
DRAFT STATUTORY INSTRUMENTS

2021 No.

The Green Gas Support Scheme Regulations 2021

PART 2

Registration of participants and tariff guarantees

Application for tariff guarantee and budget allocation

4.—(1) Subject to paragraph (2), a person who produces, or proposes to produce, biomethane for injection by anaerobic digestion may make an application for a tariff guarantee in respect of the production of that biomethane, in accordance with this regulation.

(2) A person may not make an application for a tariff guarantee under paragraph (1) 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, or
- (b) using equipment used to produce biomethane—
 - (i) where a person is, or has been, registered under regulation 25 of the Renewable Heat Incentive Scheme Regulations 2011(1) or regulation 32 of the Renewable Heat Incentive Scheme Regulations 2018(2) (“RHI registration”) in respect of the production of biomethane using that equipment,
 - (ii) where a person has made an application for RHI registration in respect of the production of biomethane using that equipment, and the application has not yet been determined,
 - (iii) where a person has made an application for a tariff guarantee under regulation 35(1) of the Renewable Heat Incentive Scheme Regulations 2018 in respect of the production of biomethane using that equipment, and the application was withdrawn after the coming into force of these Regulations,
 - (iv) which has been used to produce biomethane for injection by a participant who has withdrawn from the Scheme in accordance with regulation 16,
 - (v) which has been used to produce biogas or biomethane, or both, before the coming into force of these Regulations, where paragraphs (i) to (iv) do not apply.
- (3) An applicant may not—
 - (a) amend an application made under paragraph (1) without the agreement of the Authority,

(1) [S.I. 2011/2860](#), as amended by [S.I. 2013/1033](#), [2410](#) and [3179](#), [2014/1413](#), [2015/197](#) and [477](#), [2016/718](#) and [1197](#), and [2017/727](#) and [857](#).

(2) [S.I. 2018/611](#), as amended by [S.I. 2021/76](#). There are other amendments not relevant to this instrument. Regulation 32 provides for a producer of biomethane for injection to be registered as a participant in the Renewable Heat Incentive Scheme, and to receive periodic support payments in relation to that production of biomethane. That scheme closed to new applications, with some exceptions, on 31st March 2021 (see regulations 3A and 3B of those Regulations inserted by [S.I. 2021/76](#)).

- (b) make a further application under paragraph (1) in respect of the production of biomethane using the same equipment used to produce biomethane to which the original application relates without first withdrawing the original application.
- (4) An application must be in writing, in such form as the Authority may require, and must include the following information—
- (a) the date on which the injection of biomethane commenced, or on which the applicant expects the injection of biomethane to commence (as the case may be),
 - (b) the expected maximum initial capacity,
 - (c) the location of the plant where the biogas is or will be produced, and of the injection point where biomethane is or will be injected in accordance with the network entry agreement applicable to that biomethane,
 - (d) a description of the equipment used to produce biomethane to which the application relates,
 - (e) evidence that the applicant has entered into a connection agreement,
 - (f) the applicant's—
 - (i) name,
 - (ii) email address, and
 - (iii) registered office (where applicable), or principal place of activity,
 - (g) the volume expressed in cubic metres of eligible biomethane which the applicant intends to inject each year,
 - (h) a statement from the applicant as to whether planning permission is necessary in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is upgraded to biomethane, or the biomethane is injected and, where such planning permission is necessary, evidence from the relevant planning authority that it has been granted, and
 - (i) any further information which the Authority may require.
- (5) Subject to paragraphs (15) and (16), where the application has, in the Authority's opinion, been properly made, the Authority must give a notice (a "provisional tariff guarantee notice") to the applicant stating—
- (a) that a tariff guarantee will be granted if the Authority is satisfied that financial close has been reached,
 - (b) the evidence which is required for the purposes of sub-paragraph (a),
 - (c) the date, which must be no later than three weeks after the date on which the provisional tariff guarantee notice is given, by which all such evidence must be provided,
 - (d) the date on which the properly made application was received by the Authority, and
 - (e) the guaranteed tariff which will apply if the applicant becomes registered under regulation 6.
- (6) Where the Authority is satisfied that the applicant has provided the evidence specified in the provisional tariff guarantee notice by the date specified in the notice under paragraph (5)(c), the Authority must grant a tariff guarantee by notice to the applicant stating—
- (a) the guaranteed tariff which will apply if the applicant becomes registered under regulation 6, but subject to paragraph (7),
 - (b) the date by which, for the purposes of the tariff guarantee, the injection of biomethane must commence (if injection of biomethane has not already commenced),
 - (c) a description of the equipment used to produce biomethane to which the tariff guarantee applies,

