayment notices and offsetting).
- (3) Subject to regulation 4(9) (tariff guarantees), the tariff to be used for the purpose of calculating periodic support payments is—
- (a) for the period beginning with the tariff start date and ending with the end of the financial year in which that tariff start date falls, the initial tariff, and
  - (b) for each subsequent financial year, the subsequent tariff.

### Calculation of initial tariffs and tariff review

**22.**—(1) The initial tariff for a producer of biomethane, where the tariff start date is on or before 30th June 2022, is—

- (a) tier 1: 5.51 pence per kWh,
- (b) tier 2: 3.53 pence per kWh,
- (c) tier 3: 1.56 pence per kWh.

(2) Except as provided in paragraphs (3) and (4), the initial tariff for a producer of biomethane, where the tariff start date is on or after 1st July 2022, is calculated in accordance with the formula—

$A \times (1 - B)$

where—

- (a) A is calculated in accordance with regulation 23, and
  - (b) B is calculated in accordance with regulation 24 in relation to the assessment date immediately preceding the commencement of the quarter in which the tariff start date falls.
- (3) The Secretary of State may—
- (a) review the initial tariff by no later than 1st September in each of 2022, 2023, 2024 and 2025, and
  - (b) as a result of such a review—
    - (i) increase or decrease the initial tariff, provided that such increase or decrease may only take effect on 1st October immediately following the review (“the relevant date”), or
    - (ii) determine that the initial tariff remains unchanged.

(4) Where the initial tariff is increased or decreased as a result of a review described in paragraph (3), the initial tariff for a producer of biomethane where the tariff start date falls in the quarter beginning with the relevant date, is the initial tariff as so increased or decreased.

### Calculation of A

**23.**—(1) For the purposes of regulation 22(2), A is calculated as follows.

(2) Where the tariff start date is within any quarter beginning with 1st April, A is the relevant tariff which would have applied had the tariff start date fallen within the previous quarter (“the previous tariff”), adjusted by the percentage increase or decrease in the consumer prices index for the calendar year ending with 31st December immediately preceding the commencement of that quarter, the resulting figure being rounded.

(3) Where the tariff start date is within any quarter beginning with 1st July, 1st October or 1st January, A is the previous tariff.

## Calculation of B

- 24.**—(1) For the purposes of regulation 22(2), B is calculated as follows.
- (2) The Secretary of State—
- (a) must determine and publish the expenditure threshold figure in relation to each assessment date,
  - (b) may review the published expenditure threshold figure following a review under regulation 22(3)(a), and
  - (c) may, as a result of a review under sub-paragraph (b)—
    - (i) increase or decrease the published expenditure threshold figure provided that such increase or decrease may only take effect on 1st October immediately following the review, or
    - (ii) determine that the published expenditure threshold figure remains unchanged.
- (3) B is 0 (zero) unless paragraph (4) applies.
- (4) B is 0.10 in relation to the assessment date if, as at that assessment date, the forecast for expenditure exceeds the expenditure threshold figure in relation to that assessment date.

## Calculation of subsequent tariffs

**25.** In relation to a particular financial year, the subsequent tariff is the tariff applicable to the biomethane produced by the participant on the last day of the previous financial year, adjusted by the percentage increase or decrease in the consumer prices index for the calendar year ending with 31st December immediately preceding the commencement of that subsequent financial year, the resulting figure being rounded.

## Tariff tiers

- 26.**—(1) For the purposes of calculating an initial tariff under regulation 22(2), or a subsequent tariff under regulation 25, the applicable tier of that tariff is—
- (a) tier 1, in relation to initial biomethane,
  - (b) tier 2, in relation to secondary biomethane, and
  - (c) tier 3, in relation to tertiary biomethane.
- (2) In paragraph (1)—
- (a) “initial biomethane” means the amount of eligible biomethane measured in megawatt hours which is injected in a relevant period, up to 60,000 megawatt hours,
  - (b) “secondary biomethane” means the amount of eligible biomethane measured in megawatt hours injected in a relevant period in excess of the initial biomethane, up to an additional 40,000 megawatt hours, and
  - (c) “tertiary biomethane” means the amount of eligible biomethane measured in megawatt hours injected in a relevant period in excess of the secondary biomethane, subject to paragraph (3).
- (3) Where more than 250GWh of biomethane is injected in any relevant period, the initial tariff or the subsequent tariff will apply to the first 250GWh of such biomethane only.
- (4) In this regulation—
- “applicable tier”, in relation to an initial tariff or a subsequent tariff, means the numbered tier of that tariff, the rate for which applies in determining the initial tariff or subsequent tariff for biomethane production, and

“relevant period” means a 12 month period beginning with the tariff start date, or with the anniversary of the tariff start date.

### Periodic support payments to participants

27.—(1) Subject to paragraphs (3) and (6), regulation 7(2) (treatment of grants from public funds) and regulation 28 (reconciliation payments), participants must be paid a periodic support payment in respect of each quarter, or part of a quarter, during which they are a participant, calculated in accordance with the following formula—

*A × B*

where—

- (a) A is the amount of eligible biomethane in kWh which is injected in that quarter, and
- (b) B is the tariff applicable to the eligible biomethane determined in accordance with regulation 21 (calculation and payment of periodic support payments to participants).

