



T: 0300 244 4000
E: scottish.ministers@gov.scot

Edward Mountain MSP
Convener
Net Zero, Energy & Transport Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Copied to UKSIs@parliament.scot

1 March 2024

SI 2021/1335 Green Gas Support Scheme Regulations 2021 (SI 2021/1335) - PROTOCOL WITH SCOTTISH PARLIAMENT

Dear Convener,

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SIs and they are not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020



I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you by 29 March 2024.

Yours sincerely,

PATRICK HARVIE

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020



NOTIFICATION TO THE SCOTTISH PARLIAMENT

SI 2021/1335 Green Gas Support Scheme Regulations 2021 (SI 2021/1335)

Is the notification Type 1 or Type 2 – Type 1

The Green Gas Support Scheme

A scheme to be known as the Green Gas Support Scheme (GGSS), which is a scheme to facilitate and encourage the production of biomethane for injection by anaerobic digestion (“the Scheme”).

The GGSS provides tariff-based support for biomethane produced using anaerobic digestion (AD) and injected into the gas grid in Great Britain, directly replacing natural gas. It opened for applications on 30 November 2021. It supports the Scottish Government’s wider objectives on heat decarbonisation to support our climate change targets, and in meeting the duty of the Scottish Ministers to promote renewable heat.

The SI is being proposed via sections 100 and 104(2) of the Energy Act 2008.

In accordance with section 100(7) of that Act, the Secretary of State must obtain the consent of the Scottish Ministers to the making of these Regulations.

The scheme initially stated that a person may not make an application for a tariff guarantee in respect of the production of biomethane—

- (a) if the date on which they expect the injection of that biomethane to commence is later than 30th November 2025.

Following a Mid-Scheme Review (MSR) Consultation, DESNZ considered that the effectiveness of the scheme could be improved if the deadline for applying to the scheme and date at which they applicant expected to inject biomethane to the grid was extended until 31 March 2028.

This would provide certainty for industry and investors who are currently facing plant development timelines exceeding 24 months.

Securing food waste feedstock has also been a challenge and the additional time will allow developers to access feedstock as local authorities implement more food waste collections.

Extending the application period does not in itself change the overall cost of the scheme. If budgets are to be increased, this will be subject to separate, future agreement.

The MSR also consulted on proposals to exempt heat supplied by a heat pump from heat deductions in the calculation for eligible biomethane. DESNZ have now

decided to proceed with the proposed changes to end deductions from eligible biomethane calculations for heat supplied by heat pumps. Once regulations are introduced, this will reward the use of eligible heat pumps in the production of biomethane, in line with the existing biogas exemption. This will encourage the use of heat pumps as a lower carbon alternative to produce biomethane.

The Mid-Scheme Review Government Response considered the environmental impacts across the areas of the consultation. DESNZ do not expect the scheme extension or heat pump amendment will have negative impacts on the environment, and the existing regulations continue to manage environmental impacts.

The proposed instrument would still align with EU law.

The proposed instrument is expected to be laid before the UK Parliament on 15th April.

Details of the provisions that Scottish Ministers are being asked to consent to.

The scheme extension from 30 November 2025 to 31 March 2028.

The use of heat pumps in the production of biomethane, by ensuring that heat supplied by them is not deducted from the volume of biomethane eligible for GGSS payments (as happens with fossil fuel heating source).

Summary of the proposals

The purpose of the proposals are to allow the scheme to be more effective in delivering emissions reductions by allowing greater time to develop projects and to encourage the use of low carbon heat pumps.

Does the SI relate to a common framework or other scheme?

There is no common framework covering the provisions made in these regulations, however the UK and Scottish Governments have had long-standing cooperation on regulations made under section 100 of the Energy Act 2008, such as the predecessor Renewable Heat Incentive scheme.

Summary of stakeholder engagement/consultation

The MSR consultation received 24 responses in total. This consisted of 11 responses from the anaerobic digestion (AD) industry, including trade bodies, whose responses incorporated views from across their membership. We also received 6 responses from the wider renewable energy industry, including some responses from landfill gas and combined heat and power (CHP) operators. The remaining responses included a mixture of academics, consultants, and other organisations.

A note of other impact assessments, (if available)

Not applicable

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Scottish Ministers support the objectives of the Green Gas Support Scheme to decarbonise delivery of heat through the encouragement of the production of biomethane for injection into the gas grid. The proposed changes are relatively minor and administrative or technical in nature. The provisions also support, in part, continued alignment with aspects of the EU Renewable Energy Directive 2018.

Intended laying date (if known) of instruments likely to arise

15 April 2024

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

Not applicable.

Information about any time dependency associated with the proposal

Not applicable

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

Governance of the Green Gas Support Scheme remains the same as in the 2021 Regulations which created the scheme, with administration by the Gas & Electricity Markets Authority (Ofgem).

Any significant financial implications?

Not applicable

SI NOTIFICATION: SUMMARY

Title of Instrument
Proposed laying date at Westminster 15 April 2024
Date by which Committee has been asked to respond 29 March 2024
Power(s) under which SI is to be made Sections 100 and 104(2) of the Energy Act 2008. In accordance with section 100(7) of that Act, the Secretary of State must obtain the consent of the Scottish Ministers to the making of these Regulations.
Categorisation under SI Protocol Type 1
Purpose To make minor and administrative or technical amendments to the Green Gas Support Scheme, which is a renewable heat incentive scheme to facilitate and encourage the production of biomethane by anaerobic digestion, for injection into the gas grid. The changes will extend the date for applications until 31 March 2028 and encourage the use of heat pumps as a source of process heating.
Other information
SG Policy contact: Stephen Corrie, Onshore Renewables, Energy and Climate Change