

ENERGY

FEED-IN TARIFFS

**MODIFICATIONS TO THE STANDARD CONDITIONS OF
ELECTRICITY SUPPLY LICENCES 2017.**

Presented to Parliament pursuant to Section 42 of the Energy Act 2008

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ELECTRICITY SUPPLY LICENCES 2017.

The Secretary of State makes the following licence modifications in exercise of the powers conferred by section 41(1) of the Energy Act 2008 (“the Act”).

The Secretary of State has consulted the holders of any licence being modified, the Gas and Electricity Markets Authority and such other persons as the Secretary of State considered appropriate in accordance with section 42(1) of the Act.

A draft of these licence modifications is laid before Parliament in accordance with section 42(3) of the Act.

Modifications to the standard conditions of electricity supply licences

Schedule A to Standard Condition 33 of the standard conditions of supply licences granted, or treated as granted, under section 6(1)(d) of the Electricity Act 1989 is, with effect from 1 April 2017, modified as follows—

1. In definitions and interpretation, for the definition of “Tariff Period”, substitute—

““Tariff Period” means—

- (a) in respect of a combined heat and power installation, one of the following periods—
 - (i) the period beginning on 1st April 2017 and ending on 30th September 2017;
or
 - (ii) any subsequent period of 6 months beginning on 1st October or 1st April; or
- (b) in all other cases, one of the following periods—
 - (i) the period beginning on 8th February 2016 and ending on 31st March 2016;
 - (ii) the period of 3 months beginning on 1st April 2016; or
 - (iii) any subsequent period of 3 months beginning on 1st July, 1st October, 1st January or 1st April;”.

2. In Annex 4A (FIT payment rates for electricity generated or exported by eligible installations with a tariff date on or after 8 February 2016), in paragraph 3 for “ and 2A” substitute “2ZA, 2ZB, 2A”.

3. In Part 1 (Mandatory FIT Licensees) —

(a) in clause 8.1, for “is entitled.”, substitute “is entitled, but is not required to take such steps in respect of any loss of entitlement to payments that may arise by virtue of Part 8A of the FIT Order.”;

(b) in clause 8.2, for “Licensee may, and must if directed by the Authority,” substitute “Licensee may, subject to clause 8.2A, and must if directed by the Authority under article 35 or 35ZA of the FIT Order,”; and

(c) after clause 8.2, insert—

“8.2A The Mandatory FIT Licensee may not reduce, withhold or recoup FIT payments under clause 8.2 in respect of any loss of entitlement to payments that may arise by virtue of Part 8A of the FIT Order, unless directed by the Authority under article 35ZA of the FIT Order.”.

4. Annex 4A Part 2 (generation tariff rates for eligible installations with a tariff date on or after 1 April 2016) is amended as follows—

(a) in paragraph 7, after “digestion installations”, insert “with a Tariff Date during FIT Year 7”;

(b) in paragraph 8, after “power installations” insert, “with a Tariff Date during FIT Year 7”;

(c) after paragraph 8, insert—

“8A. For anaerobic digestion installations, and combined heat and power installations, with a Tariff Date during FIT Year 8 the Generation Tariffs are those set out in Table 2ZA, adjusted as provided for in paragraph 15 and following, and published in the Quarterly Tariff Table.

Table 2ZA: Generation Tariffs for certain installations with a Tariff Date between 1 April 2017 and 31 March 2018.

	1 April to 30 June 2017	1 July to 30 September 2017	1 October to 31 December 2017	1 January to 31 March 2018
Anaerobic digestion with total installed capacity of 250kW or less	6.93	6.88	6.83	6.78
Anaerobic digestion with total installed capacity greater than 250kW but not exceeding 500kW	6.56	6.51	6.47	6.43
Anaerobic digestion with total installed capacity greater than 500kW	2.49	2.45	2.42	2.38
Combined Heat and Power with total installed capacity of 2kW or less	13.95		13.95	

8B. For anaerobic digestion installations, and combined heat and power installations, with a Tariff Date during FIT Year 9, the Generation Tariffs are those set out in Table 2ZB, adjusted—

(a) at the end of FIT Year 8 by RPI; and

(b) as provided for in paragraph 15 and following,

and published in the Quarterly Tariff Table.

Table 2ZB: Generation Tariffs for certain installations with a Tariff Date between 1 April 2018 and 31 March 2019.

