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STATUTORY INSTRUMENTS

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**2012 No. 2782**

The Feed-in Tariffs Order 2012

**PART 3** E+W+S

Accreditation and matters relating to accreditation

CHAPTER 1 E+W+S

Accreditation

**Application of this Chapter** E+W+S

[<sup>F1</sup>4.—(1) This Chapter applies where an application has been made which meets the conditions in paragraph (2) or (3).

(2) The conditions in this paragraph are that—

(a) an application has been made to the Authority for accreditation of an eligible installation which—

(i) uses anaerobic digestion;

(ii) is a hydro generating station; or

(iii) uses any other eligible low-carbon energy source, and has a declared net capacity of more than 50 kilowatts; and

(b) at least one of the following applies—

(i) the installation was commissioned before the application was made;

(ii) the installation has been granted preliminary accreditation, and the application for accreditation was made within the period of validity of that preliminary accreditation; <sup>F2</sup>...

(iii) the application is within paragraph (1)(a) of article 8D (transitional installations) [<sup>F3</sup>; or]

[<sup>F4</sup>(iv) article 7B applies to the installation.]

(3) The conditions in this paragraph are that—

(a) an application [<sup>F5</sup>, other than an excluded transitional application,] has been made to a FIT licensee for FIT payments for an eligible installation which uses an MCS-FIT technology;

(b) the FIT licensee has submitted details of the installation to the Authority for accreditation under the process for MCS-certified registration; and

(c) not less than two weeks have passed since the date on which the installation's MCS certificate was issued.]

[<sup>F6</sup>(4) In paragraph (3)(a), “an excluded transitional application” means an application which—

(a) is made to a FIT licensee on or after 1st April 2016; and

- (b) would have been within article 8D(1)(b) if it had been made to a FIT licensee between 15th January and 31st March 2016.]

#### Textual Amendments

- F1** Art. 4 substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 4 (with art. 24)
- F2** Word in art. 4(2)(b)(ii) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 3(2)(a)
- F3** Word in art. 4(2)(b)(iii) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 3(2)(b)
- F4** Art. 4(2)(b)(iv) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 3(2)(c)
- F5** Words in art. 4(3)(a) inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, 4(a)
- F6** Art. 4(4) inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, 4(b)

#### Accreditation of eligible installations **E+W+S**

5.—(1) The Authority must carry out accreditation as provided by this article.

[<sup>F7</sup>(1A) The Authority must, subject to paragraph (1B)—

- (a) determine whether to accredit eligible installations of a particular description which meet the conditions in article 4(2) in the order in which applications for accreditation of such installations are received by the Authority; and
- (b) determine whether to accredit eligible installations of a particular description which meet the conditions in article 4(3) in the order in which the installations' MCS certificates were issued.]

[<sup>F7</sup>(1B) Paragraph (1A)(a) does not apply to eligible installations—

- (a) that have been granted preliminary accreditation and in respect of which an application for accreditation is made within the period of validity of that preliminary accreditation; <sup>F8</sup>...
- (b) to which article 8D (transitional installations) applies. [<sup>F9</sup>; or]
 

[ to which article 7B applies.]]

<sup>F10</sup>(c)

(2) The Authority must accredit an eligible installation if article 6 is satisfied [<sup>F11</sup>but must not do so—

- (a) if article 7 [<sup>F12</sup>, 7A(1)] or 8 applies;
- (b) during the pause period, if article 8A applies; or
- (c) in a particular tariff period, if article 8B applies in relation to that tariff period and particular description of eligible installation].

(3) Where the Authority accredits an eligible installation, it may attach such conditions as it considers appropriate.

(4) Where the Authority accredits an eligible installation, it must—

- (a) update the central FIT register;

- (b) in the case of an eligible installation accredited further to an application mentioned in [<sup>F13</sup>article 4(2)], give notice to the person who made that application of the accreditation and any conditions attached to it; and
  - (c) in the case of an eligible installation accredited further to an application mentioned in [<sup>F14</sup>article 4(3)], give notice to the FIT licensee of the accreditation and any conditions attached to it.
- (5) Where the Authority determines that an installation is not entitled to accreditation, it must—
- (a) in the case of an application mentioned in [<sup>F15</sup>article 4(2)], give notice of its decision to the person who made that application; and
  - (b) in the case of an application mentioned in [<sup>F16</sup>article 4(3)], give notice of its decision to the FIT licensee.
- (6) A notice given under paragraph (5) must include reasons why the installation was not accredited [<sup>F17</sup>, and, where the reason for the non-accreditation is that article 8B applies, give notice of the date of the start of the next tariff period [<sup>F18</sup>, if any,] within which the application will be considered by the Authority in accordance with this article.]

#### Textual Amendments

- F7** Art. 5(1A)(1B) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(a)** (with art. 24)
- F8** Word in art. 5(1B)(a) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **4(2)(a)**
- F9** Word in art. 5(1B)(b) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **4(2)(b)**
- F10** Art. 5(1B)(c) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **4(2)(c)**
- F11** Words in art. 5(2) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(b)** (with art. 24)
- F12** Word in art. 5(2)(a) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **4(3)**
- F13** Words in art. 5(4)(b) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(c)** (with art. 24)
- F14** Words in art. 5(4)(c) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(d)** (with art. 24)
- F15** Words in art. 5(5)(a) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(e)** (with art. 24)
- F16** Words in art. 5(5)(b) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(d)** (with art. 24)
- F17** Words in art. 5(6) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **5(e)** (with art. 24)
- F18** Words in art. 5(6) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **4(4)**

#### Accreditation of eligible installations not previously accredited under the ROO **E+W+S**

6.—(1) Subject to [<sup>F19</sup>articles 7 [<sup>F20</sup>, 7A], 8, 8A and 8B], the Authority must accredit an eligible installation as an accredited FIT installation if it is satisfied that—

- (a) where it has a declared net capacity of more than 50 kilowatts, it would receive accreditation under the ROO were an application to be made for such accreditation; or

- (b) where it has a declared net capacity of 50 kilowatts or less, the installation meets the criteria in paragraph (2) or the criteria in paragraph (3).
- (2) The criteria in this paragraph are that the eligible installation—
  - (a) uses an MCS-FIT technology;
  - (b) was first commissioned after 15th July 2009; and
  - (c) has been submitted by a FIT licensee for accreditation under the process for MCS-certified registration.
- (3) The criteria in this paragraph are that—
  - (a) the eligible installation—
    - (i) is a hydro generating station; or
    - (ii) uses anaerobic digestion; and
  - (b) were the installation to have a declared net capacity of more than 50 kilowatts, it would receive accreditation under the ROO were an application to be made for such accreditation.

