
STATUTORY INSTRUMENTS

2021 No. 1335

The Green Gas Support Scheme Regulations 2021

PART 7

The levy

CHAPTER 1

Introductory

Scheme suppliers, provisionally exempt suppliers, and exempt suppliers

38.—(1) Subject to the following paragraphs, a licensed gas supplier (“GS”) who is a fossil fuel supplier⁽¹⁾ is a scheme supplier.

(2) GS is not a scheme supplier in relation to the scheme year beginning with 1st April 2022, or a subsequent scheme year, where the Authority determines in accordance with paragraph (10) that at least 95% of the gas supplied by GS in the scheme year was certified biomethane and that they are an exempt supplier in relation to that scheme year.

(3) Where GS considers it is likely that they will be an exempt supplier in relation to a scheme year (the “relevant scheme year”), GS must—

(a) notify the Authority of that fact—

(i) in relation to the scheme year beginning with 1st April 2022, by the tenth working day after the day on which these Regulations come into force,

(ii) in relation to the scheme year beginning with 1st April 2023 and any subsequent scheme year, by the relevant date specified in the scheme schedule,

(b) provide the Authority with such other information as the Authority may request in support of that notification, and

(c) provide written confirmation from a responsible officer of GS that the information provided in accordance with sub-paragraphs (a) and (b) is correct.

(4) Where the Authority receives a notification referred to in paragraph (3)(a)—

(a) it may instruct, or it may require GS to instruct, a person who is not a connected person in relation to GS to consider the information provided in accordance with paragraph (3) (a) and (b) and prepare a report (an “assurance report”),

(b) GS must provide to the Authority a copy of any assurance report prepared on their instruction, and the Authority must provide to GS a copy of any assurance report prepared on its instruction,

(c) having considered the information provided in accordance with paragraph (3)(a) and (b), and any assurance report prepared in accordance with sub-paragraph (a), it must determine whether it is likely that GS will be an exempt supplier in relation to the relevant scheme year, and notify GS of that determination—

⁽¹⁾ See section 100(3) of the 2008 Act for the definitions of “fossil fuel supplier” and “fossil fuel”.

- (i) in relation to the scheme year beginning with 1st April 2022, by 1st March 2022,
 - (ii) in relation to the scheme year beginning with 1st April 2023 and subsequent scheme years, by 31st October preceding the start of the relevant scheme year.
- (5) An assurance report must comply with such requirements as the Authority may specify.
- (6) Where the Authority determines it is likely that GS will be an exempt supplier in relation to the relevant scheme year, GS is a provisionally exempt supplier in relation to that scheme year, and—
 - (a) subject to paragraph (12), GS is not required to comply with the requirements on scheme suppliers set out in these Regulations, apart from this regulation and regulations 46 to 48 (additional obligations on scheme suppliers) in relation to the relevant scheme year,
 - (b) the Authority may not commence or continue compliance or enforcement action under Part 10 in relation to any breach of these Regulations by GS, apart from this regulation and regulations 46 to 48, which occurred in relation to the relevant scheme year,
 - (c) GS is treated as a scheme supplier for the purposes of regulations 46 to 48, and
 - (d) the notification required by paragraph (4)(c) must state that GS—
 - (i) is a provisionally exempt supplier in relation to the relevant scheme year, and
 - (ii) is not required to comply with the requirements on scheme suppliers set out in these Regulations in relation to the relevant scheme year, apart from this regulation and regulations 46 to 48.
- (7) Where the Authority determines it is not likely that GS will be an exempt supplier in relation to the relevant scheme year, the notification required by paragraph (4)(c) must state that GS is not a provisionally exempt supplier in relation to the relevant scheme year.
- (8) Where at least 95% of the gas supplied by GS in a scheme year was certified biomethane GS must by 1st July following the end of that scheme year—
 - (a) notify the Authority of that fact,
 - (b) provide the Authority with evidence, supplied under an approved certification scheme, that at least 95% of the gas supplied by them in that scheme year was certified biomethane, and
 - (c) notify the Authority of the sum of their gas supply data for each day of that scheme year.
- (9) Where GS was a provisionally exempt supplier in relation to a scheme year and less than 95% of the gas supplied by them in that scheme year was certified biomethane GS must by 1st July following the end of that scheme year—
 - (a) notify the Authority of that fact, and
 - (b) provide the Authority with such information in relation to the gas supplied by them in that scheme year as the Authority may request.
- (10) Where the Authority receives a notification and the information required by paragraph (8)—
 - (a) it must determine, on the basis of that information, whether at least 95% of the gas supplied by GS in the scheme year was certified biomethane,
 - (b) it must notify GS of that determination by the relevant date specified in the scheme schedule,
 - (c) where the Authority determines that at least 95% of the gas supplied by GS in the scheme year was certified biomethane—
 - (i) GS is exempt from the requirements of these Regulations (an “exempt supplier”) in relation to that scheme year, and
 - (ii) the notification required by sub-paragraph (b) must state that GS is an exempt supplier in relation to that scheme year,

- (d) where the Authority determines that less than 95% of the gas supplied by GS in the scheme year was certified biomethane, the notification required by sub-paragraph (b) must state that GS is not an exempt supplier in relation to the scheme year.

