EXPLANATORY MEMORANDUM TO

THE GREEN GAS SUPPORT SCHEME REGULATIONS 2021

2021 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations establish the Green Gas Support Scheme (GGSS) which is a scheme to facilitate and encourage renewable generation of heat by the production of biomethane by anaerobic digestion for injection into the gas grid. The scheme provides support for biomethane producers through a tariff based mechanism, and is funded by levy payments collected from licensed gas suppliers.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

5.1 The Minister, Lord Callanan, has made the following statement regarding Human Rights:

"In my view, the provisions of The Green Gas Support Scheme Regulations 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 These Regulations establish the GGSS which is a scheme to facilitate and encourage renewable generation of by means of biomethane produced by the anaerobic digestion of biomass such as food waste, sewage and certain crops. This will support biomethane injection into the gas grid, thereby helping to decarbonise our gas suppliers by increasing the proportion of "green" gas.

6.2 The GGSS will replace the Renewable Heat Incentive (RHI) Scheme, set out in the Renewable Heat Incentive Scheme Regulations 2018, which closed to new applicants, on 31 March 2021.

7. Policy background

What is being done and why?

7.1 Following the closure of the RHI Scheme, a new support scheme, the GGSS, is being introduced to continue to incentivise biomethane production in order to decarbonise the gas grid. Increasing the proportion of green gas in the grid is a practical, established, and cost-effective way of reducing carbon emissions and contributing to the UK's target to achieve net zero greenhouse gas emissions by 2050.

7.2 The new GGSS will be funded by a levy rather than being exchequer funded like the RHI Scheme. Therefore, the regulations introduce the Green Gas Levy (GGL), which will be used to fund the GGSS.

7.3 The GGSS will launch with a three-tier tariff structure that will provide payments to biomethane producers who are registered participants in the scheme, for 15 years from the date of registration. Tariff rates will be set at a level that aims to encourage continued deployment and ensure value for money. Tariff guarantees give applicants a level of investor certainty to enable them to build the plant, and are a compulsory part of the GGSS.

7.4 In order to ensure ongoing value for money, tariff rates for new applicants will be subject to cost control mechanisms which compromise of an annual tariff review using information collected on plant costs and revenues, and a degression mechanism which will reduce tariffs if certain triggers are met. Budget caps will also be put in place by the SOS to keep the GGSS within the budget raised by the levy, ensuring TG applicants are only accepted on the scheme if sufficient budget is available.

7.5 The GGSS supports the production of biomethane via the process of anaerobic digestion (AD) only and support payments will only be made for biomethane injected into the grid. To encourage new deployment, producers using equipment which for example has already been used to produce biomethane or was used to register under the RHI Scheme, may not apply to be registered.

7.6 To encourage the use of waste feedstocks such as food waste over bioenergy crops, biomethane producers will be required to produce at least 50% of their biomethane using waste or residue feedstocks. Waste feedstocks have higher carbon savings and a lower environmental impact on soil and water quality than bioenergy crops.

7.7 While the GGSS will only be supporting biomethane produced via AD, there may be scope in the scheme's future to open it up to supporting other green gases, such as hydrogen, subject to any necessary legislative amendment if the current barriers to deployment are overcome during the scheme's lifetime. Consequently, other green gases are not considered here but legislative changes of this nature may be considered in the future for this purpose.

7.8 The sole purpose of the GGL is to fund the GGSS. The Government anticipates that fossil fuel gas suppliers will pass the costs of the GGL on to gas bill payers in the domestic and non-domestic sectors. Given that the benefits of decarbonisation through biomethane injection will be shared by all users of the gas grid, it is considered appropriate for gas users to fund the next stage of this transition.

7.9 These Regulations commit to launching the GGSS on 30th November 2021. This reflects the commitment in the "Future Support for Low Carbon Heat" Government Response to launch the scheme in the autumn of 2021. This will be important for industry that we meet this commitment in order to minimise the hiatus in support for

biomethane following the closure of the RHI. It also allows the scheme to better contribute to our legally binding carbon budgets. From 1st April 2022 suppliers will need to make quarterly levy payments with credit cover being lodged in advance of each quarter. The first levy collection in quarter 1 of scheme year 2022/23 will include a backdated levy payment covering biomethane produced from scheme launch on 30th November 2021 until 31st March 2022. The government has consulted publicly on the Green Gas Support Scheme and the Green Gas Levy.