#### Textual Amendments

- F19** Words in art. 6(1) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 6 (with art. 24)
- F20** Word in art. 6(1) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 5(2)

#### Exceptions to accreditation applicable to all eligible installations **E+W+S**

7.—(1) The Authority must not accredit an eligible installation as an accredited FIT installation where—

- (a) the installation has a total installed capacity which exceeds the specified maximum capacity;
- (b) the installation is an extension to—
  - (i) an accredited FIT installation; or
  - (ii) another installation using an eligible low-carbon energy source, and the aggregate total installed capacity of the extension and the installation referred to in paragraph (i) or (ii) exceeds the specified maximum capacity; or
- (c) electricity from the installation is or has been sold pursuant to a NFFO arrangement.

(2) The Authority must not accredit an eligible installation as an accredited FIT installation where it has good reason to believe that any generating equipment used at the installation has formed part of an installation previously accredited—

- (a) under the ROO; or
- (b) under this Part.

(3) Subject to paragraph (4) and to article 40(3), the Authority must not accredit an eligible installation as an accredited FIT installation unless the FIT generator has given notice to the Authority that—

- (a) no grant from public funds has been made in respect of any of the costs of purchasing or installing the installation; or
- (b) where any such grant has been made, the grant has been repaid to the person or authority which made it.

(4) Paragraph (3) does not prohibit the Authority from accrediting an eligible installation where a grant referred to in paragraph (3) has been made and not repaid if the grant is a permitted grant.

(5) In this article—

“NFFO arrangement” has the meaning given to it in the ROO; and

“permitted grant” means a grant made in respect of the reasonable additional costs of an installation to avoid or mitigate environmental harm, where the amount of the grant does not exceed the amount of those costs.

#### [<sup>F21</sup>Accreditation on or after 1st April 2019 **E+W+S**

**7A.**—(1) The Authority must not accredit an eligible installation in respect of which the application date is on or after 1st April 2019 as an accredited FIT installation.

(2) Paragraph (1) does not apply to—

(a) an eligible installation in respect of which—

(i) preliminary accreditation is granted in accordance with article 9(2); and

(ii) the application date is within the relevant period of validity;

(b) an eligible installation which is pre-registered in accordance with article 11(2)(a) or article 12(2)(a), and in respect of which—

(i) the application for pre-registration is received by the Authority on or before 31st March 2019; and

[<sup>F22</sup>(ii) either—

(aa) the application date is within the period of 1 year beginning with the date on which the Authority received the application for pre-registration; or

(bb) where the date on which the Authority received the application for pre-registration was within the period beginning on 1st March 2019 and ending on 31st March 2019, the application date is [<sup>F23</sup>within the period of 24 months beginning with the date on which the Authority received the application for pre-registration];]

(c) an eligible installation which uses an MCS-FIT technology and which is not pre-registered in accordance with article 11(2)(a) or article 12(2)(a), and in respect of which—

(i) an MCS certificate is issued on or before 31st March 2019; and

(ii) the application date is on or before 31st March 2020; or

(d) an eligible installation to which article 7B applies.

(3) In this article—

“application date” has the meaning given in article 8A(5);

“relevant period of validity” means the period of validity of an eligible installation’s preliminary accreditation, as set out in article 9(8) or (8A).]

#### Textual Amendments

**F21** Arts. 7A, 7B inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 6

**F22** Art. 7A(2)(b)(ii) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, 3(2)

**F23** Words in art. 7A(2)(b)(ii)(bb) substituted (30.9.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) \(No. 2\) Order 2020 \(S.I. 2020/957\)](#), arts. 1, 3(2)

**[<sup>F21</sup>Certain delays in grid or radar works E+W+S**

**7B.**—(1) This article applies to an eligible installation in relation to which the conditions in paragraph (2) are met.

- (2) The conditions are that—
- (a) preliminary accreditation is granted in respect of the eligible installation in accordance with article 9(2);
  - (b) the last day of the relevant period of validity is on or after 31st March 2019;
  - (c) the eligible installation is commissioned; and
  - (d) an application for accreditation of the eligible installation, and the documents specified in paragraph (3) or (4), are received by the Authority within the period of 1 year beginning on the day after the last day of the relevant period of validity.
- (3) The documents specified in this paragraph are—
- (a) evidence of a grid connection agreement with a relevant network operator for the making of a grid connection in respect of the eligible installation (“the relevant grid works”);
  - (b) a copy of a document written by, or on behalf of, the relevant network operator which estimated or set a date for completion of the relevant grid works (“the planned grid works completion date”) no later than the last day of the relevant period of validity;
  - (c) a letter or email written by, or on behalf of, the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—
    - (i) the relevant grid works were completed after the planned grid works completion date; and
    - (ii) in the relevant network operator’s opinion, the failure to complete the relevant grid works on or before the planned grid works completion date was not due to any breach by the installation developer of any agreement with the relevant network operator; and
  - (d) a declaration by the FIT generator that, to the best of the FIT generator’s knowledge and belief, the eligible installation would have been commissioned on or before the last day of the relevant period of validity if the relevant grid works had been completed on or before the planned grid works completion date.
- (4) The documents specified in this paragraph are—
- (a) evidence of an agreement between the installation developer and a person who is not the installation developer (“the radar works agreement”) for radar works (“the relevant radar works”);
  - (b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than the installation developer) which estimated or set a date for completion of the relevant radar works (“the planned radar works completion date”) which was no later than the last day of the relevant period of validity;
  - (c) a letter or email written by, or on behalf of, a party to the radar works agreement (other than the installation developer) confirming (whether or not such confirmation is subject to any conditions or other terms) that—
    - (i) the relevant radar works were completed after the planned radar works completion date; and
    - (ii) in that party’s opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach by the installation developer of the radar works agreement; and