	1 April to 30 June 2018	1 July to 30 September 2018	1 October to 31 December 2018	1 January to 31 March 2019
Anaerobic digestion with total installed capacity of 250kW or less	6.73	6.68	6.63	6.58
Anaerobic digestion with total installed capacity greater than 250kW but not exceeding 500kW	6.38	6.34	6.30	6.25
Anaerobic digestion with total installed capacity greater than 500kW	2.35	2.31	2.27	2.24
Combined Heat and Power with total installed capacity of 2kW or less	13.95		13.95	

(d) in paragraph 10, at the beginning of the list following “in the Tariff Period – ” insert—

“

- Anaerobic digestion with total installed capacity of 250kW or less;
- Anaerobic digestion with total installed capacity greater than 250kW but not exceeding 500kW;
- Anaerobic digestion with total installed capacity greater than 500kW;
- Combined Heat and Power with total installed capacity of 2kW or less;”;

(e) in paragraph 15, for “3B or 3C” substitute “3B, 3C or 3D”;

(f) in paragraph 16, for “Tables 2A” substitute “Tables 2ZA, 2ZB, 2A”;

(g) in the heading to Table 3C, for “and 31 December 2018” substitute “2018 and 31 March 2019”;

(h) after table 3C, insert—

“Table 3D – Table showing application thresholds (aggregate Total Installed Capacity in Megawatts) to trigger contingent depression for combined heat and power installations

	1 April to 30 September 2017	1 October 2017 to 31 March 2018	1 April to 30 September 2018	1 October 2018 to 31 March 2019
Combined Heat and Power with total installed capacity of 2kW or less	5.0	5.0	5.0	5.0

(i) in paragraph 17, for “3C” substitute “3D”;

(j) in paragraph 18, for “3B, or as the case may be Table 3C,” substitute “3B, 3C or as the case may be Table 3D,”;

(k) in paragraph 19, after “FIT Year 8” insert “, except as otherwise provided in paragraph 19A,”; and

(l) after paragraph 19 insert—

“ 19A. In FIT Year 8, the Generation Tariffs for electricity generated by existing anaerobic digestion installations, and existing combined heat and power installations, with a Tariff Date on or after 1st April 2016 and before 1st April 2017 are those set out in Table 4—

Table 4 – Generation tariffs for certain anaerobic digestion installations and combined heat and power installations

	Tariff date in the period 1 April to 30 June 2016	Tariff date in the period 1 July to 30 September 2016	Tariff date in the period 1 October to 31 December 2016	Tariff date in the period 1 January to 31 March 2017
Anaerobic digestion with total installed capacity of 250kW or less	8.52	7.66	6.90	6.06
Anaerobic digestion with total installed capacity greater than 250kW but not exceeding 500kW	7.86	7.08	6.37	5.59
Anaerobic digestion with total installed capacity greater than 500kW	8.10	7.29	6.56	5.76
Combined Heat and Power with total installed capacity of 2kW or less	13.95	13.95	13.95	13.61


 Parliamentary Under Secretary of State

Date 30 March 2017

Department for Business, Energy and Industrial Strategy

**EXPLANATORY MEMORANDUM TO
THE FEED IN TARIFFS
MODIFICATIONS TO THE STANDARD CONDITIONS OF
ELECTRICITY SUPPLY LICENCES 2017.**

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy 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”) (as amended) and modifications to Conditions 33 and 34 of the standard conditions of electricity supply licences (“the Standard Licence Conditions”).
- 2.2 The Feed-in Tariffs (Amendment) Order 2017 and the associated modifications to the Standard Licence Conditions set revised generation tariffs to be paid under the scheme for anaerobic digestion (AD); amend default degression for AD on a quarterly basis to coincide with the deployment caps; introduce a requirement for new AD installations to comply with lifecycle greenhouse gas emission limits and restrict the place from which feedstock can be sourced; restrict payments to owners of installations generating electricity from AD where less than 50% of the biogas produced is derived from waste or residues; and bring support for micro-Combined Heat and Power (mCHP) within the scheme’s capacity cost control mechanism in the form of a limit in the aggregate capacity (measured in megawatts) that can be applied for bi-annually.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Sections 41 to 43 of the Energy Act 2008 (“the Act”) provide powers to establish a feed-in tariff scheme for the small scale generation of electricity.
- 4.2 The 2012 Order, made under section 41(4), 43(3)(a) and 104(2) of the 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 FITs scheme including the procedure by which the Authority will accredit installations applying to the scheme. The Feed-in Tariffs (Amendment) Order 2017 is made under sections 43(3)(a) and 104(2) of the Act.