- (d) the information which the applicant must supply to the Authority during the period of the tariff guarantee, and the frequency with which that information must be supplied, and
 - (e) any further conditions which the Authority considers necessary in relation to the tariff guarantee.
- (7) The Authority—
- (a) may, at any time before the applicant is notified in accordance with regulation 6(4) that they are a participant, revoke a tariff guarantee, if—
 - (i) there has been a material change in circumstances such that, had the application for the tariff guarantee been made after the change in circumstances, it would have been refused,
 - (ii) the applicant fails to comply with conditions imposed in accordance with paragraph (6)(b), (d) or (e),
 - (iii) the Authority considers that the information on which the decision to grant the tariff guarantee was based was incorrect in a material particular, or
 - (iv) the Authority considers that the production and injection of biomethane is materially different from the production and injection of biomethane which was proposed under paragraph (4), and
 - (b) must revoke a tariff guarantee where the tariff start date in relation to a producer of biomethane is—
 - (i) 183 or more days after the date given in accordance with paragraph (4)(a), or
 - (ii) after 30th November 2025,
- whichever is the earlier.
- (8) For the purposes of paragraph (7)(a)(iv)—
- (a) the Authority may take into account such matters as are, in the Authority’s opinion, relevant, including —
 - (i) the location of the injection point where biomethane is injected,
 - (ii) the maximum initial capacity of biomethane, and
 - (iii) the source of energy and technology or design of the plant, and
 - (b) the maximum initial capacity of biomethane is materially different where it is at least 10% greater or smaller than the expected maximum initial capacity proposed under paragraph (4)(b).
- (9) Subject to paragraphs (10) and (11), where a producer of biomethane in respect of which a tariff guarantee has been granted becomes registered under regulation 6, the tariff applicable at the tariff start date is the initial tariff which would have applied in accordance with regulation 22 (calculation of initial tariffs and tariff review) had the tariff start date been the date referred to in paragraph (5)(d), adjusted by any percentage increase or decrease in the consumer prices index since the date referred to in paragraph (5)(d) (the “guaranteed tariff”).
- (10) Where in any 12 month period beginning with the tariff start date, or the anniversary of the tariff start date, the biomethane injected by a producer of biomethane exceeds 250GWh, the guaranteed tariff will apply to the first 250GWh of such biomethane only.
- (11) The guaranteed tariff does not apply—
- (a) if the tariff start date is earlier than the date given in accordance with paragraph (4)(a), until that date, or
 - (b) where the tariff guarantee has been revoked.

(12) Where the Authority revokes a tariff guarantee, it must give a notice to the applicant specifying—

- (a) the reason for the revocation, and
- (b) details of the applicant’s right of review under regulation 62.

(13) The Secretary of State—

- (a) must determine and publish the budget allocation for tariff guarantees and registration in respect of additional biomethane (the “budget allocation”) for each of the relevant financial years,
- (b) must publish—
 - (i) estimates of inflation for each of the relevant financial years, and
 - (ii) quarterly biomethane production factors,
- (c) may review the budget allocation for a current or future relevant financial year, and
- (d) may, as a result of such a review, increase or decrease a budget allocation, provided that such increase or decrease may only take effect on 1st January, 1st April, 1st July or 1st October in a relevant financial year.

(14) The Authority must publish the following information once in every quarter—

- (a) current information in aggregate form as to—
 - (i) the number of tariff guarantee applications made,
 - (ii) the number of provisional tariff guarantee notices given,
 - (iii) the number of tariff guarantees granted,
 - (iv) the number of applications for registration in respect of additional biomethane made under regulation 8,
 - (v) the number of participants registered in respect of additional biomethane,
 - (vi) the feedstocks, maximum initial capacity and any additional capacity, of the plants in respect of which tariff guarantees have been granted, and
- (b) the estimated total budget commitment for each of the relevant financial years.