- (d) a declaration by the FIT generator that, to the best of the FIT generator’s knowledge and belief, the eligible installation would have been commissioned on or before the last day of the relevant period of validity if the relevant radar works had been completed on or before the planned radar works completion date.
- (5) In this article—
- “grid connection agreement” means an agreement in writing with a relevant network operator for the making of a grid connection;
- “installation developer” means the FIT generator or the person who arranged for construction of the eligible installation;
- “radar works” means—
- (a) the construction of a radar station;
- (b) the installation of radar equipment;
- (c) the carrying out of modifications to a radar station or to radar equipment; or
- (d) the testing of a radar station or radar equipment;
- “relevant network operator” means the holder of a licence under section 6(1)(b) or 6(1)(c) of the 1989 Act;
- “relevant period of validity” has the meaning given to it in article 7A(3).]

#### Textual Amendments

**F21** Arts. 7A, 7B inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 6

#### Limit on numbers of eligible installations using combined heat and power **E+W+S**

**8.**—(1) Paragraph (3) applies once the Authority has accredited 30,000 relevant eligible installations.

(2) “Relevant eligible installation” means an installation which—

- (a) uses combined heat and power as an eligible low-carbon energy source; and
- (b) is powered by fossil fuel.

(3) Where this paragraph applies, the Authority must not accredit any more relevant eligible installations.

(4) In this article, “fossil fuel” has the meaning given to it by section 100(3) of the Act.

#### [<sup>F24</sup>The pause period **E+W+S**

**8A.**—(1) Subject to paragraph (4), this article applies to an eligible installation for which the application date is within the pause period.

(2) Where this article applies, the Authority must not accredit the eligible installation until on or after 8th February 2016.

(3) If the eligible installation is accredited—

- (a) its eligibility date is the later of—
- (i) 8th February 2016; or
- (ii) the first day of the tariff period within which it qualifies for accreditation; and
- (b) its tariff date is the same as its eligibility date.

- (4) This article does not apply to—
- (a) an eligible installation to which article 8D (transitional installations) applies; or
  - (b) an eligible installation which has been granted preliminary accreditation, and in respect of which the application for accreditation is made within the period of validity of its preliminary accreditation.
- (5) In paragraph (1)—
- “the application date” means—
- (a) in relation to an application which meets the conditions in article 4(2), the date on which the application for accreditation is received by the Authority;
  - (b) in relation to an application which meets the conditions in article 4(3), the date on which the application for FIT payments is received by a FIT licensee; and
- “the pause period” means the period starting on 15th January 2016 and ending on 7th February 2016.]

#### Textual Amendments

**F24** Arts. 8A-8D inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 7 (with art. 24)

#### [<sup>F24</sup>The application limit **E+W+S**

**8B.**—(1) Paragraph (2) applies where, in any tariff period, the aggregate total installed capacity (measured in megawatts) of relevant installations of a particular description, in respect of which applications for accreditation or preliminary accreditation have been received, reaches the limit for such installations for that tariff period (“the application limit”) as set out in the [<sup>F25</sup>tables] in Schedule 1A to this Order.

- (2) Where this paragraph applies, the Authority must not within that tariff period—
- (a) accredit any relevant installations of that particular description for which an application for accreditation is received after the application limit is reached; or
  - (b) grant preliminary accreditation for installations of that particular description for which an application under article 9 (preliminary accreditation) is received after the application limit is reached,

and where the receipt of an application in respect of a relevant installation causes the application limit to be reached, the Authority must not accredit it or grant it preliminary accreditation within that tariff period, unless the total installed capacity of that installation is such that the limit is reached exactly and not exceeded.

(3) [<sup>F26</sup>Subject to paragraph (3A),] where by virtue of paragraph (2) an eligible installation is not granted accreditation or preliminary accreditation in a tariff period, and the Authority would have granted it accreditation or preliminary accreditation if paragraph (2) did not apply, the Authority must in the next tariff period determine whether to grant the installation accreditation or preliminary accreditation in that next tariff period.

[  
<sup>F27</sup>(3A) Where by virtue of the operation of paragraph (3) the Authority must determine whether to grant an eligible installation accreditation or preliminary accreditation in any tariff period beginning on or after 1st April 2019, the Authority must determine not to grant the installation accreditation or preliminary accreditation.]

[



<sup>F27</sup>(3B) Where the Authority receives an application for accreditation in respect of a relevant community energy installation, the Authority must determine not to accredit the installation where the application limit for an installation of that particular description for the tariff period beginning on 1st January 2019—

- (a) has been exceeded; or
- (b) is exceeded by virtue of receipt of the application for accreditation.]

(4) For the purposes of this article and article 8C—

(a) an application for accreditation or preliminary accreditation is to be treated as being received by the Authority—

(i) in relation to an application which meets the conditions in article 4(2), or for an application for preliminary accreditation, when the application is received by the Authority;

[<sup>F28</sup>(ii) in relation to any eligible installation which uses an MCS-FIT technology and for which an MCS certificate is issued, when the MCS certificate is issued, (whether or not an application for FIT payments for that installation is actually made);]

(iii) in relation to an application which the Authority is required to determine under paragraph (3), at the start of the tariff period in which it is to be determined;]<sup>F29</sup>...

