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STATUTORY INSTRUMENTS

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**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<sup>(1)</sup> 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—

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(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.

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**Status:** *This is the original version (as it was originally made).*

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