

EXPLANATORY MEMORANDUM TO
THE GREEN GAS SUPPORT SCHEME (AMENDMENT) REGULATIONS 2024

2024 No. 642

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Lord Callanan, Minister for Energy Efficiency and Green Finance at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Ludo Tolu and Sam Massey, Deputy Directors for Biomethane and Heat Networks, at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Chris Bateman at the Department for Energy Security and Net Zero Telephone: 02072153130 or email: chris.bateman@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument makes amendments to the Green Gas Support Scheme Regulations 2021 (2021 Regulations), which provide the legislative framework for the Green Gas Support Scheme (GGSS) and the Green Gas Levy (GGL).
- 4.2 These amendments improve the effectiveness of the scheme and ensure the scheme delivers against its objective of supporting the development of new anaerobic digestion plants injecting biomethane into the gas grid as a replacement for fossil fuel gas. The amendments include: (i) extending the scheme closure date from 30 November 2025 to the 31 March 2028; and (ii) amending the formula for calculating the proportion of eligible biomethane that receives tariff payments by removing penalties for the use of heat pumps in the production of biomethane. This will encourage the use of low carbon heat pumps as an alternative to fossil fuel heat sources in the production of biomethane.

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain

5. Policy Context

What is being done and why?

- 5.1 These amendments follow a mid-scheme review of the GGSS, which considered the effectiveness of the scheme and reviewed several areas for potential amendments. The mid-scheme review was consulted on in 2023 by the Department for Energy Security and Net Zero.

Extending the scheme

- 5.2 This instrument will amend the scheme closure date from 30 November 2025 to 31 March 2028. This will provide an additional two years and four months for prospective applicants to register and commission on the scheme, addressing the supply chain delays and challenges in securing appropriate feedstocks which have affected deployment on the scheme.
- 5.3 The GGSS provides scheme participants producing biomethane with tariff payments for 15 years. The amendment addresses various regulations to ensure the scheme continues to operate effectively for the additional scheme years as a result of the scheme extension, including the continuation of the GGL to collect funds for tariff payments for eligible biomethane up to 2043/44.

Amending the formula for eligible biomethane

- 5.4 The formula used to calculate the proportion of eligible biomethane that may receive tariff payments which can be found in regulation 27(2) will be amended. The formula includes deductions for the amount of heat used in the production of biomethane, with a few exceptions. This instrument will add eligible heat pumps to the list of exceptions for the values in regulations 27(2)(c)(i) and 27(2)(d), meaning heat supplied by an eligible heat pump will not be included in the deductions.
- 5.5 The formula will also be amended to include a new value representing electricity input to the eligible heat pump to appropriately reflect their use and encourage efficient heat pumps in the production of biomethane. This will ensure eligible heat pumps are treated consistently with the existing exceptions for low carbon heat use and will incentivise the use of low carbon heat sources in the production of biomethane for GGSS participants.
- 5.6 The amendments will set out the eligibility requirements for heat pump systems that this exception applies to, as well as the process for informing the scheme administrator of their installation.

What was the previous policy, how is this different?

- 5.7 The 2021 Regulations established the GGSS and the GGL, which provide incentives for the injection of biomethane into the gas grid in Great Britain and for the funding of those incentives.
- 5.8 The amendments made by this instrument will affect the operation of the GGSS and GGL. The amendments are described in detail above. The amendments do not change the overall policy intent of the scheme and are expected to support the scheme in delivering against its original objectives. In particular, the extension to 31 March 2028 will provide prospective applicants with sufficient time to register and commission on to the scheme.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Section 100 of the Energy Act 2008 enables the Secretary of State to make regulations establishing schemes to encourage the renewable generation of heat and to provide for the administration of those schemes.
- 6.2 The 2021 Regulations, which were made under section 100 of the Energy Act 2008, established the GGSS and the GGL. The GGSS is a scheme to encourage the production of biomethane by the anaerobic digestion of biomass, such as food waste, sewage, and certain crops. This is intended to increase the amount of biomethane injected into the gas grid, thereby helping to decarbonise Great Britain's gas supply. The GGSS is funded by the GGL, which is charged to licensed fossil fuel gas suppliers in Great Britain. The 2021 Regulations came into force on 30th November 2021.
- 6.3 Following a mid-scheme review of the GGSS, these amendments described above will improve the effectiveness of the scheme, ensuring it can deliver against its objective to support the production of biomethane which is injected into the gas grid.

Why was this approach taken to change the law?

- 6.4 The amendments made by this instrument will affect the operation of the GGSS and GGL. The amendments are described in detail above. The amendments do not change the overall policy intent of the scheme and are expected to support the scheme in delivering against its original objectives. In particular, the extension to 31 March 2028 will provide prospective applicants with sufficient time to register and commission on to the scheme.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 In accordance with section 100(7) of the Energy Act 2008, the Secretary of State has obtained the consent of the Scottish Ministers to the making of these Regulations.
- 7.2 The Secretary of State has consulted the Welsh Ministers in relation to the making of these Regulations.
- 7.3 The Department consulted publicly in March 2023, the consultation was open for 8 weeks and received 24 responses. The full government response to this consultation summary can be found here: <https://www.gov.uk/government/consultations/green-gas-support-scheme-mid-scheme-review>
- 7.4 The consultation included a proposal to extend the scheme by four months. The majority of respondents agreed to the extension but suggested four months would not be sufficient to address concerns affecting deployment. Following these responses and further engagement on the challenges faced by industry, the Department committed to extending the scheme by two years and four months.
- 7.5 The consultation also received support from a majority of the respondents on proposals to remove penalties for heat pumps in the production of biomethane. Most respondents also agreed with the proposals for reflecting electricity input to the heat pump in the calculations for eligible biomethane.

8. Applicable Guidance

- 8.1 The scheme administrator, Ofgem, will publish guidance to explain these regulations in further details for stakeholders on the laying date 14th May.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because these amendments will not significantly change scheme impacts as set out in the original Impact Assessment available here:
<https://assets.publishing.service.gov.uk/media/61422e36d3bf7f05aa5f92d8/green-gas-impact-assessment.pdf>

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities, or voluntary bodies. The legislation does not directly apply to activities that are undertaken by small businesses. The Green Gas Support Scheme is funded by the Green Gas Levy, which is placed on fossil fuel gas suppliers; levy costs are expected to be passed on to gas consumers, which may include small businesses. As a result of the scheme extension to 31 March 2028, the GGL will continue to be collected for an additional two years and four months.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector because the scheme is funded by a levy on fossil fuel suppliers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring of this legislation is an evaluation of the Green Gas Support Scheme and Green Gas Levy, undertaken by the Department.
- 10.2 The instrument does not include a statutory review clause and, the requirement under section 28(2) of the Small Business, Enterprise and Employment Act 2015 to make provision for review does not apply to this instrument as it falls within an exception in section 28(3) of that Act.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is being laid for the Joint Committee on Statutory Instruments.

12. European Convention on Human Rights

12.1 The Minister for Energy Efficiency and Green Finance has made the following statement regarding Human Rights:

“In my view the provisions of the The Green Gas Support Scheme (Amendment) Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).