[<sup>F30</sup>(b) “relevant community energy installation” means an eligible installation—

(i) which is pre-registered in accordance with article 11(2)(a);

(ii) in respect of which the MCS certificate is issued on or after 1st April 2019; and

[<sup>F31</sup>(iii) in respect of which either—

(aa) the application date is within the period of 1 year beginning with the date on which the Authority received the application for pre-registration; or

(bb) where the date on which the Authority received the application for pre-registration was within the period beginning on 1st March 2019 and ending on 31st March 2019, the application date is [<sup>F32</sup>within the period of 24 months beginning with the date on which the Authority received the application for pre-registration];]

and despite sub-paragraph (a), for the purposes of paragraph (3B) an application for accreditation of a relevant community energy installation is to be treated as being received by the Authority during the tariff period beginning on 1st January 2019;]

[<sup>F30</sup>(c) “relevant installation” means any eligible installation other than an installation—

(i) which has been granted preliminary accreditation and in respect of which an application for accreditation is made within the period of validity of its preliminary accreditation;

(ii) to which article 7B applies; or

(iii) which is a relevant community energy installation.]

#### Textual Amendments

**F24** Arts. 8A-8D inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 7 (with art. 24)

**F25** Word in art. 8B(1) substituted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, 4

**F26** Words in art. 8B(3) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 7(2)

- F27** Art. 8B(3A)(3B) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **7(3)**
- F28** Art. 8B(4)(a)(ii) substituted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(2)**
- F29** Word in art. 8B(4)(a)(iii) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **7(4)(a)**
- F30** Art. 8B(4)(b)(c) substituted for art. 8B(4)(b) (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **7(4)(b)**
- F31** Art. 8B(4)(b)(iii) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, **4(2)**
- F32** Words in art. 8B(4)(b)(iii)(bb) substituted (30.9.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) \(No. 2\) Order 2020 \(S.I. 2020/957\)](#), arts. 1, **4(2)**

### [<sup>F24</sup>The application limit: adjustments **E+W+S**

**8C.**—(1) [<sup>F33</sup>Subject to paragraph (1A),] this paragraph applies where, at the end of a tariff period (“Tariff Period A”), the aggregate total installed capacity (measured in megawatts) of eligible installations of a particular description, in respect of which applications have been received by the Authority, has not reached the limit for that period as set out in the Table in Schedule 1A for such installations.

[  
<sup>F34</sup>(1A) Paragraph (1) does not apply in relation to any tariff period beginning on or after 1st April 2019.]

(2) If paragraph (1) applies, then in relation to the following tariff period (“Tariff Period B”), the application limit *NLB*, given by the formula below, is to be substituted for the application limit specified in the Table in Schedule 1A—

$$NLB=(ELA-MWA)+ELB$$

where—

- (a) ELA is the application limit for Tariff Period A for eligible installations of a particular description;
- (b) MWA is the aggregate total installed capacity of eligible installations of that description in respect of which the Authority received applications in Tariff Period A;
- (c) ELB is the application limit which would, but for this article, apply for Tariff Period B for eligible installations of that description; and
- (d) NLB is the new application limit which will apply for Tariff Period B.]

#### Textual Amendments

- F24** Arts. 8A-8D inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **7** (with art. 24)
- F33** Words in art. 8C(1) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **8(2)**
- F34** Art. 8C(1A) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **8(3)**

### [<sup>F24</sup>Transitional installations **E+W+S**

**8D.**—(1) This article applies where—

- (a) an application has been made to the Authority before 15th January 2016 for accreditation of an eligible installation which is of a type mentioned in article 4(2)(a), whose commissioning date is on or after 15th January 2016; or
- [<sup>F35</sup>(b) an application is made to a FIT licensee between 15th January 2016 and 31st March 2016 for FIT payments for an eligible installation which uses a MSC-FIT technology and whose MCS certificate's issue date is before 15th January 2016, but is not—
  - (i) a community energy installation which has been pre-registered in accordance with article 11(pre-registration of community energy installations); or
  - (ii) a school installation which has been pre-registered in accordance with article 12 (pre-registration of school installations).]
- (2) Where this article applies—
  - (a) in the case of the installation referred to in paragraph (1)(a), its eligibility date will be the later of—
    - (i) the date on which its application for accreditation was received by the Authority; or
    - (ii) the date on which the installation is commissioned;and its tariff date will be the same as its eligibility date; and
  - (b) in the case of an installation referred to in paragraph (1)(b), its eligibility date and tariff date will be 8th February 2016.]

#### Textual Amendments

- F24** Arts. 8A-8D inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 7 (with art. 24)
- F35** Art. 8D(1)(b) substituted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, 4(3)

## CHAPTER 2 **E+W+S**

### Preliminary accreditation and pre-registration

#### Preliminary accreditation **E+W+S**

- 9.—[<sup>F36</sup>(1) This article applies where a person (“the prospective FIT generator”)—
- (a) proposes to construct or operate an eligible installation (other than an extension) which, when commissioned, will—
    - (i) use anaerobic digestion;
    - (ii) be a hydro generating station; or
    - (iii) be a wind or solar photovoltaic installation, and have a declared net capacity of more than 50 kilowatts; and
  - (b) makes an application in writing to the Authority for preliminary accreditation, which is received by the Authority on or before 30th September 2015][<sup>F37</sup>or on or after 8th February 2016][<sup>F38</sup>but on or before 31st March 2019].
- (2) [<sup>F39</sup>Subject to article 8B, the] Authority must, [<sup>F40</sup>upon receiving the application referred to in paragraph (1)(b),] grant preliminary accreditation in respect of that installation if the Authority is satisfied that—
- (a) the conditions in paragraphs (3) and (4) are met; and