(15) The Authority must consider applications for a tariff guarantee and applications for registration in respect of additional biomethane under regulation 8 in the order in which they are received by it, and must not—

- (a) give a provisional tariff guarantee notice, or register a participant in respect of additional biomethane, where the estimated total budget commitment for a relevant financial year would exceed the budget allocation for that year if the tariff guarantee were granted or if the participant were registered in respect of that additional biomethane (as the case may be), or
- (b) give a provisional tariff guarantee notice, or register a participant in respect of additional biomethane, in respect of any subsequent application for consideration except where granting a tariff guarantee or registering the participant in respect of additional biomethane (as the case may be) would not cause the budget allocation for a relevant financial year to be exceeded.

(16) Following an increase or decrease in budget allocation pursuant to paragraph (13)(d), or any decrease in the estimated total budget commitment resulting from the withdrawal or rejection of a tariff guarantee application or an application for registration in respect of additional biomethane under regulation 8, the Authority must consider outstanding applications for a tariff guarantee and for registration in respect of additional biomethane under regulation 8 in the order in which they were received.

(17) In this regulation—

“connection agreement” means an agreement, between a person who proposes to inject biomethane into a pipe-line system and the operator of the pipe-line system, which provides for the design and construction of a connection by which the biomethane may be injected into the pipe-line system;

“estimated annual payment”, in relation to an application for a tariff guarantee or an application for registration in respect of additional biomethane, means—

(a) in the first financial year—

$$V \times F \times P \times T \times \frac{D}{Y}$$

(b) in any subsequent financial year—

$$V \times F \times P \times T \times I$$

where—

“first financial year” means the financial year in which—

- (i) in the case of an application for a tariff guarantee, the equipment used to produce biomethane was commissioned, or the applicant expects the equipment used to produce biomethane to be commissioned (as the case may be), and
- (ii) in the case of an application for registration in respect of additional biomethane, the injection of additional biomethane commenced, or the participant expects the injection of additional biomethane to commence (as the case may be),

D is the number of days in the financial year beginning with the date on which the injection of original biomethane commenced, the injection of additional biomethane commenced, the applicant expects the injection of original biomethane to commence, or the participant expects the injection of additional biomethane to commence (as the case may be),

F is 9.1(3),

I is the estimate of inflation for that financial year, published by the Secretary of State,

P is the average of the quarterly biomethane production factors for all applicable quarters of the relevant financial year, beginning with the date on which the injection of original biomethane commenced, the injection of additional biomethane commenced, the applicant expects the injection of original biomethane to commence, or the participant expects the injection of additional biomethane to commence (as the case may be), expressed as a decimal and rounded to four decimal places,

T is the guaranteed tariff which will apply if the producer of biomethane becomes registered under regulation 6, or the tariff which will apply if the participant is registered in respect of additional biomethane under that regulation (as the case may be),

V is the maximum volume expressed in cubic metres of eligible biomethane which—

- (i) in the case of an application for a tariff guarantee, the applicant can inject each year, based on data from the relevant connection agreement,
- (ii) in the case of an application for registration in respect of additional biomethane, the participant can inject each year, based on data from the relevant network entry agreement, and

Y is the number of days in the financial year;

(3) This is a factor to account for the calorific value per cubic metre of biomethane (10 kWh/m³) and proportion of eligible biomethane per unit of biomethane injected (0.91).

“estimated total budget commitment”, in relation to a relevant financial year, means the sum of—

- (a) the estimated annual payments in relation to every application for a tariff guarantee—
 - (i) for which a provisional tariff guarantee notice has been given, and
 - (ii) which has not been withdrawn by the applicant or rejected by the Authority, and
- (b) the estimated annual payments in relation to every application for registration in respect of additional biomethane where the participant has been registered in respect of that additional biomethane;

“financial close” means the date on which the applicant has entered into all financing agreements in relation to all the funding required for the production and injection of biomethane;

“maximum initial capacity” means the maximum volume of biomethane, expressed in cubic metres per year, which a participant is entitled to supply for injection under the network entry agreement applicable to the biomethane in relation to which an application for registration under regulation 5 is made;

“quarterly biomethane production factors” means the percentage of their maximum initial capacity or their maximum additional capacity (as the case may be) that a participant is expected to supply for injection in each quarter, beginning with the first quarter in which they are registered as a participant or in which they are registered in respect of the additional biomethane (as the case may be);

“relevant financial year” means any of the financial years 2021/2022, 2022/2023, 2023/2024, 2024/2025, and 2025/2026.