(11) Where GS was a provisionally exempt supplier in relation to a scheme year and—

- (a) provides a notification required by paragraph (9), and
- (b) does not provide a notification and information in accordance with paragraph (8),

in relation to that scheme year, the Authority must notify GS that they are not an exempt supplier in relation to that scheme year by the relevant date specified in the scheme schedule.

(12) Where GS—

- (a) was a provisionally exempt supplier in relation to a scheme year, and
- (b) is notified in accordance with paragraph (10)(b) or (11) that they are not an exempt supplier in relation to that scheme year,

GS is not required to comply with the requirements on scheme suppliers set out in this Part, apart from this regulation, in relation to that scheme year.

(13) Where GS—

- (a) was not a provisionally exempt supplier in relation to a scheme year, and
- (b) is notified in accordance with paragraph (10)(b) that they are an exempt supplier in relation to that scheme year,

GS is treated, from the date of that notification, as an exempt supplier in relation to that scheme year.

(14) The Secretary of State must—

- (a) approve one or more certification schemes for the purposes of these Regulations,
- (b) publish the name of any certification scheme which is approved, and the date from which it is approved, and
- (c) where a certification scheme ceases to be approved, publish that fact together with the date on which the certification scheme ceased to be approved.

(15) For the purposes of this regulation—

- (a) “approved certification scheme” means a certification scheme which is approved by the Secretary of State in accordance with paragraph (14)(a),
- (b) “certification scheme” means a scheme for the purpose of certifying biomethane supply,
- (c) “certified biomethane”, in relation to gas supplied in a scheme year, means biomethane—
 - (i) injected in that scheme year, and
 - (ii) the supply of which is certified under an approved certification scheme,
- (d) “company” includes any body corporate,
- (e) “gas supply data”, in relation to a licensed gas supplier, means the volume of gas supplied by them on any given day,
- (f) “responsible officer”, in relation to a licensed gas supplier, means a person who is—
 - (i) a director of the licensed gas supplier within the meaning of section 250 of the Companies Act 2006(2), or
 - (ii) where there is no person falling within paragraph (i) in relation to the licensed gas supplier, a person exercising management control in relation to the licensed gas supplier.

Calculation and publication of the levy rate

39.—(1) The Secretary of State must calculate the levy rate for each scheme year, expressed in pence per meter point per day (“the levy rate”), as follows—

$$\frac{LS}{(M \times A) \times D}$$

where—

- (a) A is the adjustment factor, as determined by the Secretary of State, used to predict the likely change in the number of meter points over the next scheme year,
- (b) D is the number of days in that scheme year,
- (c) LS is the levy size for that scheme year, calculated as follows—

$$LS = SB_y + AA_y + TY_{y-2} + TD_{y-2} + QL_{y+1} + H_y + I_{y-2} - SD_{y-1}$$

where—

- (i) SB_y is the projected scheme expenditure for that scheme year, as determined by the Secretary of State,
- (ii) AA_y is the Authority’s forecasted administrative costs for that scheme year,
- (iii) TY_{y-2} is the difference between the forecasted year end surplus and the actual year end surplus for the scheme year before the previous scheme year (“Y-2”) but excluding any year end deficit for Y-2 (“the true-up”),
- (iv) TD_{y-2} is any year end deficit for Y-2,
- (v) QL_{y+1} is the quarterly lag uplift in relation to the following scheme year (“Y+1”), being 25% of the difference between the projected scheme expenditure for Y+1 and the previous scheme year,
- (vi) H_y is the headroom figure for that scheme year, published in accordance with paragraph (4)(g),
- (vii) I_{y-2} is the sum of interest—
 - (aa) accrued on money held in the bank account referred to in regulation 40(5),
 - (bb) paid in accordance with regulation 54(1)(a)(i), (ii) or (iii),
 - (cc) payable in any scheme year in accordance with regulation 54(1)(a)(i), (ii) or (iii) and recovered by the Authority under regulation 58(g),
 in Y-2,
- (viii) SD_{y-1} is the forecasted year end surplus from the previous scheme year, and if no surplus is forecasted, the value for SD_{y-1} is 0 (zero),
- (ix) the variables in paragraphs (i) to (viii) are expressed in pence,
- (x) in the calculation for the first scheme year, the value for QL_{y+1} is 0 (zero),
- (xi) in the calculation for the first scheme year, and the calculation for the scheme year beginning with 1st April 2022, the value for each of TY_{y-2} , TD_{y-2} , and SD_{y-1} , is 0 (zero),
- (xii) in the calculation for the first scheme year, the value for SB_y is the projected scheme expenditure in relation to relevant producers (within the meaning given in regulation 17) for both the first scheme year and the first quarter of the scheme year beginning with 1st April 2022,
- (xiii) “year end surplus” and “year end deficit” mean the amount by which the sum of all amounts received by the Authority under this Part and Parts 9 and 10 excluding—
 - (aa) amounts received under regulation 42 (levy credit payments),