- (b) the installation would, if commissioned, receive accreditation under Chapter 1 of this Part were an application to be made for such accreditation [<sup>F41</sup>and, for this purpose, applications for preliminary accreditation are to be considered under article 5(1A)(a) in the same way as applications for the accreditation of eligible installations mentioned in that sub-paragraph.]
- (3) The conditions in this paragraph are that the application for preliminary accreditation—
- (a) specifies—
- (i) the eligible low-carbon energy source to be used by the installation;
  - (ii) the total installed capacity and declared net capacity of the installation;
  - (iii) the location of the installation;
  - (iv) whether the installation is to have a grid connection;
  - [<sup>F42</sup>(v) where the installation will be a solar photovoltaic installation with a total installed capacity of 250kW or more, whether or not the installation will be stand-alone solar photovoltaic;]
  - [<sup>F42</sup>(vi) whether or not the installation will be owned by a community organisation;]
- (b) is accompanied by documentary evidence, issued on or before the date of the application, of the satisfaction of the conditions in paragraph (4); and
- (c) includes such other information as may be required by the Authority.
- (4) The conditions in this paragraph are that—
- (a) either—
- (i) planning permission has been granted for the installation on or before the date of the application for preliminary accreditation; or
  - (ii) the Authority is satisfied that planning permission is not required for the installation;
- (b) if the installation is to have a grid connection, either—
- (i) the prospective FIT generator has entered into a grid connection agreement on or before the date of the application; or
  - (ii) the Authority is satisfied that a grid connection agreement is not required for the grid connection of the installation;
- (c) if the installation is a hydro generating station in England and Wales, the Authority is satisfied that each of the licences and consents mentioned in paragraph (5)—
- (i) has been granted for the installation on or before the date of the application; or
  - (ii) is not required for the installation; <sup>F43</sup>...
- (d) if the installation is a hydro generating station in Scotland, the Authority is satisfied that an authorisation under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 <sup>M1</sup> for each of the matters mentioned in paragraph (6)—
- (i) has been granted for the installation on or before the date of the application; or
  - (ii) is not required for the installation [<sup>F44</sup>; and]
- [<sup>F45</sup>(e) if the application for preliminary accreditation specifies that the installation will be owned by a community organisation, the installation will be so owned.]
- (5) The licences and consents referred to in paragraph (4)(c) are—
- (a) an abstraction licence under section 24 of the Water Resources Act 1991 <sup>M2</sup>;
  - (b) an impounding works licence under section 25 of the Water Resources Act 1991 <sup>M3</sup>; and
  - (c) consent under section 109(1) of the Water Resources Act 1991 <sup>M4</sup>.

(6) The matters referred to in paragraph (4)(d) are—

- (a) abstraction;
- (b) impounding works; and
- (c) any other engineering works required for the installation.

(7) The Authority may attach such conditions as it considers appropriate in granting preliminary accreditation.

(8) [<sup>F46</sup>Subject to [<sup>F47</sup>paragraphs (8ZA) and (8A)],] preliminary accreditation shall be valid—

- (a) for solar photovoltaic installations, for 6 months beginning with the date on which the application for preliminary accreditation was [<sup>F48</sup>treated as received] by the Authority;
- (b) for wind and anaerobic digestion installations, for 1 year beginning with the date on which the application for preliminary accreditation was [<sup>F48</sup>treated as received] by the Authority; and
- (c) for hydro generating stations, for 2 years beginning with the date on which the application for preliminary accreditation was [<sup>F48</sup>treated as received] by the Authority.

[<sup>F49</sup>(8ZA) Where under paragraph (8)(b) or (c) preliminary accreditation would otherwise cease to be valid on or after 1st March 2020, preliminary accreditation shall be valid—

- (a) for wind and anaerobic digestion installations, for 24 months beginning with the date on which the application for preliminary accreditation was treated as received by the Authority; and
- (b) for hydro generating stations, for 36 months beginning with the date on which the application for preliminary accreditation was treated as received by the Authority.]

[<sup>F50</sup>(8A) [<sup>F51</sup>Subject to paragraph (8AA), where] the installation will be owned by a community organisation, preliminary accreditation shall be valid—

- (a) for solar photovoltaic installations, for 12 months;
- (b) for wind and anaerobic digestion installations, for 18 months; and
- (c) for hydro generating stations, for 30 months,

beginning with the date on which the application for preliminary accreditation was [<sup>F52</sup>treated as received] by the Authority.]

[<sup>F53</sup>(8AA) Where under paragraph (8A) preliminary accreditation would otherwise cease to be valid on or after 1st March 2020, preliminary accreditation shall be valid—

- (a) for solar photovoltaic installations, for 24 months beginning with the date on which the application for preliminary accreditation was treated as received by the Authority;
- (b) for wind and anaerobic digestion installations, for 30 months beginning with the date on which the application for preliminary accreditation was treated as received by the Authority; and
- (c) for hydro generating stations, for 42 months beginning with the date on which the application for preliminary accreditation was treated as received by the Authority.]

[<sup>F54</sup>(8B) For the purposes of paragraphs (8) [<sup>F55</sup>, (8ZA), (8A) and (8AA)], an application for preliminary accreditation is treated as received by the Authority on the date on which it is treated as received under article 8B(4)(a).]

(9) The Authority must give notice to the applicant of—

- (a) its decision on an application for preliminary accreditation of an installation;
- (b) where preliminary accreditation is granted—

- (i) the dates on which the validity of the preliminary accreditation starts and ends;
  - (ii) the tariff date which will apply to the installation if it is accredited under article 10(2); and
  - (iii) any conditions attached to the preliminary accreditation, and the date on which they take effect; and
- (c) where preliminary accreditation is refused, reasons for the refusal [<sup>F56</sup>and, where the reason for not granting preliminary accreditation is that article 8B applies, the date of the start of the next tariff period within which the application will be determined by the Authority in accordance with this article.]
- (10) In this article—
- “grid connection agreement” means an agreement in writing with a transmission licence holder or distribution licence holder for the making of a grid connection; and “transmission licence holder or distribution licence holder” means the holder of a licence under section 6(1)(b) or 6(1)(c) of the 1989 Act <sup>M5</sup>;
- “planning permission” has the same meaning as in—
- (a) the Town and Country Planning Act 1990 <sup>M6</sup>, in relation to England and Wales;
  - (b) the Town and Country Planning (Scotland) Act 1997 <sup>M7</sup>, in relation to Scotland.