Application for registration as a participant

5.—(1) A producer of biomethane who has been granted a tariff guarantee which has not been revoked may apply to the Authority to be registered as a participant in relation to the equipment used to produce biomethane to which that tariff guarantee applies.

- (2) An application for registration must be in writing and supported by—
 - (a) such of the information specified in Schedule 1 (information required for registration) as the Authority may require,
 - (b) a declaration that the information provided by the applicant is accurate to the best of the applicant’s knowledge and belief, and
 - (c) a declaration as to the volume expressed in cubic metres of biomethane which the applicant expects to produce for injection each year.

(3) Before registering a producer of biomethane as a participant, the Authority may request access without notice at any reasonable hour to carry out inspections of any equipment which is being used to produce the biomethane for which the applicant is intending to claim periodic support payments, and any injection equipment, in order to satisfy itself that the applicant should be registered.

(4) Where the applicant is not also the person producing the biogas used to produce the biomethane in respect of which that application is made, the Authority may require that the applicant—

- (a) has the authority, from all persons who produce the biogas used to produce the biomethane, to be the participant, and
- (b) provides to the Authority, in such manner and form as the Authority may request, evidence of that authority.

(5) Where the Authority considers that further information is necessary for the purpose of determining an application, it may by notice—

- (a) specify the further information which the applicant is required to provide,
- (b) specify a period of no less than four weeks beginning with the date of the notice within which that information must be provided, and
- (c) inform the applicant that failure to provide the requested information within that period may result in the application being rejected.

(6) The Authority may by notice extend the period specified in a notice under paragraph (5)(b) where it is satisfied that it is reasonable to do so.

Determination of application for registration and the central register

6.—(1) The Authority must maintain a register of participants (the “central register”), and ensure, so far as practicable, that entries in the central register are accurate and up to date.

(2) The Authority may when registering an applicant as a participant attach such conditions as it considers appropriate.

(3) The Authority must specify in the central register the maximum initial capacity in respect of which the participant is registered.

(4) Where the application for registration has, in the Authority’s opinion, been properly made, the Authority must (subject to paragraphs (5) to (7), regulation 7 (treatment of grants from public funds), and regulation 32(4)(b) (revocation of registration))—

- (a) notify the applicant in writing that registration has been successfully completed and that the applicant is a participant in relation to the equipment used to produce the biomethane to which the tariff guarantee applies (“the relevant equipment used to produce biomethane”),
- (b) enter the date of registration, the participant’s name, and a description of the relevant equipment used to produce biomethane, on the central register,
- (c) notify the applicant of any conditions attached to their registration as a participant,
- (d) notify the applicant of the maximum initial capacity specified in accordance with paragraph (3), and
- (e) give the applicant a written statement including such of the following information as the Authority considers applicable—
 - (i) the date of registration,
 - (ii) the tariff which will apply,
 - (iii) the process and timing for providing meter readings,
 - (iv) details of the frequency and timetable for periodic support payments,
 - (v) the tariff lifetime and tariff end date, and
 - (vi) the ongoing participant obligations.

