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STATUTORY INSTRUMENTS

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**2021 No. 1335**

**The Green Gas Support Scheme Regulations 2021**

**PART 9**

**Changes affecting scheme suppliers**

**Former provisionally exempt suppliers**

**49.**—(1) This regulation applies where a scheme supplier (“SS”) was a provisionally exempt supplier in relation to a scheme year, and was notified in accordance with regulation 38(10)(b) or (11) that they are not an exempt supplier in relation to that scheme year.

(2) The Authority must, within 30 days after the day on which the notification in accordance with regulation 38(10)(b) or (11) is given, calculate and notify SS of the amount of levy payment (“backdated levy payment”) SS must make in relation to that scheme year, the date by which that payment must be made, and details of how that payment must be made.

(3) The backdated levy payment must be calculated by the Authority as follows—

$$BP = (M_e \times LR) + (P_m - RP_m)$$

where—

- (a) BP is the backdated levy payment,
- (b)  $M_e$  is the sum of SS’s meter point data for each day of that scheme year,
- (c) LR is the levy rate for that scheme year,
- (d)  $P_m$  is the sum of any amounts SS would have been required to contribute in any mutualisation processes carried out in accordance with regulation 56 in that scheme year, had they not been a provisionally exempt scheme supplier,
- (e)  $RP_m$  is the sum of any amounts SS would have been paid under regulation 56(10) as a result of a late payment by a defaulting scheme supplier in any mutualisation process carried out in accordance with regulation 56 in that scheme year, had they not been a provisionally exempt scheme supplier, calculated as follows—

$$RP_m = \frac{PSU}{PAU} \times PAR$$

where—

- (i) PSU is the mutualisation amount which SS would have been required to pay in respect of the relevant default,
- (ii) PAU is the total amount of mutualisation payments which were required to be paid by all non-defaulting scheme suppliers in respect of the relevant default,
- (iii) PAR is the total amount, including any interest payment, recovered from the defaulting scheme supplier in relation to the relevant default.

(4) For the purposes of paragraph (3), the amount SS would have been required to contribute in any single mutualisation process is calculated as follows—

$$PDA \times \frac{PMPS}{PTMPS}$$

where—

- (a) PDA is the total mutualisation amount in relation to that mutualisation process,
  - (b) PMPS is the sum of the meter point data for SS for each day of the quarter preceding the quarter in which the mutualisation notices were given to scheme suppliers under regulation 56,
  - (c) PTMPS is the sum of the meter point data, for all non-defaulting scheme suppliers apart from SS, for each day of the quarter preceding the quarter in which the mutualisation notices were given to scheme suppliers under regulation 56,
  - (d) meter point data, for the purposes of PMPS and PTMPS, is the meter point data as notified or determined under regulation 48.
- (5) SS must pay any backdated levy payment to the Authority in accordance with the notification referred to in paragraph (2).
- (6) In this regulation, “defaulting scheme supplier” and “non-defaulting scheme supplier” have the meanings given in regulation 56.

### **Exempt suppliers**

**50.**—(1) This regulation applies where a licensed gas supplier (“GS”) was not a provisionally exempt supplier in relation to a scheme year, and is notified in accordance with regulation 38(10)(b) that they are an exempt supplier in relation to that scheme year.

- (2) The Authority must, within 30 days after the day on which that notification is given—
  - (a) calculate, and notify GS of, the amount of any levy refund payment to which GS is entitled in relation to that scheme year,
  - (b) pay the levy refund payment to GS out of funds available to it for the purposes of the Scheme,
  - (c) discontinue any compliance or enforcement action under Part 10 in relation to any breach of these Regulations by GS, other than a breach of regulation 38(3) (notification that a supplier is likely to be an exempt supplier) or regulations 46 to 48 (additional obligations on scheme suppliers), which occurred in relation to that scheme year.
- (3) The levy refund payment in relation to a scheme year must be calculated by the Authority as follows—