#### Textual Amendments

- F36** Art. 9(1) substituted (30.9.2015) by [The Feed-in Tariffs \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/1659\)](#), arts. 1, **3(a)**
- F37** Words in art. 9(1)(b) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **8(a)** (with art. 24)
- F38** Words in art. 9(1)(b) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **9(2)**
- F39** Words in art. 9(2) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **8(b)** (with art. 24)
- F40** Words in art. 9(2) substituted (30.9.2015) by [The Feed-in Tariffs \(Amendment\) \(No. 2\) Order 2015 \(S.I. 2015/1659\)](#), arts. 1, **3(b)**
- F41** Words in art. 9(2)(b) added (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **8(c)** (with art. 24)
- F42** Art. 9(3)(a)(v)(vi) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(a)**
- F43** Word in art. 9(4)(c)(ii) omitted (1.4.2015) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(b)**
- F44** Word in art. 9(4)(d) substituted (1.4.2015) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(c)**
- F45** Art. 9(4)(e) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(d)**
- F46** Words in art. 9(8) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(e)**
- F47** Words in art. 9(8) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, **5(2)**
- F48** Words in art. 9(8) substituted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(4)(a)**
- F49** Art. 9(8ZA) substituted (30.9.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) \(No. 2\) Order 2020 \(S.I. 2020/957\)](#), arts. 1, **5(2)**

- F50** Art. 9(8A) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(f)**
- F51** Words in art. 9(8A) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, **5(4)**
- F52** Words in art. 9(8A) substituted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(4)(a)**
- F53** Art. 9(8AA) substituted (30.9.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) \(No. 2\) Order 2020 \(S.I. 2020/957\)](#), arts. 1, **5(3)**
- F54** Art. 9(8B) inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(4)(b)**
- F55** Words in art. 9(8B) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, **5(6)**
- F56** Words in art. 9(9)(c) added (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **8(d)** (with art. 24)

### Marginal Citations

- M1** [S.S.I. 2011/209](#).
- M2** [1991 c.57](#). Section 24 was amended by the [Environment Act 1995 \(c.25\)](#), Schedule 22, paragraph 128, the [Water Act 2003](#), section 60(1), and [S.I. 1996/593](#), Schedule 2, paragraph 8.
- M3** [1991 c.57](#). Section 25 was amended by the [Water Act 2003](#), sections 2 and 60(1) and Schedule 9, Part 1.
- M4** [1991 c.57](#). Section 109(1) was amended by the [Environment Act 1995 \(c.25\)](#), Schedule 22, paragraph 128.
- M5** Section 6(1)(b) of the 1989 Act was substituted by the [Energy Act 2004 \(c.20\)](#), section 136(1). Section 6(1)(c) was substituted by the [Utilities Act 2000 \(c.27\)](#), section 30, and amended by the [Energy Act 2004 \(c.20\)](#), Schedule 23, Part 1.
- M6** [1990 c.8](#).
- M7** [1997 c.8](#).

### Effect of preliminary accreditation **E+W+S**

- 10.**—(1) Paragraph (2) applies where—
- (a) an installation has been granted preliminary accreditation; and
  - [<sup>F57</sup>(b) either—
    - (i) during the period of validity of the preliminary accreditation—
      - (aa) the installation is commissioned; and
      - (bb) the Authority receives an application for accreditation of the installation; or
    - (ii) article 7B applies to the installation.]
- (2) The Authority must grant the accreditation if it is satisfied that the installation has been commissioned unless—
- (a) article 7 applies;
  - (b) the installation which has been commissioned is materially different from the installation for which preliminary accreditation was granted;
  - (c) there has been a material change in circumstances since the preliminary accreditation was granted such that, had the application for preliminary accreditation been made after the change, it would have been refused;
  - (d) any condition attached to the preliminary accreditation has not been complied with;

- (e) the information on which the decision to grant the preliminary accreditation was based was incorrect in a material particular such that, had the Authority known the true position when the application for preliminary accreditation was made, it would have been refused.
- [<sup>F58</sup>(3) If the Authority grants the application for accreditation pursuant to paragraph (2), the installation’s tariff date is the later of the date on which—
  - (a) the application for preliminary accreditation is received by the Authority; or
  - [<sup>F59</sup>(b) the tariff period within which the installation qualifies for accreditation commences.]]
- (4) For the purposes of this article, a commissioned installation is materially different from an installation for which preliminary accreditation was granted if—
  - (a) its site is different;
  - (b) it uses a different eligible low-carbon energy source;
  - (c) either—
    - (i) it does not have a grid connection, and the application for preliminary accreditation stated that it would have a grid connection; or
    - (ii) it has a grid connection, and the application for preliminary accreditation stated that it would not have a grid connection;
  - [<sup>F60</sup>(d) its total installed capacity is greater;]
  - [<sup>F60</sup>(da) its total installed capacity is less, such that electricity generated by the installation would be eligible for payment at a different generation tariff to that which would have been payable had the total installed capacity of the installation been as stated in the application for preliminary accreditation;]
  - <sup>F61</sup>(e) .....
  - [<sup>F62</sup>(f) the application for preliminary accreditation specified that the installation—
    - (i) would not be stand-alone solar photovoltaic and it is stand-alone solar photovoltaic; or
    - (ii) would be stand-alone solar photovoltaic and it is not stand-alone solar photovoltaic;]
  - [<sup>F62</sup>(g) the application for preliminary accreditation specified that the installation would be owned by a community organisation and the Authority is not satisfied that it is owned by a community organisation.]