(2) In this regulation, “eligible biomethane” means the amount in kWh of all biomethane or the notified proportion of biomethane injected in a quarter determined in accordance with the following formula—

$$(C - (D + E + F)) \times G$$

where—

- (a) C is the lower of—
  - (i) the amount in kWh of all biomethane or the notified proportion of biomethane injected in that quarter, and
  - (ii) the amount in kWh of biomethane the participant is entitled to supply for injection in that quarterly period under the network entry agreement,
 provided that the sum of the values for C in respect of a scheme year may not exceed the sum of the kWh equivalent of the maximum initial capacity specified under regulation 6(3) (determination of application for registration) and any maximum additional capacity specified under regulation 8 (additional capacity for biomethane production),
- (b) D is the amount of propane in kWh contained in C,
- (c) E is—
  - (i) the heat in kWhth delivered in the relevant quarter to every anaerobic digester which produced the biogas from which the biomethane is made, except any heat contained in feedstock used to produce that biogas, or derived from the combustion of that biogas, or
  - (ii) such proportion (as may be chosen by the participant and agreed by the Authority) of that heat provided that the proportion is no less than—

$$\frac{X}{Y}$$

where—

- (aa) X is the energy content of the biogas contained in the biomethane, and
- (bb) Y is the energy content of all the biogas produced by that anaerobic digester,
- (d) F is the amount in kWhth of heat supplied to the biomethane production process in that quarter from any heat source, other than heat generated from the combustion of biogas produced in every anaerobic digester that produced the biogas from which the biomethane is made, and

(e) G is, subject to regulation 9(6) and paragraph (8), the proportion of biomass contained in the feedstock used in that quarter to produce that biogas.

(3) In paragraph (2), “notified proportion of biomethane” means the proportion of biomethane which the participant specifies in a notice to the Authority as the proportion of the total amount of biomethane in kWh injected in a quarter which is to be taken into account when determining the amount of eligible biomethane for that quarter.

(4) The notified proportion of biomethane must be taken into account in determining values C to F in the formula in paragraph (2).

(5) A participant must notify the Authority of the total amount of biomethane in kWh injected in a quarter.

(6) The Authority must not make a periodic support payment to a participant in respect of any proportion of biomethane injected in a quarter where the Authority is aware that an RTF certificate has been issued under the Renewable Transport Fuel Obligations Order 2007(1) in respect of that proportion of biomethane.

(7) Where a participant is registered in respect of additional biomethane which forms part of the eligible biomethane injected in the quarter referred to in paragraph (1) and the tariff for the additional biomethane differs from the tariff for any other biomethane in respect of which the participant is registered, the periodic support payment for the participant for that quarter is the sum of—

(a) the amount of eligible biomethane in kWh which is original biomethane multiplied by the tariff applicable to that biomethane determined in accordance with regulation 21 (calculation and payment of periodic support payments to participants), and

(b) the amount of any eligible biomethane in kWh which is additional biomethane multiplied by the tariff applicable to that biomethane determined in accordance with regulation 21.

(8) Where a participant uses feedstock partly derived from fossil fuel, the periodic support payment calculated in accordance with this regulation must be reduced pro rata to reflect the percentage of the energy content of gas produced by anaerobic digestion from the fossil fuel in that feedstock used by the participant in the relevant quarter.

(9) Periodic support payments in respect of a quarter ending before 1st April 2022 are not payable before that date.

(10) For the purposes of paragraph (6), “RTF certificate” has the meaning given in section 127(1) of the Energy Act 2004.

### **Reconciliation payments for biomethane**

**28.**—(1) This regulation applies in relation to biomethane produced for injection, including additional biomethane, where in any payment year less than 50% of the total biogas yield is derived from waste or residue.

(2) Where this regulation applies, the sum of the periodic support payments for a payment year must be reduced to the amount calculated in accordance with the following formula—

$$A \times (1.5 - B)$$

where—

(a) A is the sum of the periodic support payments for biogas or biomethane for that payment year calculated in accordance with regulation 27 (periodic support payments to producers of biomethane), and

(b) B is the proportion of the total biogas yield for that payment year which is not derived from waste or residue, expressed as a decimal and rounded to four decimal places.

- (3) To account for the reduction calculated under paragraph (2), the Authority must—
  - (a) offset the amount by which the periodic support payments for that payment year have been reduced against periodic support payments in the subsequent payment year, or
  - (b) where the payment year is the participant’s final payment year, require the participant to repay the amount by which the periodic support payments for that payment year have been reduced.
- (4) Where a participant is required to repay an amount under paragraph (3)(b) and fails to make payment in full by the date specified by the Authority, the Authority may recover any outstanding sum as a civil debt.
- (5) For the purposes of this regulation—
  - “biogas yield” means the energy content of any biogas produced by anaerobic digestion which is an ingredient of that biomethane, and
  - “payment year” means any 12 month period beginning with the tariff start date, or with the anniversary of the tariff start date.