
STATUTORY INSTRUMENTS

2021 No. 1335

The Green Gas Support Scheme Regulations 2021

PART 10

Compliance and enforcement: scheme suppliers

Mutualisation

56.—(1) The Authority must carry out a process (a “mutualisation process”) in accordance with this regulation where—

- (a) the first condition or the second condition, or both of them, are satisfied, and
- (b) the third condition is satisfied.

(2) The first condition is that—

- (a) a scheme supplier (the “defaulting scheme supplier”) has failed to pay the whole or part of a quarterly levy payment in accordance with regulation 40, and
- (b) where draw down has occurred in accordance with regulation 55 in relation to that failure, the amount drawn down was less than the amount the defaulting scheme supplier had failed to pay.

(3) The second condition is that—

- (a) a former scheme supplier (the “defaulting scheme supplier”) has failed to pay the whole or part of an outstanding amount in accordance with regulation 51(8), and
- (b) where draw down has occurred in accordance with regulation 55 in relation to that failure, the amount drawn down was less than the amount the defaulting scheme supplier had failed to pay.

(4) The third condition is that, when notices are given under paragraph (5)(b), the total of any unpaid amounts to be recovered (the “total mutualisation amount”) exceeds the Authority’s estimated administrative costs of carrying out the mutualisation process.

(5) Where the Authority carries out a mutualisation process, the Authority must—

- (a) calculate—
 - (i) the total mutualisation amount,
 - (ii) the amount a scheme supplier other than a defaulting scheme supplier (a “non-defaulting scheme supplier”) is to pay, in accordance with paragraph (7), and
- (b) give notice to each of the non-defaulting scheme suppliers (a “mutualisation notice”) specifying—
 - (i) that the non-defaulting scheme supplier is liable to make a payment of the amount apportioned to them, calculated in accordance with paragraph (7) (a “mutualisation payment”),
 - (ii) the date by which the mutualisation payment must be made, and
 - (iii) details of how the mutualisation payment must be made,

and including information about the matters mentioned in regulation 55 (draw down of credit cover).

- (6) A mutualisation notice may not be given earlier than seven days after—
- (a) the date on which payment of the quarterly levy payment or the outstanding amount (as the case may be) was due, or
 - (b) where the mutualisation process is carried out in relation to two or more unpaid amounts, the latest date on which any such amount was due.

(7) A mutualisation payment payable by a non-defaulting scheme supplier is the amount given by—

$$TMA \times \left(\frac{MPS}{TMPS} \right)$$

where—

- (a) TMA is the total mutualisation amount,
- (b) MPS is the sum of the meter point data for that non-defaulting scheme supplier for each day of the quarter in relation to which the defaulting scheme supplier failed to pay, as notified or determined under regulation 48, and
- (c) TMPS is the sum of the meter point data for all the non-defaulting scheme suppliers for each day of the quarter in relation to which the defaulting scheme suppliers failed to pay, as notified or determined under regulation 48.

(8) A non-defaulting scheme supplier given a mutualisation notice under paragraph (5)(b) must pay the mutualisation payment to the Authority by the date specified in the notice.

(9) If the Authority receives the whole or part of an unpaid amount from a defaulting scheme supplier before the mutualisation notices are given to non-defaulting scheme suppliers the Authority must—

- (a) where necessary recalculate the amounts referred to in paragraph (5)(a), and
- (b) where a defaulting scheme supplier has paid the whole of the unpaid amount referred to in paragraph (2) or (3) (as the case may be), they are a non-defaulting scheme supplier for the purposes of paragraph (5).

(10) If the Authority receives an unpaid amount from a defaulting scheme supplier after giving mutualisation notices to non-defaulting scheme suppliers the Authority must, as soon as reasonably practicable after the date specified under paragraph (5)(b)(ii) in relation to that mutualisation, distribute the amount received, including any interest payment, from the defaulting scheme supplier among the non-defaulting scheme suppliers who have made mutualisation payments, as follows—

$$AD = \frac{SU}{AU} \times AR$$

where—

- (a) AD is the amount due to be paid to a non-defaulting scheme supplier,
- (b) SU is the mutualisation amount which the non-defaulting scheme supplier paid in respect of the relevant default,
- (c) AU is the total amount of mutualisation payments which were paid by all non-defaulting scheme suppliers in respect of the relevant default, and
- (d) AR is the total amount, including any interest payment, recovered from the defaulting scheme supplier.