7.10 The GGL will levy fossil fuel gas suppliers, with an exemption for gas suppliers who provide at least 95% biomethane under the recognised certification scheme, at a flat rate for every meter point they supply. It will launch with a per meter point design, which is relatively straightforward to implement and provides gas suppliers and consumers with a high certainty of costs. A pence per meter per day rate will be set each year and gas suppliers will pay their levy on a quarterly basis.

7.11 The impact of the GGL on billpayers is expected to be minimal in relation to other policy costs on gas. For domestic consumers, bill impacts are expected to peak at around £4.70 by 2028 under this levy.

7.12 Both the GGSS and the GGL will be administrated by the Gas and Electricity Markets Authority, Ofgem. Ofgem will have a suite of compliance and enforcement tools to ensure scheme participant and supplier compliance. For the GGSS, this includes requesting information from participants, conducting on-site audits and excluding participants from the scheme. For the GGL, this includes a mutualisation process, late payment interest, financial penalties, public reporting, and the pursuance of non-payment through the courts.

Explanations

What did any law do before the changes to be made by this instrument?

7.13 Regulations were created for the RHI Scheme under s.100 of the Energy Act 2008 and the scheme was exchequer funded. A decision was made to move to a levy funding mechanism for the GGSS. Because we are introducing the new GGSS and GGL, this must be set out in new legislation.

Why is it being changed?

7.14 The RHI Scheme is now closed to new applicants, and it is government policy to continue to support deployment of biomethane production and injection. The new regulations will ensure the continuation of biomethane support and allow the GGSS and GGL to be put in place.

What will it now do?

7.15 The new regulations will mean the new GGSS and GGL can launch and will allow a levy to be collected from fossil fuel gas suppliers to fund support payments to biomethane producers through the GGSS. This is expected to be launched in autumn 2021.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

8.2 The instrument provides for the calculation of greenhouse gas emissions using the Greenhouse Gas lifecycle methodology laid out in Annex VI of EU Directive 2018/2001.This is an established and accepted methodology for measuring greenhouse gas emissions, which this instrument references with the sole aim of bringing about increased carbon savings.

8.3 This instrument does not implement EU law. The reference to the methodology laid out in Annex VI of EU Directive 2018/2001 is a point-in-time reference to an existing methodology. Any future changes to the methodology that take effect within the EU will not apply to this instrument.

9. Consolidation

9.1 No consolidation is proposed at present.

10. Consultation outcome

10.1 The Department for Business, Energy and Industrial Strategy launched consultations on both the GGSS and GGL, and issued a subsequent joint government response.

10.2 There were two consultations covering the GGSS. The first consultation was launched in April 2020 for a ten-week period to seek views on the new scheme. A second consultation on the GGSS was launched in December 2020 to seek feedback on proposals to mitigate ammonia emissions from digestate produced as a result of the scheme.[1]

10.3 With regards to the first consultation on the GGSS, 167 unique responses were received from a range of stakeholders including the anaerobic digestion and energy industries, members of the public and other organisations. Alongside the consultations, a series of workshops and webinars were also held.

10.4 Many of the respondents supported our proposal for a three-tier tariff structure over a 15-year tariff lifetime with mixed responses on the appropriate tariff levels. Concerns raised suggested the GGSS may not encourage investment or compensate for the high capital costs or ongoing operational costs. The Government responded to these concerns by setting tariffs accordingly, striking an appropriate balance between two key aims of the scheme: encouraging investment, whilst providing value for money to the billpayer.

10.5 There was support overall for the proposed budget management and cost control mechanisms, including making tariff guarantees compulsory for all applicants and collecting more information on plant costs and revenues to feed into the annual tariff review. Many respondents were supportive of having a degression mechanism, but also highlighted areas where it could be improved compared to the RHI Scheme.

10.6 Respondents were largely in favour of aligning the GGSS's sustainability criteria with the EU's updated Renewable Energy Directive (RED II)(EU Directive 2018/2001). There was no clear consensus on the proposed minimum percentage of fuel from waste feedstocks, but as feedstocks made up of waste and residues lead to higher.

10.7 With regards to the second consultation for the GGSS, this received 20 responses with respondents strongly supporting the proposed measures, which includes mandating store covers, where the waste permit applies; and that digestate is spread using low

[1] BEIS (2020) Green Gas Support Scheme (GGSS): digestate management

emission spreading techniques when applied to land to mitigate the negative environmental impacts of digestate.

10.8 The Consultation on a GGL was launched in September 2020 for five weeks,[2] receiving 60 responses from a range of different stakeholders, including gas suppliers, consumer groups and associations and other organisations. Alongside the consultation, a series of workshops and webinars were held.

