

Energy & Natural Resources - Portugal

New regime for small-scale electricity generation

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Introduction

UPACs – generation units for self-consumption

UPPs – small generation units

Introduction

On October 20 2014 Decree-Law 153/2014 was published, which repealed the legal regimes applicable to mini and micro-generation of electricity under Decree-Law 34/2011 and Decree-Law 363/2007 (as amended). The new law has merged these regimes into a single legal framework,⁽¹⁾ which entered into force on January 18 2015. This legal framework was recently developed by Ministerial Order 14/2015 (January 23 2015), as amended by Ministerial Order 60-E/2015 (March 2 2015).

Pursuant to Articles 1 and 2 of Decree-Law 153/2014, the new regime covers the generation of electricity:

- for self-consumption in a usage installation connected to the respective generation unit, with or without a connection to the public energy grid, based on renewable and non-renewable generation technologies whose surplus energy can be injected into the public energy grid (referred to as 'UPAC' units); and
- through small generation units from renewable energy sources whose power output is no more than 250 kilowatts (kW) and exclusively intended for sale to the public electric grid (referred to as 'UPP' units).

The generation of electricity for self-consumption and small-scale electricity generation are free-access activities, although they may be subject to various types of prior control.

The installation of UPACs and UPPs is generally subject to prior registration and certification for operation. Where a generation unit is subject to prior registration,⁽²⁾ the producer must submit a request to the electronic registration system (SERUP). Once the generation unit has been registered, the producer must install it using an authorised installation entity.⁽³⁾ After installation, the producer must submit a request for inspection of the unit. If the inspection report concludes that the unit has no defects or irregularities, the operation certificate will be issued and the unit will be definitively registered.

UPACs – generation units for self-consumption

The following rules apply to UPACs:

- UPACs with an installed capacity exceeding 1 megawatt (MW) require the relevant licences for installation and operation.
- UPACs with an installed capacity exceeding 200 watts (W) but no more than 1.5kW, or whose electrical usage installation is not connected to the public energy grid,⁽⁴⁾ require only prior notification before commencing operation. This notification should be addressed to the Directorate General for Energy and Geology through SERUP and the unit is not subject to registration. The directorate general's receipt of this notification constitutes adequate title to begin operation.
- UPACs with an installed capacity of no more than 1.5kW and whose owner intends to supply the electricity which is not consumed in the electrical usage installation (which may or may not be party to an electricity supply contract with a supplier) are subject to prior registration and operational certification.
- UPACs with an installed capacity of no more than 200W are exempt from any form of prior control.

Owners of UPACs which use renewable energy sources and have an installed capacity of up to 1MW, and whose electrical usage installation is connected to the public energy grid, may enter into a power purchase agreement with the last recourse supplier to sell their surplus electricity.⁽⁵⁾ The maximum term for such agreements is 10 years, but they may be renewed for five-year periods if none of the

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parties opposes renewal with at least 60 days' prior written notice.

The electricity generated by UPACs is remunerated in accordance with market prices.⁽⁶⁾ The minimum billing frequency is every three months and payment to the producer must be made by bank transfer.⁽⁷⁾

Owners of UPACs with an installed capacity of more than 1.5kW and which are connected to the public energy grid are subject – for 10 years following issuance of the operational certificate – to pay fixed monthly compensation intended to recover part of the costs arising from measures relating to energy policy, sustainability and general economic interests. The billing for this compensation is calculated by the distribution network operator and is included in the billing issued by the last recourse supplier or the supplier associated with the consumption facility.

UPPs – small generation units

The connection capacity that may be attributed each year to UPPs cannot exceed 20MW, in accordance with the programme established annually by the director general for energy and geology and published on SERUP.

Further, UPP owners may enter into power purchase agreements with the last recourse supplier to sell the electricity that they generate.

Remuneration of electricity generated by UPPs is calculated through a bidding system. Producers bid by offering discounts of a benchmark tariff, which is set annually by the government. The applicable tariff for each UPP will be the highest amount resulting from the highest discount offered. The remuneration tariff will vary according to the primary energy used and will be determined by applying different percentages contained in Article 3 of Ministerial Order 15/2015 (January 23 2015) to the benchmark tariff, which for 2015 is €95 per megawatt hour (MWh).⁽⁸⁾ The application of the remuneration tariff is limited to 2.6 MWh per year for all generation technologies except hydropower (the limit for which is 5 MWh per year), and this tariff will remain in force for 15 years following the date on which the producer started to supply electricity to the public energy grid. The remuneration tariff cannot be combined with other incentives.⁽⁹⁾

Owners of generation units for self-consumption operating under the Regulation for the Licensing of Electrical Facilities⁽¹⁰⁾ and Ministerial Order 237/2013 are now governed by Decree-Law 153/2014, and are required to pay the abovementioned compensation within three months of the entry into force of Decree-Law 153/2014.⁽¹¹⁾

Finally, the remuneration regimes applicable to micro and mini-generation units already in operation will remain in force:

- until the end of the respective legal term (for the subsidised remuneration regime); or
- for 15 years following issuance of the operation certificate (for the general remuneration regime).

⁽¹²⁾

After expiry of these terms, the electricity will be remunerated under the general regime for special generation pursuant to Article 33-G(a)(1) of Decree-Law 172/2006.

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Endnotes

⁽¹⁾ The need to review these legal regimes was already established in Article 7 of Decree-Law 25/2013.

⁽²⁾ Access and registration requirements are established in Articles 5 and 6 of this decree-law. The registration procedure and (where applicable) the production and operation licensing procedure are provided under Ministerial Order 14/2015, as amended by Ministerial Order 60-E/2015.

⁽³⁾ The installing entity must ensure that the equipment to be installed is certified in accordance with Article 20 of Decree-Law 153/2014, and that the generation unit is properly registered.

⁽⁴⁾ Provided that the holders of such UPACs do not intend to trade guarantees of origin under the terms of Article 4(9) of Decree-Law 153/2014.

⁽⁵⁾ Alternatively, UPAC holders may opt to sell their power through organised markets or bilateral agreements.

⁽⁶⁾ The remuneration is calculated using the formula set out in Article 24 of Decree-Law 153/2014.

⁽⁷⁾ If the producer entered into a financing agreement for the acquisition of the UPAC, it may opt for the last recourse supplier to pay the amount due for the power supplied by the UPAC directly to the financing entity in order to amortise the financing, provided that the financing entity gives written consent.

⁽⁸⁾ The benchmark tariff and applicable percentages are set annually by ministerial order of the

member of the government responsible for the energy sector and must be published by December 15 each year.

(9) During this 15-year period, the producer is also prohibited from adhering to other remuneration regimes, without prejudice to the right to waive the initially attributed tariff at any time. On expiry of the term of the applicable tariff, the producer may sell its electricity, under the terms for generation under the ordinary regime, on organised markets or by entering into bilateral agreements, including with the market facilitator or another supplier which aggregates generation.

(10) Approved by Decree-Law 26852, as amended.

(11) Aside from this obligation, such producers must also install power metering equipment under the terms of this decree-law and enter into insurance agreements which cover the remediation of personal injuries or material damages caused while exercising the activities of generation for self-consumption or small-scale generation. Where applicable, they must also enter into a power purchase agreement with the last recourse supplier if the generation unit is connected to the public energy grid and injects or is intended to inject electricity into the grid.

(12) Regardless of the applicable remuneration regimes under the micro and mini-generation legal frameworks, holders of the respective registrations may opt to include them in the legal framework governing generation for self-consumption. The exercise of this option implies the definitive termination of the remuneration regime from which the producer benefited under the legal framework to which it was previously subject.

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