<b>Textual Amendments</b>	
<b>F57</b>	Art. 10(1)(b) substituted (1.2.2019) by <a href="#">The Feed-in Tariffs (Closure, etc.) Order 2018 (S.I. 2018/1380)</a> , arts. 1, <b>10(2)</b>
<b>F58</b>	Art. 10(3) substituted (15.1.2016) by <a href="#">The Feed-in Tariffs (Amendment) (No. 3) Order 2015 (S.I. 2015/2045)</a> , arts. 1, <b>9(a)</b> (with art. 24)
<b>F59</b>	Art. 10(3)(b) substituted (31.3.2016) by <a href="#">The Feed-in Tariffs (Amendment) Order 2016 (S.I. 2016/319)</a> , arts. 1, <b>4(5)(a)</b>
<b>F60</b>	Art. 10(4)(d)(da) substituted for art. 10(4)(d) (31.3.2016) by <a href="#">The Feed-in Tariffs (Amendment) Order 2016 (S.I. 2016/319)</a> , arts. 1, <b>4(5)(b)</b>
<b>F61</b>	Art. 10(4)(e) omitted (15.1.2016) by virtue of <a href="#">The Feed-in Tariffs (Amendment) (No. 3) Order 2015 (S.I. 2015/2045)</a> , arts. 1, <b>9(c)</b> (with art. 24)
<b>F62</b>	Art. 10(4)(f)(g) inserted (1.4.2015) by <a href="#">The Feed-in Tariffs (Amendment) Order 2015 (S.I. 2015/35)</a> , arts. 1, <b>5(b)</b>



## Pre-registration of community energy installations **E+W+S**

**11.**—(1) This article applies where a community organisation proposes to commission, or has commissioned, a community energy installation which—

- (a) is a solar photovoltaic installation;
- (b) is not an extension; and
- (c) has a declared net capacity not exceeding 50 kilowatts.

(2) [<sup>F63</sup>Subject to paragraph (2A),] the Authority must, upon receiving an application by a community organisation for pre-registration of a community energy installation referred to in paragraph (1), which the Authority is satisfied meets the conditions in paragraph (3)—

- (a) pre-register the installation; and
- (b) give notice to the applicant of the pre-registration, and the period for which it is valid.

[<sup>F64</sup>(2A) The Authority must not pre-register a community energy installation in respect of which an MCS certificate has not been issued where, at the time that the application for pre-registration is received by the Authority, the application limit for installations of that particular description for the tariff period beginning on 1st January 2019—

- (a) has been exceeded; or
- (b) would be exceeded if an MCS certificate were to be issued for the installation during the tariff period beginning on 1st January 2019.]

(3) The conditions are that the application [<sup>F65</sup>is received by the Authority on or before 31st March 2019, and]—

- (a) specifies—
  - (i) the eligible low-carbon energy source used, or to be used, by the installation;
  - (ii) the total installed capacity and declared net capacity of the installation;
  - (iii) the address of the building to which the installation is wired, or to be wired;
- (b) is accompanied by—
  - (i) evidence that the applicant is a community organisation; and
  - (ii) an energy performance certificate for the building to which the installation is wired, or to be wired; and
- (c) contains such other information as the Authority may require.

[<sup>F66</sup>(4) A pre-registration under this article is valid—

- (a) for one year beginning with the date on which the Authority received the application for pre-registration; or
- (b) where the date on which the Authority received the application for pre-registration was within the period beginning on 1st March 2019 and ending on 31st March 2019, [<sup>F67</sup>for 24 months beginning with the date on which the Authority received the application for pre-registration].]

(5) If an application for FIT payments for a pre-registered community energy installation is received by a FIT licensee during the period of validity of its pre-registration, and the community energy installation is accredited pursuant to that application—

[<sup>F68</sup>(a) where the application for pre-registration was received by the Authority before 1st October 2015—

- (i) the eligibility date of the installation is the later of the—
  - (aa) date on which the Authority received the application for pre-registration; or

- (bb) date on which the installation was commissioned; and
- (ii) the tariff date is the date on which the Authority received the application for pre-registration;]
- [<sup>F68</sup>(b) where the application for pre-registration was received by the Authority after 30th September 2015 but before 15th January 2016—
  - (i) the eligibility date of the installation is the later of—
    - (aa) the date on which the Authority received the application for pre-registration; or
    - (bb) the date on which the installation is commissioned, and
  - (ii) the tariff date is the same date as the eligibility date;]
- [<sup>F68</sup>(c) where the installation was commissioned before 15th January 2016 but the application for pre-registration was received by the Authority on or after 15th January 2016—
  - (i) the eligibility date is the later of—
    - (aa) the date on which the Authority received the application for pre-registration; or
    - (bb) the first date of the tariff period within which the installation qualifies for accreditation; and
  - (ii) the tariff date is the same as the eligibility date;]
- [<sup>F68</sup>(d) where the installation is commissioned and its application for pre-registration is received by the Authority on or after 8th February 2016 [<sup>F69</sup>, and its MCS certificate is issued on or before 31st March 2019]—
  - (i) the eligibility date is the later of—
    - (aa) the date on which the Authority received the application for pre-registration; or
    - (bb) the first date of the tariff period within which the installation qualifies for accreditation; and
  - (ii) the tariff date is the first day of the tariff period within which the installation qualifies for accreditation][<sup>F70</sup>; and]
- [<sup>F71</sup>(e) where the installation’s MCS certificate is issued on or after 1st April 2019—
  - (i) the eligibility date is the date on which the application for FIT payments is received by a FIT licensee; and
  - (ii) the tariff date is 1st January 2019.]
- (6) In this article—
  - [<sup>F72</sup>“charity” means a charity—
    - (a) registered in the register of charities kept by the Charity Commission in accordance with section 29 of the Charities Act 2011; or
    - (b) as defined by section 106 (interpretation) of the Charities and Trustee Investment (Scotland) Act 2005;]
  - [<sup>F73</sup>“community benefit or co-operative society” means a society registered under the Co-operative and Community Benefit Societies Act 2014 as a community benefit society or as a co-operative society;]
  - “community energy installation” means an eligible installation—
    - (a) which is wired to provide electricity to a building which is not a dwelling; and