(5) The Authority must not register an applicant as a participant unless—

- (a) the applicant has specified the equipment used to produce biomethane to which the application relates,
- (b) at the time of making the application, the relevant equipment used to produce biomethane has been commissioned,
- (c) any necessary planning permission has been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is upgraded to biomethane, or the biomethane is injected,

- (d) any necessary waste management licences, and environmental permits, in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is upgraded to biomethane, or the biomethane is injected—
- (i) have been granted, or
 - (ii) have been applied for in accordance with the Environmental Permitting (England and Wales) Regulations 2016, the Pollution Prevention and Control (Scotland) Regulations 2012, or the Waste Management Licensing (Scotland) Regulations 2011, and the applications have been accepted by the Environment Agency, the Natural Resources Body for Wales, or the Scottish Environment Protection Agency, as appropriate, but have not yet been determined, where—
 - (aa) the Environment Agency, the Natural Resources Body for Wales, or the Scottish Environment Protection Agency has published (and has not withdrawn) a regulatory position statement⁽⁴⁾, or other formal statement, affecting applications for environmental permits, and
 - (bb) the processes are within the scope of that statement, and
- (e) the applicant provides a declaration that the processes by which—
- (i) the biogas which is used to produce the biomethane is produced,
 - (ii) the biogas is upgraded to biomethane, and
 - (iii) the biomethane is injected,
- comply, and will continue to comply, with all local and national laws including those relating to the protection of the environment.
- (6) The Authority must not register an applicant as a participant—
- (a) if registration would result in periodic support payments being made to more than one participant for the same biomethane,
 - (b) if the tariff guarantee granted to the applicant has been revoked,
 - (c) where the applicant refused to allow the Authority access for the purposes of an inspection under regulation 5(3), and—
 - (i) the Authority is not satisfied that the refusal was reasonable, and
 - (ii) any subsequent access granted by the applicant for the purposes of an inspection was not sufficient to enable the Authority to satisfy itself that the applicant should be registered as a participant, or
 - (d) after 30th November 2025.
- (7) The Authority may refuse to register an applicant as a participant—
- (a) where the applicant fails to provide the information specified in a notice given under regulation 5(5), within the period specified in a notice under regulation 5(5)(b) or (6), as applicable,
 - (b) where it considers that one or more of the applicable ongoing participant obligations will not be complied with,

(4) Regulatory position statements are published by the Environment Agency at: <https://www.gov.uk/government/collections/basic-rules-environmental-permitting-regulatory-positions>, and copies can be obtained from the Environment Agency at National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY. Regulatory decisions are published by the Natural Resources Body for Wales at: <https://naturalresources.wales/about-us/news-and-events/statements/?lang=en>, and copies can be requested from the Natural Resources Body for Wales on 0300 065 3000. Position statements are published by the Scottish Environment Protection Agency at: https://www.sepa.org.uk/regulations/waste/guidance/#position_statements, and copies can be obtained from the Scottish Environment Protection Agency at Strathallan House, Castle Business Park, Stirling FK9 4TZ.

- (c) if the Authority refused a previous application for registration made by the applicant, or a connected person, on the ground that information contained in the previous application was incorrect or misleading in a material particular, or
- (d) where the Authority is satisfied that the relevant equipment used to produce biomethane has been used for the purposes of the registration of any other participant or former participant.

(8) Where the Authority does not register an applicant as a participant, it must notify the applicant in writing that the application for registration has been rejected, giving reasons.

Treatment of grants from public funds

7.—(1) Subject to paragraphs (2) and (6), the Authority must not register an applicant as a participant in respect of any original biomethane or additional biomethane unless the applicant has given notice (which the Authority has no reason to believe is incorrect) that, as applicable—

- (a) no grant from public funds has been paid or will be paid in respect of any of the costs of purchasing or installing any of the equipment used to produce the biomethane for which the applicant is intending to claim periodic support payments, or
- (b) such a grant was paid and it has been repaid to the person or authority who made it.

(2) Where some or all of the purchase or installation costs for the equipment used to produce any original biomethane were funded by any grant from public funds and—

- (a) the applicant demonstrates to the satisfaction of the Authority that the person or authority who made the grant has—
 - (i) refused to accept repayment of the grant, or
 - (ii) ceased to exist, or
- (b) paragraph (3) applies,

the Authority may register the applicant as a participant, but a grant funding deduction must be deducted from each periodic support payment in accordance with paragraphs (4) and (5).

(3) This paragraph applies where—

- (a) a grant originates from funds raised by the National Lottery, and
- (b) on or after 30th November 2021 but not later than 30th November 2025 installation of the equipment used to produce biomethane was completed and injection of biomethane produced by that applicant has commenced.