- 4.3 Modifications to the Standard Licence Conditions (“the Licence Modifications”) made under section 41(1) of the Act impose requirements on electricity suppliers to pay a generation tariff and an export tariff to generators of accredited installations under the scheme and prescribe the level of tariffs to be paid.

5. Extent and Territorial Application

- 5.1 This instrument extends to Great Britain.
5.2 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 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. The FIT scheme encourages deployment of small scale renewables up to 5 MW and supports over 880,000 installations. The FIT scheme is funded through levies placed on the electricity bills of households and businesses.
- 7.2 A review of the FIT scheme was undertaken in 2015 to meet two core objectives. Firstly, to comply with the scheme’s State aid approval, a review of the support levels offered is required every three years. Secondly, proposals aimed at controlling the cost of the scheme to limit the impact on consumer bills.
- 7.3 Support for AD and mCHP has been reviewed at a later date due to the complexities of these technologies and this review completes the comprehensive FIT review. The revised tariffs for AD have been calculated using the same tariff-setting methodology as the 2015 Review. Similarly, the cost control measures follow the approach taken with the other technologies, which includes implementation of quarterly default degeneration for AD to account for technology cost reductions, as well as placing limits on the deployment capacity for mCHP and the introduction of contingent degeneration should a cap be reached. The introduction of sustainability criteria and feedstock restrictions for new AD installations has also been considered to ensure the approach is in line with other renewable subsidy schemes.
- 7.4 Although there was relatively high media and public interest in the 2015 review, this review of support for AD and mCHP has attracted relatively low media and public interest.

Consolidation

- 7.5 The 2017 Order comprises the eighth amendment made to the 2012 Order. Further consolidation is not proposed at this time. If further amendments or modifications are proposed to the 2012 Order, the Department will consider whether consolidation would be appropriate.
- 7.6 The 2017 Modifications comprise the fourth 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 Standard

Licence Conditions, the Department will consider whether consolidation would be appropriate.

8. Consultation outcome

- 8.1 The consultation was published on 26 May 2016 and ran for a period of 6 weeks due to the need to urgently ensure costs were controlled and the scheme provides value for money for bill payers, and the need to complete the 2015 comprehensive review of the scheme ensuring compliance with our State Aid approval. A one week extension was applied to allow stakeholders to consider an update made to cost data in the Impact Assessment. The consultation closed on 14 July 2016 with 76 unique responses and 446 campaign responses regarding payment restrictions based on feedstock. Respondents ranged from manufacturers, trade associations, energy generators as well as individuals.
- 8.2 Respondents affected by a discrepancy in the consultation document about who was affected by the proposals were given a further 2 weeks to provide any updates to their responses in light of this.
- 8.3 The Government's response to this consultation was published simultaneously with the laying of this legislation. This sets out a detailed analysis of the consultation responses and policy decisions and is available at <https://www.gov.uk/government/consultations/review-of-support-for-anaerobic-digestion-and-micro-combined-heat-and-power-under-the-feed-in-tariffs-scheme>. The key issues are summarised below.

Anaerobic Digestion – Value for Money

- 8.4 The majority of respondents disagreed with the proposed reduction in AD generation tariffs suggesting they were based on inaccurate assumptions and misleading evidence, and felt that the further reduction due to default degression would make installations unviable. After careful consideration of the consultation evidence the AD generation tariffs have been revised upwards to better reflect the current market situation and AD's default degression has been amended in line with other technologies.

Anaerobic Digestion – Sustainability Criteria

- 8.5 Most respondents broadly supported the introduction of the sustainability criteria which will require AD operators to use feedstock which meets both a greenhouse gas emissions limit and land criteria (which requires that feedstock must not be sourced from land with high biodiversity value, or which has high carbon stock value). There was support for aligning these criteria with the Renewable Heat Incentive (RHI) and Renewables Obligation (RO) schemes, as well as ensuring the use of sustainable feedstock.

Anaerobic Digestion – Feedstock Restrictions

- 8.6 The responses to the proposals to limit payments made on electricity generated from non-wastes and residues were mixed, with some respondents emphasising the importance of ensuring that all AD plants under FITs are using wastes, and others arguing that some purpose-grown crops could be carbon cost-effective when used in AD.

