

**EXPLANATORY MEMORANDUM TO
MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY SUPPLY
LICENCES**

2011 No. [XXXX]

1. 1.1 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 modifications

2.1 The Feed-in Tariffs (“FITs”) scheme is the Government’s main policy measure to encourage the deployment of small scale low carbon electricity generation in Great Britain.

2.2 The scheme was implemented in partⁱ through licence modifications to amend the Standard Licence Conditions of electricity supply licences, requiring suppliers of electricity with more than 50,000 domestic customers to offer FITs to all accredited small scale (capacity of 5MW or less) generators of electricity using an eligible low-carbon energy source. The licence modificationsⁱⁱ were made on 31 March 2010 under sections 41-43 of the Energy Act 2008, which provide powers to modify the operating licences for electricity distribution and supply companies granted under the Electricity Act 1989.

2.3 A need to make further modifications to the standard conditions of electricity supply licences has arisen because of evidence suggesting a real risk that uptake of FITs could soon exceed expectations as a result of the deployment of larger scale solar photovoltaic (PV) installations, primarily in the south west of England, which were not fully anticipated at the start of the scheme. This higher than expected deployment could push FITs uptake considerably above trajectory and make the savings committed to in the 2010 Spending Review difficult to achieve. The Spending Review made clear that there are spending parameters within which the FITs scheme must operate, and stipulated the need to make 10% savings to the scheme in 2014/15 (£40 million) compared with original projections.

2.4 Separately, there has been a concern that fewer smaller Anaerobic Digestion schemes (of less than 500kW in scale) were being incentivised under FITs than had been expected.

2.5 These modifications therefore introduce new bands and reduced tariffs for solar PV installations greater than 50kW. These changes will come into effect on 1 August 2011. They also introduce new bands and increased tariffs for Anaerobic Digestion schemes of less than 500kW. These changes will come into effect on 1 August 2011 or the date at which state aids clearance is granted, whichever is the later.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Not applicable .These are licence modifications and not a Statutory Instrument.

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.

5. Territorial Extent and Application

5.1 These modifications are not a Statutory Instrument, but the modifications apply to Great Britain.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

- *What is being done and why*

7.1 The FITs scheme has been a success since its launch in April 2010 with around 40,000 feed in tariff installations registered to date, of which 93% are domestic-scale solar PV generators. Existing FIT generators are not affected by this instrument.

7.2 There is already around 250MW of solar PV in the planning system (i.e. both schemes which have applied for planning permission, and those which have received planning permission).

7.3 Even if 30% of these were commissioned (equal to 75MW) and received the current tariffs, the cost would still be around £20million, or a quarter of the entire FITs spending envelope for 2011/12.

7.4 Such high levels of large scale solar would shift money away from the intended beneficiaries of the FITs scheme who are individuals, householders, organisations, businesses and communities who have not traditionally participated in the electricity market. Separately, the Coalition had concerns about the relatively low uptake of farm scale (<500kW) Anaerobic Digestion schemes under FITs.

7.5 The Secretary of State for Energy and Climate Change therefore announced a review of the entire scheme on 7 February 2011. This review is being conducted in two parts of which the first, fast track review, sought to address the urgent issues of high large scale PV take-up and low numbers of Anaerobic Digestion schemes being developed. The consultation for the fast track review completed on 6 May 2011 and this instrument takes forward its outcome. The second aspect is a comprehensive review of the entire FITs scheme. This is now under way. We will consult on the detailed proposals as part of the review later this year and intend to enact any changes on 1st April 2012 unless the review itself reveals a need for greater urgency.

8. Consultation outcome

8.1 We consulted on the licence modifications to amend the Standard Licence Conditions of electricity supply licences detailed above from 18 March 2011 to 6 May 2011 and received over 500 responses. Having considered all responses received we

published the Government's response to the consultation on 8 June 2011. This is available from www.decc.gov.uk/FITs and sets out the decision to proceed with the proposed tariff reductions for large scale PV and increases for farm based AD. Comments received relating to the FITs scheme overall will be considered as part of the comprehensive review.

9. Guidance

9.1 Ofgem already provides detailed guidance for suppliers and potential participants in the FITs scheme (FIT generator) in a variety of forms. The same method will be used to alert electricity suppliers and others to this Instrument.

10. Impact

10.1 An Impact Assessment is attached to this memorandum which considers the impact of this change in full

11. Regulating small business

11.1 The legislation does apply to small business.

11.2 There are no impacts for firms employing up to 20 people as the approach taken is that no electricity supply companies employ 20 or fewer people.

12. Monitoring & review

12.1 The modifications to the licence conditions are a product of the ongoing monitoring of the FITs scheme to ensure that delivery of the scheme is as envisaged by the policy consulted on in 2009 and introduced in April 2010. This ongoing monitoring is designed to ensure that the objectives of the FITs scheme are delivered in a way which ensures value for money, particularly to consumers who ultimately pay. This monitoring will continue with the development of the comprehensive review.

12.2 Further information on the review is available from the Department of Energy and Climate Change's website.

13. Contact

13.1 Alasdair Grainger at the Department of Energy and Climate Change, email: alasdair.grainger@decc.gsi.gov.uk can answer any queries regarding the modifications.

ⁱ See also the Feed-in-Tariff (Specified Maximum Capacity and Functions) Order 2010 (SI 2010/678) as amended.

ⁱⁱ The modifications can be found at Schedule A to Standard Licence Conditions 33 and 34 of the electricity supply licence.