$$RP = (Q + C + M + R + IA) - ID$$

where—

- (a) RP is the amount of the levy refund payment in relation to that scheme year,
- (b) Q is the sum of any quarterly levy payments paid by GS to the Authority in relation to that scheme year in accordance with regulation 40,
- (c) C is the lesser of—
  - (i) the sum of any levy credit payments paid by GS to the Authority in relation to that scheme year in accordance with regulation 42, and
  - (ii) the amount by which GS’s existing credit cover exceeds their credit cover requirement for the quarter in which the levy refund payment is made,
- (d) M is the sum of any mutualisation payments paid by GS to the Authority in relation to that scheme year in accordance with regulation 56, less any amount paid to GS under

regulation 56(10) as a result of a late payment by a defaulting scheme supplier in any mutualisation process carried out in accordance with regulation 56 in that scheme year,

- (e) R is the sum of any amounts recovered by the Authority from GS in relation to that scheme year under any enforcement notice or penalty notice, or as a result of any civil action, and including any interest so recovered, but excluding any amounts recovered from GS in relation to a breach of regulation 38(3),
- (f) IA is the sum of—
  - (i) any interest accrued on quarterly levy payments paid by GS in relation to that scheme year whilst in the bank account referred to in regulation 40(5), and
  - (ii) any interest accrued on levy credit payments paid by GS in relation to that scheme year whilst in the bank account referred to in regulation 42(4),
- (g) ID is the sum of any interest distributed by the Authority to GS in accordance with regulation 44 in relation to that scheme year.

(4) Where the Authority has drawn down GS's existing credit cover against a letter of credit, in accordance with regulation 55, in relation to a scheme year, the Authority must repay the amount drawn down to the person who provided the letter of credit.

### **Former scheme suppliers**

**51.**—(1) This regulation applies where a scheme supplier ceases to be a scheme supplier, other than by virtue of becoming an exempt supplier.

(2) The former scheme supplier ("F") must—

- (a) notify the Authority of—
  - (i) the date on which they ceased to be a scheme supplier,
  - (ii) the reason why they ceased to be a scheme supplier, and
  - (iii) their meter point data for each day of the final quarter, and
- (b) provide the Authority with any information the Authority requires to enable it to verify their meter point data, and such other information as the Authority requests.

(3) The information and notification described in paragraph (2) must be provided to the Authority—

- (a) where F ceases to be a scheme supplier by reason of—
  - (i) ceasing to hold a licence under section 7A(1) of the Gas Act 1986, or
  - (ii) becoming an insolvent company within the meaning given in section 15A(4) of the Company Directors Disqualification Act 1986(1),within 3 working days of F ceasing to be a scheme supplier, and
- (b) in any other case, within 14 days of F ceasing to be a scheme supplier.

(4) Paragraph (3) does not apply where a scheme supplier provides the Authority with the information required by or under that paragraph before the date on which they cease to be a scheme supplier.

(5) Where F does not provide the meter point data required by paragraph (2)(a)(iii), the Authority must determine the number of meter points served by F on each day of the final quarter.

(6) The Authority must—

- (a) if the Authority has not notified F of the quarterly levy payment payable by F in relation to the quarter preceding the final quarter in accordance with regulation 40(2), calculate

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(1) 1986 c. 46. Section 15A was inserted by section 110 of the Small Business, Enterprise and Employment Act 2015 (c. 26).

the quarterly levy payment payable by F in relation to that quarter in accordance with the formula set out in regulation 40(1), and

- (b) calculate the quarterly levy payment payable by F in relation to the final quarter in accordance with the formula set out in regulation 40(1), but with the modification that “M” in that formula is the sum of F’s meter point data for each day of the final quarter as notified or determined under this regulation.

