



Energy Act 2008

2008 CHAPTER 32

PART 2

ELECTRICITY FROM RENEWABLE SOURCES

Feed-in tariffs for small-scale generation of electricity

41 Power to amend licence conditions etc: feed-in tariffs

- (1) The Secretary of State may modify—
 - (a) a condition of a particular licence under section 6(1)(c) or (d) of the Electricity Act 1989 (distribution and supply licences);
 - (b) the standard conditions incorporated in licences under those provisions by virtue of section 8A of that Act;
 - (c) a document maintained in accordance with the conditions of licences under section 6(1) of that Act, or an agreement that gives effect to a document so maintained.
- (2) The Secretary of State may exercise the power in subsection (1) for the purpose only of—
 - (a) establishing, or making arrangements for the administration of, a scheme of financial incentives to encourage small-scale low-carbon generation of electricity;
 - (b) requiring or enabling the holder of a distribution licence to make arrangements for the distribution of electricity generated by small-scale low-carbon generation;
 - (c) requiring the holder of a licence to make arrangements related to the matters mentioned in paragraph (a) or (b).
- (3) Modifications made by virtue of subsection (1) may include—
 - (a) provision requiring the holder of a supply licence to make a payment to a small-scale low-carbon generator, or to the Authority for onward payment to such a generator, in specified circumstances;

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 for the Energy Act 2008, Section 41. (See end of Document for details)*

- (b) provision specifying how a payment under paragraph (a) is to be calculated;
- (c) provision for the level of payment under paragraph (a) to decrease year by year in accordance with a formula published, or to be published, by the Secretary of State;
- (d) provision about the circumstances in which no payment, or a reduced payment, may be made to a small-scale low-carbon generator;
- (e) provision about the circumstances in which a payment may be recovered from a small-scale low-carbon generator;
- (f) a requirement for the holder of a supply licence or distribution licence to pay a levy to the Authority at specified times;
- (g) provision specifying how a levy under paragraph (f) is to be calculated (which may require specified matters to be determined by the Authority or the Secretary of State);
- (h) provision conferring an entitlement on the holder of a supply licence or distribution licence to receive a payment from the Authority.

(4) In this section—

“Authority” means the Gas and Electricity Markets Authority;

“distribution licence” means a licence under section 6(1)(c) of the Electricity Act 1989 (c. 29);

“owner”, in relation to any plant which is the subject of a hire purchase agreement, a conditional sale agreement or any agreement of a similar nature, means the person in possession of the plant under that agreement;

“plant” includes any equipment, apparatus or appliance;

“small-scale low-carbon generation” means the use, for the generation of electricity, of any plant—

- (a) which, in generating electricity, relies wholly or mainly on a source of energy or a technology mentioned in subsection (5), and
- (b) the capacity of which to generate electricity does not exceed the specified maximum capacity;

“small-scale low-carbon generator” means an owner of plant used or intended to be used for small-scale low-carbon generation, whether or not the person is also operating or intending to operate the plant;

“specified maximum capacity” means the capacity specified by the Secretary of State by order, which must not exceed [^{F1}10] megawatts;

“supply licence” means a licence under section 6(1)(d) of the Electricity Act 1989 (c. 29).

(5) The sources of energy and technologies are—

- (a) biomass;
- (b) biofuels;
- (c) fuel cells;
- (d) photovoltaics;
- (e) water (including waves and tides);
- (f) wind;
- (g) solar power;
- (h) geothermal sources;
- (i) combined heat and power systems with an electrical capacity of 50 kilowatts or less.

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- (6) The Secretary of State may by order modify the list of sources of energy and technologies for the time being listed in subsection (5).
- (7) The power conferred by subsection (1)—
- (a) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
 - (b) may be exercised differently in different cases or circumstances;
 - (c) includes a power to make incidental, supplemental, consequential or transitional modifications.
- (8) Provision included in a licence by virtue of that power—
- (a) need not relate to the activities authorised by the licence;
 - (b) may make different provision for different cases.

Textual Amendments

F1 Word in [s. 41\(4\)](#) substituted (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), [ss. 146](#), [156\(2\)](#)

Commencement Information

I1 S. 41 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(a\)\(iv\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2008, Section 41.