

Net Zero, Energy and Transport Committee
Tuesday 17 March 2026
13th Meeting, 2026 (Session 6)

Note by the Clerk on UK subordinate legislation: consideration of consent notification

Introduction

1. This paper supports the Committee's consideration of a 'type 1' consent notification sent by the Scottish Government relating to the following proposed UK statutory instrument (SI): The Green Gas Support Scheme (Amendment) Regulations 2026
2. The process for the Scottish Parliament's consideration of consent notifications is set out in the [SI Protocol](#). Further details of this process are set out in Annex A.

The Green Gas Support Scheme (Amendment) Regulations 2026

3. On 24 February 2026, the Cabinet Secretary for Climate Action and Energy wrote to the Committee to give notice of the Scottish Government's proposal to consent to the UK SI. The Scottish Government has also provided an SI notification and a summary notification. These documents are set out in Annex B. The date the UK Government intends to lay the UK SI is unknown.
4. The Scottish Government has asked the Committee to respond to the consent notification by 25 March 2026.
5. These Regulations amend the Green Gas Support Scheme (GGSS), a UK-wide scheme providing tariff support for biomethane produced via anaerobic digestion and injected into the gas grid.
6. The SI will make three changes to the existing regulations—
 - extend the deadline for commissioning anaerobic digestion plants eligible for support from 31 March 2028 to 31 March 2030;
 - correct wording relating to the calculation of tariffs where heat pumps are used within the anaerobic digestion process; and
 - align sustainability audit reporting requirements with financial years to reduce administrative burden.
7. The Green Gas Support Scheme (GGSS) is a government environmental scheme that provides financial incentives for new anaerobic digestion biomethane plants to increase the proportion of green gas in the gas grid. It

applies in England, Scotland and Wales and is administered by OfGEM on behalf of the UK Government and the devolved administrations.

8. The GGSS opened on 30 November 2021 and will close for applications on 31 March 2028.
9. The Scottish Government states that extending the commissioning deadline will allow projects which experience delays in areas such as planning applications, feedstock supply or supply chain procurement to proceed with greater confidence that they will still be eligible for tariff support.
10. Under section 100(7) of the Energy Act 2008, the Secretary of State must obtain the consent of the Scottish Ministers before making regulations containing provision which would be within the legislative competence of the Scottish Parliament.

Next steps

11. If the Committee wishes to approve the proposal to consent to the SI, it may, in doing so, set out in its letter to the Scottish Government any observations or concerns that it thinks are relevant.
12. If the Committee is not content with the proposal, it should include in its letter to the Scottish Government one of the following recommendations:
 - That the Scottish Government should not consent to the provision being made in a UK SI and that the Scottish Government should instead take forward an alternative Scottish legislative solution. In this instance, the Scottish Ministers do not have the power to make equivalent provision in a Scottish statutory instrument, so would need to find a different way to make the devolved provision.
 - That the provision should not be made at all (that is, that the Scottish Government should not consent to the provision being included in a UK SI, nor should the Scottish Government take forward an alternative Scottish legislative solution).

Clerks to the Committee
March 2026

Annexe A: Process for parliamentary scrutiny of consent notifications in relation to UK statutory instruments

1. The Protocol provides for the Scottish Parliament to scrutinise the Scottish Government's decisions to consent to certain subordinate legislation made by the UK Government: specifically, UK Government subordinate legislation on matters within devolved competence in areas formerly governed by EU law. It sets out a proportionate scrutiny approach and categorises SI notifications as 'type 1' or 'type 2'.
2. Type 2 applies where all aspects of the proposed instrument are clearly technical (e.g., they merely update references in legislation that are no longer appropriate following EU exit) or do not involve a policy decision. These are notified retrospectively, after the Scottish Government has given its consent.
3. All other proposals are type 1. In this case, the Scottish Parliament's agreement is sought before the Scottish Government gives consent to the UK Government making subordinate legislation in this way. Each type 1 notification must be considered by the relevant Committee.
4. **The Committee's role in relation to type 1 notifications is to decide whether it agrees with the Scottish Government's proposal to consent to the UK Government making Regulations within devolved competence, in the manner that the UK Government has indicated to the Scottish Government.**
5. If Members are content for consent to be given, the Committee will write to the Scottish Government accordingly. The Committee may also wish to note any issues in its response or request that it be kept up to date on any relevant developments.
6. If the Committee is not content with the proposal, however, it may recommend that the Scottish Government should not give its consent. In that event, the Scottish Ministers have 14 days under the Protocol to respond to the Committee's recommendation. They could—
 - Agree. If so, the Scottish Ministers would then withhold their consent.
 - Not agree. If so, the Parliament will debate the issue.
7. If the Parliament agrees to the Committee's recommendation that the Scottish Ministers should not consent, the Protocol provides that the Scottish Ministers should "normally not consent" to the UK SI. However, the Protocol also provides that if the Scottish Ministers consider that the Committee's proposed alternative cannot be achieved, they may consent to the UK SI. If so, they must explain why they are doing so to the Scottish Parliament.

Annexe B: Information from Scottish Government

Letter from the Cabinet Secretary for Climate Action and Energy

Dear Edward,

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 the UK 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 SI and it is 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 as to whether it is in keeping with the terms of this notification.