- (bb) interest accrued on money held in the bank account referred to in regulation 42(4) (interest on levy credit payments),
- (cc) amounts received under regulation 57 (penalty notices),
- (dd) amounts recovered under regulation 58(f) (recovery of unpaid financial penalties as a civil debt), and
- (ee) in the case of a forecast year end surplus or year end deficit, interest accrued on money held in the bank account referred to in regulation 40(5) (interest on quarterly levy payments),

exceeds, or is exceeded by (as the case may be), the sum of all amounts expended by the Authority under these Regulations in relation to that scheme year,

provided that LS may not exceed the maximum levy amount for that scheme year determined and published under paragraph (6),

(d) M—

- (i) in relation to the first scheme year, is the total number of meter points in the market on 31st May 2021,
- (ii) in relation to the scheme year beginning with 1st April 2022, is the total number of meter points in the market on 31st May 2021, but excluding any meter points served by a scheme supplier where the Secretary of State determines it is likely that at least 95% of the gas supplied by them in the scheme year beginning with 1st April 2022 will be certified biomethane, and
- (iii) in relation to the scheme year beginning with 1st April 2023 and each subsequent scheme year, is the total number of meter points in the market on 31st July preceding the start of that scheme year or such later date as the Secretary of State may determine, but excluding any meter points served by provisionally exempt suppliers in that scheme year.

(2) The Secretary of State must publish the levy rate—

- (a) for the first scheme year, by 30th November 2021,
- (b) for the scheme year beginning with 1st April 2022, by 30th November 2021,
- (c) for the scheme year beginning with 1st April 2023 and each subsequent scheme year, by 31st December in the preceding scheme year.

(3) The Secretary of State may review the levy rate—

- (a) for the first scheme year, and
- (b) for the scheme year beginning with 1st April 2022,

and, may, as a result of such a review, increase or decrease the levy rate provided that such increase or decrease must be published by the Secretary of State by 1st March 2022.

(4) Subject to paragraph (5), the Secretary of State must publish the following, in relation to the first scheme year and the scheme year beginning with 1st April 2022, by 30th November 2021, and in relation to the scheme year beginning with 1st April 2023 and each subsequent scheme year, by 31st December in the preceding scheme year—

- (a) the adjustment factor referred to in paragraph (1)(a),
- (b) the projected scheme expenditure referred to in paragraph (1)(c)(i),
- (c) the forecasted year end surplus from the previous scheme year,
- (d) the Authority's forecasted administrative costs, including its estimated administrative costs of carrying out a mutualisation process,

- (e) the true-up for the scheme year before the previous scheme year (“Y-2”), including any year end deficit for Y-2,
- (f) the quarterly lag uplift, being 25% of the difference between the projected scheme expenditure for that scheme year and the previous scheme year,
- (g) the amount which the Secretary of State determines is necessary to mitigate against uncertainties or unexpected events that would result in the funds available to the Authority for the purposes of the Scheme for that scheme year being less than the amount required by the Authority to make periodic support payments in relation to that scheme year (“the headroom figure”),

and where any value so published is increased or decreased as a result of a review carried out in accordance with paragraph (3), must publish the revised value by 1st March 2022.

- (5) The value of the following is 0 (zero)—
 - (a) the forecasted year end surplus from the previous scheme year, in relation to the first scheme year, and the scheme year beginning with 1st April 2022, and
 - (b) the true-up for the scheme year before the previous scheme year, in relation to the first scheme year, and the scheme years beginning with 1st April 2022 and 2023.
- (6) The Secretary of State—
 - (a) must, before 30th November 2021, determine and publish the maximum amount that can be collected under this Part in any one scheme year (“the maximum levy amount”), expressed in pounds (£) and calculated as follows—

$$SB + AA + H + QL_{y+1}$$

where—

- (i) SB is the projected scheme expenditure for the scheme year beginning with 1st April 2028,
- (ii) AA is the Authority’s forecasted administrative costs for that scheme year,
- (iii) H is the forecasted headroom figure for that scheme year,
- (iv) QL_{y+1} is the quarterly lag uplift, within the meaning given in paragraph (4)(f), in relation to the scheme year beginning with 1st April 2029,
- (b) may review the maximum levy amount at any time,
- (c) may, as a result of such a review, increase or decrease the maximum levy amount, provided that such increase or decrease—
 - (i) may only take effect at the start of a scheme year, and
 - (ii) must be published by the Secretary of State as soon as reasonably practicable.

(7) The Authority must provide to the Secretary of State, in such manner and form and by such date as the Secretary of State may request, such information as the Authority may hold and the Secretary of State may require for the purpose of calculating the levy rate and the maximum levy amount in accordance with this regulation.

(8) In this regulation references to the Authority’s administrative costs are references to the costs incurred by the Authority in connection with the performance of its functions under these Regulations.