

EXPLANATORY MEMORANDUM TO
THE SMART EXPORT GUARANTEE ORDER 2019
2019 No. 1005

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy (BEIS) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order introduces the Smart Export Guarantee (SEG), which provides for payments to be made by mandated electricity suppliers to small-scale low-carbon generators exporting electricity to the grid. Other provisions of the SEG are implemented through modifications to the standard conditions incorporated in electricity supply licences, a draft of which is required to be laid before Parliament along with the Order.
- 2.2 The licence modifications will amend the standard conditions of electricity supply licences, requiring suppliers with more than 150,000 domestic electricity customers to offer a price for the surplus electricity which eligible low-carbon generators export to the grid.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instruments are subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of these instruments is Great Britain.
- 4.2 The territorial application of these instruments is Great Britain.

5. European Convention on Human Rights

- 5.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Smart Export Guarantee Order 2019 is made in exercise of the powers conferred on the Secretary of State under Sections 41(4), 43(3)(a) and 104(2) of the Energy Act 2008.

- 6.2 The licence modifications are made in exercise of powers conferred on the Secretary of State by Sections 41 (1) – (3) of the Energy Act 2008 to modify the operating licences for electricity distribution and supply companies, as established under the Electricity Act 1989.
- 6.3 These two documents will together form the legal basis for implementing the Smart Export Guarantee:
- a) This Order giving functions to the Gas and Electricity Markets Authority (“the Authority”) for the administration of the SEG. It will describe the specified maximum capacity for installations participating in the SEG arrangements. It will also set out the specific sustainability and feedstock requirements that will apply to all eligible anaerobic digestion installations, and the Authority’s role in relation to AD installations.
 - b) Licence modifications which amend standard conditions of electricity supply licences, requiring suppliers of electricity with more than 150,000 domestic customers to offer eligible low-carbon generators an above-zero price tariff for the surplus electricity they export to the grid.

7. Policy background

What is being done and why?

- 7.1 Government’s vision for the future growth in the small-scale low-carbon generation sector is to be sustainable, driven by competition and innovation, and able to bring forward commercially viable deployment without subsidy.
- 7.2 As part of the commitment to low-carbon electricity generation, small-scale generators must be able to fairly access the wider energy market and deliver clean, smart and flexible power. Our energy system is changing and technologies such as storage are expected to play an increasingly important role. This will extend the benefits of a smarter energy system more widely and aid our ambitions to further reduce emissions.
- 7.3 The Feed-in Tariffs (FIT) scheme has been Government’s main policy measure to encourage the deployment of small-scale low-carbon electricity generation in Great Britain (supporting installations with a capacity of 5MW or less). The FIT scheme is funded through levies placed on the electricity bills of households and businesses. Since its launch in April 2010, the FIT scheme has supported over 850,000 installations, 99% of which are domestic-scale solar PV generators. As of March 2018, over £6bn (nominal) has been spent through FIT to support small-scale renewables and the cost of the scheme has reached £1.4bn¹ (nominal) a year.
- 7.4 Following consultations in 2015 and 2018, the FIT scheme closed to new applicants from 31 March 2019, subject to several time-limited extensions and grace periods. Government took this decision in the context of a steady fall in the cost of low carbon generation, a move towards cost reflective pricing, and a continued desire to minimise the costs of support schemes to consumers. Existing FIT generators and exporters will not be affected by this instrument.

¹ <https://www.ofgem.gov.uk/publications-and-updates/feed-tariff-fit-annual-report-2017-18>

