

**EXPLANATORY MEMORANDUM TO  
THE FEED-IN TARIFFS (AMENDMENT) ORDER 2015**

**2015 No. 35**

**AND**

**MODIFICATIONS TO THE STANDARD CONDITIONS OF ELECTRICITY SUPPLY  
LICENCES 2015**

**1.** This explanatory memorandum has been prepared by the Department of Energy and Climate Change (DECC) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Feed-in Tariffs scheme (“FIT scheme”) is the Government’s main policy measure to encourage the deployment of small-scale low-carbon electricity generation in Great Britain, and is implemented by the Feed-in Tariffs Order 2012 (“the 2012 Order”) and modifications to Conditions 33 and 34 of the standard conditions of electricity supply licences (“the Standard Licence Conditions”).

2.3 The Feed in Tariffs (Amendment ) Order 2015 (“the 2015 Order”) amends the 2012 Order to incorporate a set of administrative changes to the FIT scheme, which apply to its operation for installations owned by community organisations.

2.3 The draft modifications to the standard conditions of Electricity Supply Licences 2015 (“the 2015 Modifications”) amend Annex 3 of Schedule A to Standard Condition 33 to introduce a definition of “stand-alone solar photovoltaic”. This new definition is also mirrored in the 2015 Order. Other changes are made to the 2015 Order in consequence of the introduction of this definition.

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

3.1 None.

**4. Legislative Context**

4.1 The 2012 Order (made under sections 41(4), 43(3) (a) and 104(2) of the Energy Act 2008 (“the 2008 Act”)), sets out the functions of the Gas and Electricity Markets Authority (“the Authority”) and the Secretary of State in connection with the administration of the FIT scheme. The 2012 Order was amended with effect from 1 July 2013 by S.I. 2013/1099, and with effect from 14 July 2014 by S.I. 2014/1601, and with effect from 1 January 2015 by SI 2014/2865.

4.2 The 2015 Order is made in exercise of the powers conferred on the Secretary of State by sections 43(3)(a) and 104(2) of the 2008 Act.

4.3 The Standard Licence Conditions for electricity suppliers are made in exercise of the powers in the Electricity Act 1989. Modifications to these conditions in respect of the FIT scheme may be made using powers conferred on the Secretary of State by section 41 of the 2008 Act. They impose obligations on electricity suppliers to pay feed-in tariffs to accredited small scale generators of electricity using an eligible low-carbon energy source, and also make provision about the rate of the tariffs to be paid to those generators for each unit of electricity generated by an eligible installation. Schedule A to Standard Licence Condition 33 was substituted and consolidated with effect from 1 December 2012, and has been amended with effect from 1 July 2013 and 1 January 2015.

4.4 The 2015 Modifications amend Annex 3 of Schedule A to Standard Condition 33 . They are to be laid before Parliament in draft in accordance section 42 of the 2008 Act.

4.5 It is intended to bring both the 2015 Order and 2015 Modifications into effect on 1 April 2015.

## **5. Territorial Extent and Application**

5.1 These instruments apply to Great Britain.

## **6. European Convention on Human Rights**

6.1 As the 2015 Order 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 The 2015 Order introduces three administrative changes to the way in which the FIT scheme applies to renewable installations owned by community organisations. The policy aim is to encourage a shift in ownership of renewable electricity generation projects less than or equal to 5MW from commercial to community fully-owned or part-owned developments.

- (i) Preliminary accreditation under the FITs scheme is a mechanism which allows prospective generators to obtain advance assurance that they will be accredited once they commission, and to reserve the tariff rate that applies at the time they apply for preliminary accreditation. The 2015 Order extends the validity

of the preliminary accreditation periods set out in article 9 of the 2012 Order by six months, where the installation applied for is to be owned by a community organisation. This recognises that community energy projects need more time to raise funds and engage the local community.

(ii) The 2015 Order expands the definition of “community organisation” in article 11 of the 2012 Order to include registered charities and their wholly-owned subsidiaries. This provides community groups with more choice of legal structure and makes it possible for a wider range of groups to access the community provisions in the FITs scheme.

(iii) The existence of a separate grid and meter connection point (MPAN) is currently one of the criteria for defining a unique site for FITs accreditation. Currently, if two or more parties share the same grid connection, all would generally be treated as a single eligible installation located on the same site. The tariff assigned would be relevant for the total installed capacity of the whole installation. The 2015 Order amends article 15 of the 2012 Order to extend the circumstances in which a separate MPAN shall not be taken into account where at least one of the installations is owned by a community organisation. This means that two projects can share one grid connection and receive separate tariffs based on their individual generating capacity, provided one project is owned by a community organisation.. This is intended to help facilitate the sharing of costs and access to the grid for community organisations and encourage communities to either wholly or partly own assets and to overcome a key project development barrier for communities.

7.2 The 2015 Order also introduces a definition for stand-alone solar photovoltaic installations. Spending under the FIT scheme is controlled by depression – when the uptake of a particular type of installation reaches a certain level, then the tariff available for that type of installation drops. A previous amendment to the legislation split the FITs depression bands for solar photovoltaic installations into a “stand-alone” and an “other-than-stand-alone” (i.e. building mounted”) band with the aim of slowing the rate of depression for such projects and incentivising their installation. This amendment is intended to clearly define what we mean by stand-alone to ensure that these types of installation are unable to claim the higher tariff available for “other than stand-alone” installations.

