

**EXPLANATORY MEMORANDUM TO
MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY SUPPLY
LICENCES (NO. 2 OF 2012)**

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 part through the insertion of provisions in the standard conditions of electricity supply licences, requiring electricity suppliers with more than 50,000 domestic customers to offer FITs to accredited small scale generators of electricity using an eligible low-carbon energy source. The licence conditions, among other things, specify the tariffs payable to generators for each unit of electricity generated by eligible installations. Those tariffs differ according to the description and capacity of the eligible installation and the date on which it becomes eligible for FITs.

2.3 The modifications in this draft instrument, which will come into force on 1 April 2012, introduce reduced tariffs for new solar photovoltaic installations which become eligible for FITs on or after 1 April 2012 in two particular circumstances: first, where a person is receiving or claiming FITs for multiple installations; and, secondly, where an installation is attached or wired to provide electricity to a building, and that building does not meet a specified energy efficiency standard.

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 to be made in exercise of the powers conferred on the Secretary of State by section 41 of the Energy Act 2008 to modify the licences for electricity suppliers as established under the Electricity Act 1989. They are laid before Parliament in draft in accordance with section 42 of that Act.

4.2 They amend Schedule A to Standard Condition 33 of the standard conditions of electricity supply licences. Standard Condition 33 was inserted with effect from 1 April 2010, and Schedule A was previously amended with effect from 1 August 2011. A draft was laid before Parliament on 19 January 2012 of further licence modifications to reduce tariffs for solar photovoltaic installations (“Modifications to the Standard Conditions of Electricity Supply Licences (No. 1 of 2012)”), which is intended to come into force on 3 March 2012.

4.3 Further provision about the administration of the FIT scheme is contained in the Feed-in-Tariff (Specified Maximum Capacity and Functions) Order 2010 (S.I. 2010/678, as amended by S.I. 2011/1181, 2011/1655 and 2011/2364).

5. Territorial Extent and Application

5.1 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 On 31 October 2011 the Government published a consultation on Feed-in Tariffs (FITs) for solar photovoltaics (PV). This set out proposals for responding to developments in the solar PV sector, particularly a substantial increase in deployment prompted by falling PV prices. Specifically, the consultation sought views on:-

- (i) reducing the generation tariffs for solar PV installations;
- (ii) introducing new multi-installation tariff rates for aggregated solar PV schemes i.e. where an individual or organisation owns or receives FIT payments from more than one PV installation, located on different sites.
- (iii) strengthening the link between FITs and energy efficiency by establishing a new energy efficiency requirement for FITs for solar PV installations attached to or wired to provide electricity to a building, and introducing a lower tariff for installations not meeting that requirement.

7.2 The separate draft Modifications to the Standard Conditions of Electricity Supply Licences (No. 1 of 2012), laid before Parliament on 19 January 2012, will if implemented reduce generation tariffs from 1 April 2012 for new solar PV installations which become eligible for FITs on or after 3 March 2012.

7.3 The modifications in this draft instrument relate to the proposals for new multi-installation tariff rates and an energy efficiency requirement for solar PV installations. The Government has decided to proceed with both of these proposals, but has made significant changes reflecting responses to the consultation.

7.4 Specifically, we have decided that the new multi-installation tariff (termed the 'middle rate' in the draft instrument) of approximately 20% less than the higher rate, will only apply where the FIT generator or (if different) the person to whom FITs are to be paid is, taken together with any connected persons, already receiving or claiming FITs for 25 or more existing solar PV installations on other sites. This is to ensure that the reduced tariffs reflect the economies of scale associated with multiple installations and avoid overcompensating generators, but do not unfairly penalise smaller schemes with a few installations which may not benefit from significantly reduced costs. We

have included the 'connected persons' provision in order to minimise the scope for generators to artificially circumvent the application of the multi-installation tariff.

7.5 We consider it is justified to make eligibility for the higher tariff rates for solar PV conditional on a building meeting an energy efficiency requirement, because reducing demand for energy is one of the most cost-effective ways of reducing carbon emissions, and therefore something that the Government wishes to encourage building owners to prioritise before installing microgeneration such as solar PV. However, we have taken account of consultation responses which objected to the specific proposals in the consultation document, and in particular argued that a requirement for a building to have a rating of level C or above on an Energy Performance Certificate (EPC) would be too stringent.

7.6 We have therefore decided that for a solar PV installation to qualify for the standard tariffs, the building to which it is attached or wired to provide electricity must have an EPC showing a rating of level D or above. This means, for example, that an owner of a typical mid-terrace house with loft insulation rated at level E may need to install cavity wall insulation and hot water cylinder insulation to reach a level of D. Installations not meeting this requirement at the date of becoming eligible for FITs will receive a lower rate of 9p/kWh. Since this requirement will be significantly easier to meet than the consultation proposal of level C, and is not dependent on the future introduction of the Green Deal, we have decided that it is not necessary to include any transitional arrangements.

8. Consultation outcome

8.1 The consultation closed on 23 December 2011, and a total of 2,370 consultation responses were received.

8.2 There was a mixed reaction to the proposal for a multi-installation tariff rate. Around a third of respondents agreed with the proposal, over a third of respondents disagreed, and almost a third of respondents did not answer this question. Responses to the consultation and other feedback also suggested that an unintended consequence of the multi-installation tariff would be to disadvantage some community schemes and community energy organisations.

8.3 We have fully considered all consultation responses and remain convinced of the need to introduce multi-installation tariff rates to ensure that those involved in such projects are not overcompensated, given the potential economies of scale available to them compared to individual generators. In consideration of community schemes and to avoid unintended consequences, we have decided to increase the threshold at which the multi-installation tariff rates apply from two or more solar PV installations located on different sites to more than 25 installations located on different sites.

8.4 On the proposal for linking eligibility for standard tariffs to an energy efficiency requirement, 35% of respondents agreed with the overall principle, while 43% disagreed. The key concerns raised relating to the proposal of an energy efficiency requirement of an EPC rating of level of C or above was that respondents felt it too stringent and that it would prohibit the majority of households from eligibility for FITs support above 9p/kWh. The principal issue raised with the proposal to link the energy efficiency requirement with the Green Deal was that this proposal would come into effect before the Green Deal itself was established, and the uncertainty this would result

in was cited as being very unhelpful. Many respondents asked about or suggested possible exemptions from the energy efficiency requirement.

8.5 We recognise the concerns that an energy efficiency requirement of an EPC rating of level C or above would be too stringent a requirement at this time, and that it would be confusing to introduce a requirement based on installing all measures potentially eligible for Green Deal finance before the Green Deal comes into effect. Therefore, we have decided that the energy efficiency requirement should be an EPC rating of level of D or above that will apply in respect of both domestic and non-domestic buildings.

9. Guidance

9.1 Ofgem already provides detailed guidance for suppliers and potential participants in the FITs scheme (FIT generators) in a variety of forms. That guidance will be updated to take account of this instrument.

10. Impact

10.1 An Impact Assessment is attached to this memorandum and will be published on the Department of Energy and Climate Change's website.

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 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 further 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 instrument.