(4) A grant funding deduction for each quarter is calculated in accordance with the following formula—

$$\frac{A}{60}$$

where A is—

- (a) for the quarter in which the tariff start date falls, the figure that the Authority considers, based on all relevant information available to the Authority at the time, represents the total value of any grants from public funds to which paragraph (2) refers,
- (b) for any subsequent quarter that does not include 1st April of any year, the value of A in the previous quarter, and
- (c) for any subsequent quarter that includes 1st April of any year, the value of A in the previous quarter adjusted by the percentage increase or decrease in the consumer prices index for the previous calendar year, the resulting figure being rounded.

(5) Where a grant funding shortfall arises, the Authority must deduct from the periodic support payments (“P”) payable in the subsequent quarter and any quarter after the subsequent quarter, the grant funding deduction for that period together with such part of the grant funding shortfall as remains outstanding provided that the total amount so deducted does not exceed P.

(6) Where an application for registration in respect of additional biomethane is made under regulation 8—

(a) a reference to a grant in paragraph (1) does not include a grant in respect of equipment used to produce that additional biomethane if the equipment is also used to produce original biomethane and a grant funding deduction is already being made in respect of the grant, and

(b) paragraphs (2) to (4) do not apply in respect of the application.

(7) In this regulation—

“grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority,

“grant funding shortfall” means the amount by which the grant funding deduction exceeds the periodic support payment in any quarter, and

“National Lottery” means the National Lottery as referred to in section 1 of the National Lottery etc. Act 1993⁽⁵⁾.

Additional capacity for biomethane production

8.—(1) A participant who—

(a) is producing or intends to produce additional biomethane for injection by anaerobic digestion, and

(b) expects the injection of that additional biomethane to commence no later than 30th November 2025,

may apply to the Authority to be registered in respect of that additional biomethane.

(2) A participant may not make a further application under paragraph (1) in respect of the production of additional biomethane using the same equipment used to produce biomethane to which the original application relates without first withdrawing the original application.

(3) Regulation 5(3) to (6), and regulation 6(2), (4)(a) to (c) and (e), and (5) to (8) apply to an application for registration in respect of additional biomethane, and such application must be in writing and supported by such of the information referred to in regulations 5 and 6 as the Authority may require, but as if references in those regulations—

(a) to an applicant were references to the participant,

(b) to biomethane were references to additional biomethane, and

(c) to registering the applicant as a participant were references to registering the participant in respect of that additional biomethane.

(4) Where a participant is registered in respect of additional biomethane, the Authority must specify the maximum additional capacity in relation to which the participant is registered.

(5) Where a participant is registered in respect of additional biomethane—

(a) periodic support payments for that additional biomethane are payable—

(i) where the application is made on or before 31st October in a financial year (“FY1”), from the start of the following financial year (“FY2”),

(5) 1993 c. 39. Section 1 was amended by section 3 of the National Lottery Act 2006 (c. 23).

- (ii) where the application is made after 31st October in FY1, from the start of the financial year following FY2,
 - (b) the tariff for additional biomethane is the relevant tariff determined in accordance with regulation 21(3) as at the tariff start date for that additional biomethane, and
 - (c) the tariff for the original registration continues to be the relevant tariff for that original registration, determined in accordance with regulation 21(3) as at the tariff start date for that original registration.
- (6) Periodic support payments for additional biomethane may not be made beyond the tariff end date which was notified in accordance with regulation 6(4)(e)(v) when the participant was originally registered as a producer of biomethane.
- (7) For the purposes of this regulation—
- (a) “additional biomethane” means any biomethane—
 - (i) which exceeds the sum of the maximum initial capacity, together with any maximum additional capacity previously specified under this regulation, and
 - (ii) which is being supplied, or is intended to be supplied, by the participant for injection at the same injection point as the biomethane in respect of which that participant was first registered,
 - (b) “maximum additional capacity” means the volume of biomethane, expressed in cubic metres per year, which—
 - (i) is additional biomethane, and
 - (ii) is the maximum volume which a participant is entitled to supply for injection under the network entry agreement applicable to that additional biomethane.
- (8) Where the Authority does not register a participant in respect of additional biomethane, it must notify the participant in writing that the application for registration in respect of additional biomethane has been rejected, giving reasons.