10.9 Respondents' views were evenly split between supporting the proposed per meter point approach and not. Unsupportive respondents largely preferred launching with a volumetric levy instead due to concerns the per meter per day approach was regressive and unfair for vulnerable and lower usage gas consumers. However, many respondents understood the rationale for launching with a per meter point levy design due to its simplicity, the high degrees of certainty around costs it would give consumers and suppliers, and the minimised administrative burden of implementing the levy. Following a strong steer from consultation respondents in favour of moving rapidly to a volumetric levy design, the Government intends to transition to a volumetric levy as soon as possible, subject to the current feasibility issues being overcome.

10.10 There is an annual budget cap for the GGSS, which will prevent the scheme from spending more than intended and provide certainty on levy costs. For the GGL, a maximum levy collection figure (as a fixed total value) will be published in advance of the launch of the GGSS. This will give gas suppliers foresight on maximum costs. Most respondents were supportive of this.

10.11 Respondents were mostly supportive of the proposed suite of compliance and enforcement mechanisms, such as credit cover, the mutualisation process and decisions relating to financial penalties, interest rates, and public reporting.

10.12 The Government has worked closely with the devolved administrations to implement the support scheme and the levy across Great Britain and to ensure these proposals are developed and delivered in a way that is consistent with their own policies on heat decarbonisation, to meet their respective climate change targets.

11. Guidance

11.1 The Regulations require the Gas and Electricity Markets Authority, as administrator of the GGSS and GGL, to publish procedural guidance to applicants, participants, and scheme suppliers, which will include information on how Ofgem will administer the GGSS and associated GGL.

12. Impact

12.1 The cost of the levy has no significant impact on business, charities or voluntary bodies. Natural gas suppliers will incur some administrative burden from the levy, though this is small, with a total cost of around £300,000 across the sector each year, with some additional implementation costs in the first year.

12.2 There is no significant impact on the public sector. For domestic and non-domestic consumers, bill impacts are expected to peak at around £4.70 by 2028 under this per meter point levy. The Government estimates that the impact of the levy on fuel poverty metrics, such as the average fuel poverty gap and the Low Income High Costs

[2] BEIS (2020) Consultation on a Green Gas Levy

indicator, is minimal. The Government completed a Public Sector Equality Duty assessment and expects both the GGSS and GGL to have no disproportionately negative impacts on people with protected characteristics.

12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 It is expected that some gas suppliers will be small businesses. As the Government anticipates that suppliers will pass costs onto their customers, the Government is not proposing any exemptions from the levy for small gas suppliers. Small supplier exemptions are more relevant for schemes where suppliers have significant delivery obligations, which would otherwise pose a disproportionate administrative burden on those suppliers.

13.3 Administrative costs for small businesses have been minimised through the per meter point approach of the levy, which imposes smaller administrative burdens on suppliers than other approaches.

13.4 The passed through cost of the levy for small businesses will be negligible when compared to total operating costs and turnover and are not expected to impact competitiveness.

13.5 Some biomethane producers will be small businesses and can expect to benefit from continue support offered by the GGSS through the tariff structure that is specifically designed to incentivise deployment and compensate for the higher capital and operational costs involved in biomethane production.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is as follows.

14.2 Given the high-profile nature and substantial spend of the GGSS, and bespoke nature of the GGL, there are a set of robust monitoring and evaluation metrics and questions in place.

14.3 Monitoring data will be collected by the GGSS and GGL administrator, Ofgem. For the GGSS, these metrics will cover application details to assess eligibility information required for annual tariff reviews and ongoing financial commitments to BEIS. For the GGL, these metrics will include gas supplier numbers, the amount of levy collected in relation to GGSS spend, and the enforcement and compliance measures.

14.4 Post implementation evaluation projects will provide further analysis of information not collected by the administrator. Questions will cover the effectiveness and efficiency of the GGSS and GGL; whether the scheme and levy have met their objectives; the impacts of both on stakeholders and carbon targets; and what lessons can be learnt.

14.5 The instrument does not include a statutory review clause. 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.

15. Contact

15.1 James Davis at the Department for Business, Energy and Industrial Strategy (tel: 0300 068 5237 or email: james.davis@beis.gov.uk) or Jane Lumb (tel: 020 7215 2161 or email: jane.lumb@beis.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Rebecca Vallance, Deputy Director in the Clean Heat Directorate, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Callanan at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.