- 7.5 We expect that as the electricity system becomes smarter and more flexible, the market will grow, and consumers will be offered an increasing range of innovative services and bundled smart products. These services will support the integration and optimisation of onsite low carbon generation. However, these solutions are still at a relatively early stage of development and until markets become more established intervention is needed to ensure that small-scale low carbon generators are able to access the export market.
- 7.6 As a result, the SEG will be introduced from 1 January 2020 and will place an obligation on mandated suppliers to remunerate small-scale low-carbon generators for electricity they export to the grid. Suppliers with more than 150,000 domestic electricity customers will be obliged to offer at least one export tariff. Small scale, eligible low-carbon electricity generators will be paid a price above zero pence per kWh of exported electricity, provided the amount exported is metered and registered for settlement.² Eligible technologies under SEG are the same as those under FITs – anaerobic digestion, hydro, combined heat and power, solar photovoltaic and wind generation.
- 7.7 We expect that the tariff levels set by suppliers for the SEG will reflect the value of the exported electricity and take account of any costs to the supplier of providing and administering the SEG. This means that no additional costs are expected to be passed on to other consumers.
- 7.8 To provide space for the small-scale export market to develop in an innovative and flexible way, the precise details of tariff (length, level, whether a flat rate or varying according to the time of day electricity is generated etc) will be for suppliers to decide. However, suppliers must provide payment greater than zero at all times of export, including when prevailing wholesale prices are negative. By allowing suppliers to choose the form of the export tariff they provide, simple offerings will be able to be implemented quickly (e.g. fixed rate tariffs), with expectations that smarter approaches follow (e.g. tracking wholesale prices on a half-hourly basis).
- 7.9 In order to drive forward a smarter energy system, where consumers can benefit from location and time-specific electricity prices, exports under the SEG must be metered on a half-hourly basis and registered for settlement. They will not be required to be settled on a half-hourly basis. Smart meters being rolled out by suppliers for domestic and smaller non-domestic customers provide this functionality, but other export meters may be used if they meet these requirements.
- 7.10 This means that export tariffs must be paid out to generators based on the actual volumes of electricity exported and recorded by a meter, rather than payments based on an estimation of the level of export. By requiring this exported electricity to be registered for settlement, in accordance with the Balancing and Settlement Code, a process will be carried out which allows each ‘unit’ of exported electricity flowing onto the grid from an eligible SEG installation to be linked to its relevant supplier. This then allows that supplier to use the generated electricity in their balancing position (generation vs. supply for a given day) with National Grid.

² In Great Britain electricity is traded in a wholesale market, with generators and suppliers entering into contracts with each other for every half-hour of every day. Electricity suppliers are required to buy enough energy to meet their consumers’ needs in each half-hour period, and ‘settlement’ is the process for determining, after the event, whether what they bought matched what their customers consumed. Any shortfall or excess is charged or refunded to the supplier accordingly.

- 7.11 To benefit from the SEG, suppliers must be satisfied that exporters' installations are suitably safe, which means they must obtain evidence that exporters are certified to Microgeneration Certification Scheme (MCS), or equivalent standards. Suppliers also need to be satisfied that installations using anaerobic digestion meet sustainability criteria and feedstock requirements, ensuring the use of biomass aids carbon emission reduction. These requirements are consistent with those under the Feed-in Tariff scheme.
- 7.12 This Order also confers a number of functions on the Authority to administer the SEG obligation. The Authority will report annually on the provisions made by suppliers for smaller scale exporters under the SEG, including the range, nature and uptake of these tariffs. This report will provide the BEIS with information on the uptake of the SEG and the tariff types that have been brought forward by mandated suppliers under the SEG. The Authority will publish guidance before implementation for generators and suppliers. The Authority will have a function in verifying compliance with sustainability and feedstock criteria for anaerobic digestion plants.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Consolidation is not required for the Smart Export Guarantee Order 2019.

10. Consultation outcome

- 10.1 An initial consultation on the introduction of the SEG was published on 8 January 2019 and ran for a period of eight weeks, receiving 3,360 written responses from a range of stakeholders. One hundred and eighty-two responses were individual replies from energy suppliers, renewable electricity developers, trade associations, community energy organisations, NGOs, local authorities and members of the public. The remainder were similar responses sent as a campaign, broadly welcoming the introduction of an export tariff but suggesting a guaranteed market rate. The consultation is available at <https://www.gov.uk/government/consultations/the-future-for-small-scale-low-carbon-generation>.
- 10.2 Following the closure of this consultation in March, we developed the draft licence modifications required to implement the SEG. As statutorily required, a further four-week consultation was held between April and May 2019 on these licence modifications. Twenty-seven responses were received, including views from members of the public, trade associations, and electricity suppliers. A variety of points were made on the structure and detail of the proposed licence conditions at a technical level. As a result of these responses, and discussions during the consultation period, some minor technical changes were made to the proposed licence conditions. The principle change was the removal of a register of SEG installations - it was decided that the administrative and financial burdens of a register outweighed the potential value. The consultation is available at <https://www.gov.uk/government/consultations/the-future-for-small-scale-low-carbon-generation-part-b>.

- 10.3 The key issues from these consultations are summarised below. Further details and analysis of all these consultation questions can be found in the government response.

Design and operation of the SEG tariff obligation

- 10.4 Most respondents cautiously welcomed the broad objectives and policy direction of the SEG, though there was some divergence of views between respondents about the exact designs of the obligation. This was within the context of minimising a hiatus between FIT and SEG, with which the majority agreed.
- 10.5 After careful consideration of these responses, the government's assessment remains that a simple mechanism will be most effective in ensuring small-scale generators are compensated by the market for the value of their exported electricity. In doing so, this leaves room for the market to develop options to promote innovation and competition. Government will keep the SEG under review to ensure that small generators are able to access a competitive range of export tariff options and will assess its outcomes in line with our objectives for a smarter, competitive export market over time.
- 10.6 In terms of timing, while most respondents sought to minimise the hiatus between the closure of FITs and the introduction of the SEG, suppliers flagged the need for a reasonable lead in time to get new systems ready. As a result, government has decided to have a final implementation deadline of 1 January 2020 for offering export tariffs.