The SI will make three changes to the existing regulations.

- The deadline for commissioning anaerobic digestion plants which will receive support via the Green Gas Support Scheme (GGSS) will be extended from 31 March 2028 to 31 March 2030. This will make the projects more viable for investors and will help to reduce emissions from the gas grid whilst improving energy security.
- The wording of legislation will be slightly amended to correct a previous mistake regarding calculation of tariffs for projects that are combined with heat pumps.
- Requirements to submit sustainability audit data will be aligned with other audit requirements.

I believe that consenting to the extension of the commissioning deadline for GGSS projects will give confidence to investors and will encourage the utilisation of waste resources to generate energy, whilst displacing fossil fuels and therefore supporting Scotland's Net Zero ambitions.

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

I look forward to hearing from you by 25 March 2026.

Yours sincerely,

GILLIAN MARTIN

SI notification

NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

Green Gas Support Scheme (Amendment) Regulations 2026

Is the notification Type 1 or Type 2

Type 1

- The Green Gas Support Scheme (GGSS) provides tariff support for biomethane produced via anaerobic digestion which is injected into the gas grid. It is funded by the Green Gas Levy which is applied to all licenced fossil fuel gas suppliers.
- The GGSS regulations are enabled by powers contained in the Energy Act 2008.
- The Energy Act 2008, section 100 (7) states that making regulations under this section which extend to Scotland, the Secretary of State must—

(a)if the regulations contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
(b)in any other case, consult the Scottish Ministers.

- The UK Government intends to extend the commissioning deadline of the GGSS from 31 March 2028 to 31 March 2030. This will provide new applicants with an additional two years to commission plants, begin injecting biomethane into the gas grid and make their stage 3 application for GGSS registration. The proposed extension aims to maximise deployment and the associated carbon savings that can be achieved through the scheme.
- This change aligns with EU policy. The REPowerEU Plan states a desire to increase biomethane production. The GGSS has sustainability criteria which aligns with EU Renewable Energy Directive (RED).
- DESNZ had suggested 13 April for laying in UK Parliament but this timeline has now been pushed back. With the imminent recess for the pre-election period it has been agreed with the Parliament and Legislation Unit to seek consent for the changes before we receive the official notification of laying date and when the SI would come into force.

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

- The extension of the commissioning deadline of the Green gas Support Scheme (GGSS) from 31 March 2028 to 31 March 2030.
- Minor change to the wording of the legislation in regard to how heat from heat pumps is calculated in the tariff award. Heat pumps are used to warm the anaerobic digestion process, making it more efficient. If this heat is generated by a registered heat pump which meets the relevant eligibility requirements then no deductions are made from payments.
- Minor change to align sustainability audit reports with financial years, which will help to reduce the administrative burden.

Summary of proposals

- Extending the commissioning deadline will allow projects that may experience delays in planning applications, establishing supply of waste feedstock or delays in supply chain procurement to be fully developed with the confidence that they will be entitled to tariff support.
- This will give greater possibility of the allocated budget of the scheme being fully used, which will contribute to reducing emissions and providing greater energy security.

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

- The Green Gas Support Scheme (GGSS) is directly underpinned by powers contained in the Energy Act 2008. The Energy Act 2008 sets out the framework for collaboration between the UK Government and the devolved governments.

Summary of stakeholder engagement/consultation

- DESNZ have engaged with industry who highlighted the concerns that delays could make meeting the commissioning deadline difficult. It takes around two years from being accepted on the scheme to commissioning, so time is running short under the current timeline for plants to have confidence that they will be able to build and commission in time.
- Grissan are the major biomethane producers in Scotland and they have indicated to DESNZ that they are supportive of the changes being proposed.

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

Laying date is not known yet.

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

The final proposal is not available from the UK Government yet but the Scottish Parliament will have 28 days to consider the draft and any changes will be flagged.

Information about any time dependency associated with the proposal

Scrutiny of the proposal needs to be completed before the pre-election period of Scottish Parliament begins on 26 March.

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

Governance and monitoring of the scheme are already well established and will not change.

The scheme is already aligned with EU standards.

Any significant financial implications?

There are no financial implications for the Scottish Government and no additional costs, beyond what had previously been agreed, for consumers.

Summary notification

SUMMARY NOTIFICATION TO THE SCOTTISH PARLIAMENT

Green Gas Support Scheme (Amendment) Regulations 2026

SI NOTIFICATION: SUMMARY

Title of Instrument

UK Parliament Statutory Instrument (SI)

Proposed laying date at Westminster

Not known

Date by which Committee has been asked to respond Before pre-election recess on 26 March 2026

Power(s) under which SI is to be made

Energy Act 2008, s.100, s.104(2)

Categorisation under SI Protocol

Type 1

Purpose

The amendment will allow for the extension of allowable commissioning date of anaerobic digestion projects which apply for funding support from the Green Gas Support Scheme from 30 March 2028 to 30 March 2030.

This will give projects greater opportunity to address any delays in planning applications and in establishing supply chains. This will give investors' confidence to continue developing a more circular economy and by injecting more biomethane into the gas grid will help to reduce emissions and deliver greater energy security.