- 8.7 Government intends to introduce this restriction because it will ensure that the most carbon cost-effective installations (installations which use crops tend to be more carbon cost-effective than those which use food or agricultural waste) will be supported under the scheme. It is also Government policy that the primary purpose of agricultural land should be for growing food, and data published at the end of 2015 suggests maize is increasingly being grown for AD installations.

Micro Combined Heat and Power – Value for money

- 8.8 A significant majority of respondents disagreed with bringing mCHP within the deployment cap mechanism and strongly argued to maintain previous Government commitment for up to 30,000 units to be supported under the scheme. This was seen by the industry as vital to establish the economy of scale required for technology to take off. Economy of scale was also seen as a prerequisite in order for contingent depression to be effective.
- 8.9 mCHP was introduced as a pilot scheme under FITs and to date has failed to achieve a sustained level of deployment. It was assumed that the proposed deployment cap of 3.6MW would be adequate support based on historical deployment. However, evidence from the consultation indicated that the sector may be closer to commercialisation than previously thought. The deployment cap has therefore been increased to 20 MW which will support expected deployments up to 2019, based on industry projections. Contingent depression has also been applied should the cap be reached, to reduce costs in line with other technologies and ensure greater cost control. Contingent depression reduces future tariffs by 10%.

Generation Tariff Indexation

- 8.10 The opportunity has also been taken in the modifications to the Standard Licence Conditions to rectify the omission of indexation which should have been applied to mCHP and AD tariffs on 1 April 2016, in line with the other FIT technologies. These tariffs were updated on 8 February 2016 following the pause in the scheme as part of the 2015 FIT review. Indexation for 2016 and 2017 will be applied to mCHP and AD tariffs from 1 April 2017 and will apply to tariff payments from this point forward. Indexation requires tariffs to be adjusted on 1st April each year based on the percentage change in the Retail Price Index over the 12-month period ending on 31st December of the previous calendar year.

9. Guidance

- 9.1 Ofgem E-Serve already provides detailed guidance for electricity suppliers and potential participants in the FIT scheme in a variety of forms. That guidance will be updated to include the introduction of the sustainability criteria and feedstock restrictions. This will reflect where possible the Renewable Heat Incentive guidance on these topics. It will also reflect the changes made to the depression mechanisms for AD and mCHP as well as the mCHP deployment cap. Ofgem E-Serve will continue to review whether further updates are needed in future.

10. Impact

- 10.1 These changes will have an impact on businesses, charities and voluntary bodies. These organisations are subject to rising electricity costs under the levy control framework, and the cap scheme is intended to mitigate these costs. These bodies may also deploy AD and mCHP technologies under the FIT scheme. This ability to deploy

may be affected by the introduction of a mCHP cap on overall deployment and the introduction of sustainability criteria and feedstock restrictions for new AD installations. The requirement for AD plants above 1MW to have an independent audit report will also increase the administrative burden of the scheme.

- 10.2 These changes will have an impact on the public sector, which is subject to rising electricity costs under the levy control framework. The public sector may also deploy AD and mCHP technologies under the FIT scheme. This ability may be affected by the introduction of a mCHP cap on overall deployment and the introduction of sustainability criteria and feedstock restrictions for new AD installations.
- 10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 Small businesses are affected by increasing electricity costs under the levy control framework, and this measure is intended to mitigate those costs. Small businesses operating in the AD and mCHP sectors supported by the FIT scheme will also be affected by this legislation, which introduces a cap on overall spend and deployment under the scheme and for AD installations introduces sustainability criteria and feedstock restrictions.

12. Monitoring & review

- 12.1 The changes implemented by this instrument aim to ensure that AD tariffs provide an appropriate level of compensation for new participants and that overall spending on the scheme, including that on mCHP, is subject to suitable cost control. The changes implemented by this instrument also ensure that the sustainability criteria and feedstock restrictions for FITs are in line with other renewable subsidy schemes. The Department will continue to carry out on-going monitoring of the FIT scheme to ensure that its objectives are delivered in a way which ensures value for money, particularly to consumers who ultimately pay. The Department will also review generators' compliance with the new feedstock requirements in line with those of the RHI. The Authority also carries out monitoring to ensure compliance by electricity suppliers and participants in the scheme with their obligations.

13. Contact

- 13.1 Fiona Shand at the Department for Business, Energy and Industrial Strategy (Telephone: 0300 068 6108 or email: Fiona.Shand@beis.gov.uk) can answer any queries regarding the instrument.