

EXPLANATORY MEMORANDUM TO
THE MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY
SUPPLY LICENCE

2010 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The licence modifications will amend the Standard Licence Conditions of electricity supply licences. The amendments will require suppliers of electricity with more than 50,000 domestic customers to offer Feed In Tariffs (FITs) to accredited small scale (capacity of 5MW or less) generators of electricity using an eligible low-carbon energy source. Suppliers with fewer than 50,000 customers will be able to offer FITs voluntarily.
 - 2.2 The purpose of the licence modifications is to promote the take-up of small scale low-carbon electricity generation in order to help meet the UK's binding target to achieve 15% of its energy consumption from renewable sources and to contribute to the UK's low carbon targets.
 - 2.3 The proposed measure has the potential to affect most electricity supply companies but is only mandatory for electricity supply companies with more than 50,000 customers
 - 2.4 The measure will affect all consumers of electricity as the costs of the scheme is expected to be passed through to their bills.
3. **Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**
 - 3.1 No items of special interest
4. **Legislative Context**
 - 4.1 These licence modifications are made in exercise of the powers conferred on the Secretary of State by Sections 41-43 of the Energy Act 2008 to modify the operating licences for electricity distribution and supply companies as established under the Electricity Act 1989.
 - 4.2 There are two documents which will together form the legal basis for implementing the FIT scheme,
 - a. These Licence modifications made under section 41 of the Energy Act 2008

- b. An order giving functions to the Gas and Electricity Markets Authority (Ofgem) to administer the scheme. This order will also set the maximum capacity cap for installations participating in the scheme. The order will be made under sections 43(3) and 41(4) of the Act.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Section 42 of the Energy Act 2008 imposes a duty on the Secretary of State to consult licence holders, the Gas and Electricity Markets Authority and other such persons as he considers appropriate prior to making a licence modification. The proposal to introduce FITs was subject to a three month consultation on a range of renewable energy financial incentives published in July 2009. The consultation referred to a number of government commissioned studies and independent analyses, all of which provided evidence to support the proposal.

7.2 As a result of the consultation the FITs scheme will have the following features:

- It will support new anaerobic digestion, hydro, solar photovoltaic (PV) and wind projects up to 5 megawatt (MW) capacity limit. , The scheme will also support 40,000 micro combined heat and power (mCHP) installations with an electrical capacity of 2 kilowatt (kW) or less, as a pilot programme. The scheme will not initially support solid and liquid biomass technologies, though these will continue to be supported under the RO.
- Wind and solar PV and hydro projects up to 50kW and mCHP projects supported through the pilot, will have to use Microgeneration Certification Scheme (MCS) eligible products installed by MCS accredited installers to be eligible for FITs support. Any other technology and scale of project must register their installation through a process based on the existing RO process, known as the ROO-FIT process, in order to be eligible for FITs support.
- Support will comprise a generation tariff (differing by technology type and scale) paid for every kilowatt hour (kWh) of electricity generated and metered and an export tariff which will either be metered and paid as a minimum amount that generators are eligible for, or will, in the case of very small generation, be assumed to be 50% of the generation in any period without the requirement of additional metering.

- All generation and export tariffs will be linked to the Retail Price Index (RPI), and the Chancellor has announced that FITs income for domestic properties will be exempt from income tax considerations.
- The banding of the anaerobic digestion (AD) and wind tariffs has been changed to provide more effective support to these technologies.
- Tariffs have been set to deliver an approximate rate of return of 5-8% for well sited installations. The tariffs for some technologies that are available for new installations will “degress” each year, where they reduce to reflect predicted technology cost reductions to ensure that new installations receive the same approximate rates of return as installations already supported through FITs.
- Any installation completed prior to 15 July 2009 (the publication date of the Renewable Energy Strategy and the Consultation on Renewable Electricity Financial Incentives 2009) that is not accredited under the RO will not be eligible for financial support through FITs.
- RO accredited installations commissioned and accredited prior to 15 July 2009 will transfer to the FITs scheme at an RO transfer tariff when the scheme launches. Installations of eligible technologies completed on or after 15 July 2009 are entitled to FITs support according to the generation scale and technology band as appropriate.

7.3 In addition, in December 2009 the Department of Energy and Climate Change published a further, shorter consultation to seek comments specifically on the draft licence modifications. (A shortened consultation period was agreed on the basis that the suppliers had been informally consulted during the policy development leading up to the drafting of the licence modifications). As a result of this consultation the views of licence holders and Ofgem were taken into account in finalising the draft licence modifications.

- ***Consolidation***

7.4 None

8. Consultation outcome

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9. Guidance

9.1 Ofgem will be providing detailed guidance for suppliers and potential participants in the FITs scheme (small scale low-carbon generators) in a variety of formats.

10. Impact

10.1 The impact on business, charities or voluntary bodies is an average increase in annual electricity bills of approximately 1.5% for the period 2011-2030. They may also be able to reduce the impact of any future electricity price rises on their business costs as a result of generating their own electricity.

10.2 The impact on the public sector is about a 1.5% average increase in electricity bills for the period 2011-2030.

10.3 An Impact Assessment is attached to this memorandum

11. Regulating small business

11.1 The legislation does apply to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that no electricity supply companies employ 20 or fewer people

12. Monitoring & review

12.1 The requirement will result in the provision of FITs to 780,000 small-scale low-carbon installations by 2020 administered mainly by the six major electricity suppliers and a number of smaller suppliers. The scheme will be monitored by Ofgem.

12.2 Once the scheme has been implemented, we will conduct periodic tariff reviews, to coincide with reviews of the RO and Renewable Heat Initiative where possible. These reviews will be conducted to evaluate the effectiveness of the existing tariff schedules and to consider the need for any changes to be made as more up-to-date information becomes available.

12.3 At scheme reviews we will reassess the costs of technologies, electricity price forecasts and whether the target rate of return is still appropriate and consider revision of tariff levels accordingly. Scheme reviews will also consider technologies not currently supported through FITs and whether or not it is appropriate to allow those technologies to access the scheme and set appropriate generation tariffs.

13. Contact

John Costyn at the Department of Energy and Climate Change (tel: 0300 068 6149; e-mail; john.costyn@decc.gsi.gov.uk) can answer any queries regarding the instrument..