(7) The Authority must serve a notice on F specifying—

- (a) the sum of the amounts calculated in accordance with paragraph (6) (“the final quarterly levy payment”) and how that amount has been calculated,
- (b) the amount of F’s existing credit cover,
- (c) the amount by which—
- (i) F’s existing credit cover exceeds the final quarterly levy payment (the “excess amount”), or
  - (ii) the final quarterly levy payment exceeds F’s existing credit cover (the “outstanding amount”),
- (d) the date on which F’s existing credit cover will be drawn down and the amount of that draw down (if applicable),
- (e) whether the draw down will be against payments made, or a letter of credit provided, by F, or both,
- (f) where there is an outstanding amount—
- (i) the date by which the outstanding amount is required to be paid by F, being—
    - (aa) 14 days after the date of the notification, or
    - (bb) the next date on which quarterly levy payments are due under regulation 40, whichever is the earlier,
  - (ii) details of how payment of the outstanding amount must be made, and

including information about the matters mentioned in regulation 54 (interest on late payments), and the matters mentioned in regulation 56 (mutualisation).

(8) Where paragraph (7)(f) applies, F must pay the outstanding amount to the Authority in accordance with any notification referred to in paragraph (7).

(9) Where there is an excess amount, the Authority must pay that amount to F as soon as reasonably practicable after the date on which F’s existing credit cover is drawn down.

(10) Where immediately before F ceases to be a scheme supplier F was liable to pay, or entitled to receive payment of, any amount under these Regulations, F remains subject to that liability, or to that entitlement, after F ceases to be a scheme supplier, subject to paragraphs (11) to (13).

(11) Regulation 38(8) to (13) continues to apply in relation to F as if F were still a scheme supplier for the purposes of determining whether—

- (a) F is an exempt supplier in relation to the scheme year preceding the final scheme year,
- (b) F is an exempt supplier in relation to that part of the final scheme year in which F was a scheme supplier, but as if—
- (i) references to “a scheme year”, “the scheme year” and “that scheme year” were references to that part of the final scheme year in which F was a scheme supplier,
  - (ii) in paragraphs (8) and (9), for “by 1st July following the end of that scheme year” there were substituted “within three months of ceasing to be a scheme supplier”,

- (iii) in paragraph (10)(b), for “by the relevant date specified in the scheme schedule” there were substituted “within 30 days of the date on which it received the notification and information referred to in paragraph (8)”,
  - (iv) in paragraph (11), for “by the relevant date specified in the scheme schedule” there were substituted “within 30 days of the date on which it received the notification and information referred to in paragraph (8)”.
- (12) Regulation 49 continues to apply in relation to F as if F were still a scheme supplier—
  - (a) for the purposes of the calculation of any backdated levy payment in relation to the scheme year preceding the final scheme year, but with the modification that the Authority may determine not to require payment of any backdated levy payment by F,
  - (b) for the purposes of the calculation of any backdated levy payment in relation to the final scheme year, but—
    - (i) as if references to “a scheme year” and “that scheme year” were references to that part of the final scheme year in which F was a scheme supplier,
    - (ii) with the modification that the Authority may determine not to require payment of any backdated levy payment by F.
- (13) Regulation 50 continues to apply in relation to F as if F were still a scheme supplier—
  - (a) for the purposes of the calculation of any levy refund payment to which F is entitled in relation to the scheme year preceding the final scheme year,
  - (b) for the purposes of the calculation of any levy refund payment to which F is entitled in relation to the final scheme year, but as if —
    - (i) references to “a scheme year” and “that scheme year” were to that part of the final scheme year in which F was a scheme supplier,
    - (ii) for paragraph (3)(c) there were substituted—
      - “(c) C is the sum of any levy credit payments paid by F to the Authority in relation to the final scheme year in accordance with regulation 42,”.
- (14) For the purposes of this regulation—
  - (a) “the final quarter”, in relation to F, means the last quarter during any part of which F was a scheme supplier,
  - (b) “the final scheme year”, in relation to F, means the scheme year in which F ceases to be a scheme supplier.