Who will be required to offer a SEG tariff?

- 10.7 Most respondents believed the SEG obligation could be extended to include a wider range of suppliers, arguing that this would be more equitable, align with other government schemes, and facilitate a competitive market.
- 10.8 Government has decided to extend the obligation to suppliers with more than 150,000 domestic customers, a threshold which is comparable with existing schemes, such as the *Energy Company Obligation* and *Warm Home Discount*.

Eligibility and certification requirements for the SEG

- 10.9 The proposed scope of the SEG, in terms of capacity and eligible technologies, saw broad support; and government intends to proceed with the consulted-on approach.
- 10.10 The consultation also proposed certain consumer protection requirements under the SEG obligation, notably on certification of installations to suitable standards. This approach received broad support and will be implemented with minor administrative streamlining.

Metering requirements under the SEG

- 10.11 Respondents largely agreed with the proposed metering requirements. Following analysis, government has decided to proceed with the consulted approach on metering requirements. The SEG design provides various flexibilities, such as allowing suppliers to offer flat-rate tariffs when required.

Co-location with storage under the SEG

- 10.12 The consultation considered situations where an electrical storage device may be co-located with an eligible SEG installation, and sought views on whether payments should be made available for electricity exported to the grid from the storage device, irrespective of whether the device was initially charged using renewable electricity

generated on-site by a low-carbon generating technology or charged from the grid. This approach received broad support.

- 10.13 Government have decided not to prevent SEG payments being made on so called ‘brown’ electricity exported from a storage device and/or from non-renewable generating equipment co-located with a SEG technology, however suppliers will not be obligated to make payment on brown electricity if they wish to only support ‘green’ exports.
- 10.14 The government’s response to both these consultations was published simultaneously with the laying of this legislation on 10 June 2019. This sets out detailed analysis of the consultation responses and policy decisions in a combined response document. This response is available at: <https://www.gov.uk/government/consultations/the-future-for-small-scale-low-carbon-generation>.

11. Guidance

- 11.1 The Authority, as administrators of the SEG arrangements, intend to publish draft guidance for suppliers and potential participants of the SEG for consultation. A final version of the guidance will then be made available by 1 January 2020.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies will be one affecting their ability to deploy small-scale low-carbon generating projects and engage with the transition to a smarter, more flexible energy system. The SEG will instil greater confidence and certainty to the sector alongside the opportunities of this move towards a more innovative electricity system. As public funding is not required, we would not expect to see any rise in electricity costs for businesses, charities or voluntary bodies as a result of implementing the SEG.
- 12.2 There will be costs for the Authority to administer the SEG on an ongoing basis, but these are expected to be minimal.
- 12.3 The impact on the public sector will be limited. Unlike the previous FIT scheme, the SEG is a legislative obligation and therefore no public funding is required. The public sector’s ability to deploy small-scale low-carbon technologies will be affected – this is set out in more detail in the impact assessment which accompanies this legislation.
- 12.4 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is only requiring electricity suppliers with more than 150,000 domestic customers to be a mandatory SEG provider. No specific action is proposed to minimise regulatory burdens on small businesses beyond this.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to be undertaken by BEIS. BEIS will monitor and review the operation of the SEG obligation. This review will be informed by an annual report by the Authority on the provisions made by suppliers for small-

scale exporters, including the range, nature and uptake of SEG tariffs (as well as any other similar tariffs suppliers share details of in the wider export market). Government will review this to monitor how the market is delivering competitive and innovative options for small-scale exporters who require a route to market.

- 14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Chris Skidmore has made the following statement:

“A specific review provision is not appropriate given the fast moving and uncertain timescales of industry developments surrounding the SEG. For example, the smart meter roll-out continues to progress and decisions on market-wide half-hourly settlement are yet to be taken by the Authority. BEIS will continue to carry out on-going monitoring of the SEG and the wider export market to ensure that its objectives are delivered. The Authority carries out monitoring to ensure compliance by electricity suppliers with their obligations under the SEG in addition to this”.

15. Contact

- 15.1 Will Marks at the Department for Business, Energy and Industrial Strategy. Telephone: 020 7215 8147 or email: William.marks@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Vicky Dawe, Deputy Director for Renewable Electricity Support Schemes, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Minister of State for Universities, Science, Research and Innovation, Chris Skidmore, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.