

# Promotion of cogeneration – terms and conditions for attribution of energy injection capacity to national grid

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## Introduction Ministerial order

### Introduction

In line with the strategy of promoting efficient cogeneration and encouraging decentralised energy production in the European Union, the recently published Ministerial Order 173/2016, dated June 21 2016, details:

- the terms and conditions applicable to the attribution of energy injection capacity at certain points of the national electricity grid within the special regime of licensed cogeneration production; and
- the terms of acquisition of electric power produced in cogeneration by the supplier of last resort and the procedures applicable to the attribution, modification and elimination of microgeneration unit registration.

The EU Energy Efficiency Directive (2012/27/EC) – which amended the EU Ecodesign Directive (2009/125/EC) and the EU Energy Labelling Directive (2010/30/EU) and repealed the EU Cogeneration Directive (2004/8/EC) and the EU Energy Services Directive (2006/32/EC) – was transposed into Portuguese law via Decree-Law 68-A/2015, dated April 20 2015, as amended by Corrigendum 30-A/2015. The decree-law established the rules for cogeneration production, but left the terms and conditions for the attribution of energy injection capacity at certain points of the national electric grid – applicable within the special regime of licensed cogeneration production – to be established through a ministerial order.

### Ministerial order

Ministerial Order 173/2016 established that requests for access to and the exercise of cogeneration production must be submitted and processed online via the Cogeneration Portal, available on the website of the General Directorate of Energy and Geology (DGEG) or the Citizen's Portal.

The ministerial order also established the procedure for granting generation licences through cogeneration and, in particular, the procedure for reserving energy injection capacity through the award of a specific reception point on the electricity grid.

Under Article 4 of the ministerial order – for better management of energy reception capacity and requests for the awarding of a specific reception point at the electric grid at DGEG's proposal – the government member responsible for energy matters can:

- set maximum annual quotas of power to be injected into the national grid;
- temporarily suspend the granting of reserved capacity; or
- establish special procedures for the selection of competing requests within the same area.

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The ministerial order also details the procedure to register micro-generation and small scale cogeneration units, distinguishing between:

- units with an installed capacity of less than 50 kilowatts (kW), regardless of the applicable remuneration, for which the interested party must request prior approval through the Cogeneration Portal; and
- units with an installed capacity between 50 kW and one megawatt, provided that the applicable remuneration regime is the general regime (ie, does not include the feed-in tariff), for which a prior communication will suffice.

Further, the ministerial order also clarifies:

- the terms and conditions under which electrical power produced in auto-consumption cogeneration units can be sold to the supplier of last resort; and
- the requirements that must be met when drafting an agreement for the sale and purchase of electricity produced and not consumed by the cogeneration unit.

However, the ministerial order regulates only the sale and purchase of energy generated under the general remuneration regime (ie, energy that does not benefit from a feed-in tariff and is otherwise remunerated according to market prices). In this case, power purchase agreements entered into by the cogenerator and last resort supplier must establish:

- a maximum term of 10 years, renewable for five-year terms unless either party opposes the renewal at least 60 days before the term ends, as well as other grounds for termination of the agreement;
- the remuneration of energy purchased by the last resort supplier;
- the compensation due under Decree-Law 68-A/2015, referred to above; and
- the invoicing frequency.

The last resort supplier must oppose the agreement's extension if – for reasons relating to the sustainability of the national electricity system or energy policy – the DGE decides not to renew the agreements in force.

The statute establishes rules for calculating remuneration for the injection of energy into the national electricity grid based on market price criteria.

An additional ministerial order is expected to establish the special remuneration regime for cogeneration (ie, the feed-in tariff).

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