7.3 A “stand-alone” installation is now defined as a solar photovoltaic electricity generating facility that is not wired through a building, or if it is wired through a building, the building does not have the ability to use 10% or more of its electricity generated onsite. To ease the administrative burden, this split will only apply to large installations (over 250kW).

### Consolidation

7.4 The 2015 Order comprises the fourth amendment made to the 2012 Order, and the 2015 Modifications comprise the third amendment made to the Standard

Licence Conditions since consolidation in 2012. Further consolidation is not proposed at this time. If further amendments or modifications are proposed to the 2012 Order or Standard Licence Conditions, the Department will consider whether consolidation would be appropriate.

## **8. Consultation outcome**

8.1 On 13 May 2014 Government published an eight week consultation on enhancing support for community electricity projects under the FITs scheme. This included proposals for:

- Increasing the maximum specified capacity ceiling for community projects under the Feed-in Tariffs (FITs) scheme from 5MW to 10MW;
- The definition of “community organisation” under the scheme;

It also called for evidence on the costs of community energy projects and other barriers impacting on deployment.

8.2 The consultation closed on 7 July 2014 and received 69 responses from a range of community energy groups, renewable electricity generators, trade associations, and other interested organisations and individuals. Despite proactive engagement with the community energy sector during the consultation, we did not receive sufficiently robust cost and deployment information to support the policy rationale of increasing the capacity ceiling from 5MW to 10MW. It was also clear that there was a very strong risk that seeking approval to implement an increased ceiling would require us to make wider changes to the FITs scheme to bring it into line with new state aid guidelines, including reducing the maximum capacity ceiling for most technologies. 68% of the responses agreed that we should not increase the capacity ceiling if it meant making wider changes to the FITs scheme.

8.3 After careful consideration of the consultation responses and further discussions with key stakeholders, Government decided instead to introduce the changes outlined in paragraph 7.1 above. These address some of the key barriers raised by communities in their consultation responses, such as cost of grid connection and time taken to obtain finance and develop projects. A document summarising these responses and setting out the Government’s response has been published and is available from the Department’s website at :

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/374540/Go vt Response to community FITs consultation - FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/374540/Go vt Response to community FITs consultation - FINAL.pdf)

8.4 On 2 October 2014 we published a consultation surrounding our proposed definition for “other-than-stand-alone” and closed it on 24 October 2014. In total there were 23 responses concerning the definition and these were received from across industry including electricity companies, independent generators, distribution network operators,

developers, trade associations, consultants and financiers. Responses were also received from outside the industry including local authorities and individuals.

8.5 A majority (67%) of respondents agreed that a new definition of “other-than-stand-alone” should include a minimum on-site usage requirement. A similar proportion (70%) agreed that this proposal should not apply to installations between 50kW and 250kW. On the issue of whether 10% would be the correct minimum requirement of usage there was much less consensus, with 46% supporting this amount.

8.6 Following consideration of these responses, the Government decided to introduce the 10% minimum on-site usage requirement with provisions that it should not apply for installations between 50kW and 250kW. The amount remains set at 10% as no conclusive evidence was presented that this was too high or low but we are willing to revise this figure in the future should new evidence arise. A document summarising the responses and setting out the Government’s decisions can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/378252/Government\\_response\\_to\\_further\\_consultation\\_on\\_solar\\_PV.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378252/Government_response_to_further_consultation_on_solar_PV.pdf)

8.7 In the legislation we have opted to define “stand-alone”, as opposed to “other-than-stand-alone”, for ease of drafting.

## **9. Guidance**

9.1 Ofgem already provides detailed guidance for electricity suppliers and potential and existing participants in the FIT scheme in a variety of forms. That guidance will be updated as appropriate to reflect the changes to the FIT scheme made by this 2015 Order and the 2015 Modifications.

## **10. Impact**

10.1 The impacts of these changes are included in the Impact Assessments (IAs) published alongside the Government Response to the consultation on support for community electricity projects and the Government response to further consultation on changes to financial support for solar PV- Part B. Copies of the IAs are available respectively on the Department’s website at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/373215/impact\\_assessment\\_community\\_energy\\_fits.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/373215/impact_assessment_community_energy_fits.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/360306/FITs\\_solar\\_IA\\_MASTER.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360306/FITs_solar_IA_MASTER.pdf)

## **11. Regulating small business**

11.1 The legislation applies to small business, including community organisations.

11.2 We do not expect that the 2015 Modifications will have any regulatory impacts for firms employing up to 20 people as the new provisions will only apply to installations over 250KW and we would expect such installations to be run by larger companies.

11.3 The changes to the community provisions in the 2015 Order are intended to facilitate and simplify access to the scheme for small community groups.

## **12. Monitoring & review**

12.1 The Department will continue to carry out on-going monitoring of the FIT legislation, including the modifications to the Standard Licence Conditions to ensure that it delivers its objectives and that these are delivered in a way which ensures value for money, particularly to consumers who ultimately pay. Ofgem also carries out monitoring to ensure compliance by electricity suppliers and participants in the FIT scheme with their obligations.

## **13. Contact**

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