(b) in relation to which the FIT generator is a community organisation;  
“community interest company” means a company issued a certificate of incorporation under section 36B(1) or 38A(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 <sup>M8</sup>;

[<sup>F74</sup>“community organisation” means—

- (a) any of the following which has 50 or fewer employees—
  - (i) a charity;
  - (ii) a community benefit or co-operative society; or
  - (iii) a community interest company; or
- (b) a subsidiary (as defined in section 1159 of the Companies Act 2006), wholly owned by a charity, where the subsidiary has 50 or fewer employees and the parent charity has 50 or fewer employees;]

“dwelling” has the same meaning as in—

- (a) [<sup>F75</sup>the Energy Performance of Buildings (England and Wales) Regulations 2012;] in relation to a building in England or Wales; and
- (b) the Energy Performance of Buildings (Scotland) Regulations 2008 <sup>M9</sup>, in relation to a building in Scotland; and

“employee” means an individual who has entered into or works under a contract of employment with the company or society.

#### Textual Amendments

- F63** Words in art. 11(2) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(2)**
- F64** Art. 11(2A) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(3)**
- F65** Words in art. 11(3) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(4)**
- F66** Art. 11(4) substituted (31.3.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) Order 2020 \(S.I. 2020/375\)](#), arts. 1, **6(2)**
- F67** Words in art. 11(4)(b) substituted (30.9.2020) by [The Feed-in Tariffs \(Amendment\) \(Coronavirus\) \(No. 2\) Order 2020 \(S.I. 2020/957\)](#), arts. 1, **6(2)**
- F68** Art. 11(5)(a)-(d) substituted for art. 11(5)(a)(b) (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **10** (with art. 24)
- F69** Words in art. 11(5)(d) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(5)(a)**
- F70** Word in art. 11(5)(d)(ii) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(5)(b)**
- F71** Art. 11(5)(e) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(5)(c)**
- F72** Words in art. 11(6) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **6(a)**
- F73** Words in art. 11(6) substituted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **6(b)**
- F74** Words in art. 11(6) substituted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **6(c)**
- F75** Words in art. 11(6) substituted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **4**

### Marginal Citations

**M8** 2004 c.27. Sections 36B and 38A were inserted by S.I. 2009/1941.

**M9** S.S.I 2008/309, to which there are amendments which are not relevant.

### Pre-registration of school installations **E+W+S**

**12.**—(1) This article applies where an education provider has commissioned a school installation which—

- (a) is a solar photovoltaic installation;
- (b) is not an extension; and
- (c) has a declared net capacity not exceeding 50 kilowatts.

(2) The Authority must, upon receiving an application by an education provider for pre-registration of a school installation referred to in paragraph (1), which the Authority is satisfied meets the conditions in paragraph (3)—

- (a) pre-register the installation; and
- (b) give notice to the applicant of the pre-registration, and the period for which it is valid.

(3) The conditions are that the application [<sup>F76</sup>is received by the Authority on or before 31st March 2019, and]—

- (a) specifies—
  - (i) the eligible low-carbon energy source used by the installation;
  - (ii) the total installed capacity and declared net capacity of the installation;
  - (iii) the address of the building to which the installation is wired;
- (b) is accompanied by—
  - (i) evidence that the applicant is an education provider; and
  - (ii) an energy performance certificate for the building to which the installation is wired; and
- (c) contains such other information as the Authority may require.

(4) A pre-registration under this article is valid for one year beginning with the date on which the Authority received the application for pre-registration.

(5) If an application for FIT payments for a pre-registered school installation is received by a FIT licensee during the period of validity of its pre-registration, and the school installation is accredited pursuant to that application—

[<sup>F77</sup>(a) where the application for pre-registration was received by the Authority before 15th January 2016—

- (i) the eligibility date of the installation is the date on which the Authority received the application for pre-registration, and
- (ii) the tariff date is the same as the eligibility date;]

[<sup>F77</sup>(b) where the application for pre-registration is received on or after 15th January 2016—

- (i) the eligibility date is the later of—
  - (aa) the date on which the Authority received the application for pre-registration, or
  - (bb) the first date of the tariff period within which the installation qualifies for accreditation; and

- (ii) the tariff date is the same as the eligibility date.]
- (6) In this article—
- “education provider” means—
- (a) the owner of a building used as the premises of a qualifying educational institution; or
  - (b) a person or body responsible for the management of such an institution;
- “qualifying educational institution” means—
- (a) in England and Wales—
    - (i) a school within the meaning of section 4 of the Education Act 1996 <sup>M10</sup>;
    - (ii) an institution within the further education sector, within the meaning of section 91(3) of the Further and Higher Education Act 1992 <sup>M11</sup>; or
    - (iii) a 16 to 19 Academy within the meaning of section 1B of the Academies Act 2010 <sup>M12</sup>;
  - (b) in Scotland—
    - (i) a school within the meaning of section 135(1) of the Education (Scotland) Act 1980 <sup>M13</sup>; or
    - (ii) a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 <sup>M14</sup>;
- “school installation” means an eligible installation—
- (a) which is wired to provide electricity to a building which is used as the premises of a qualifying educational institution; and
  - (b) in relation to which the FIT generator is the education provider which owns that building or is responsible for the management of that institution.

#### Textual Amendments

- F76** Words in art. 12(3) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **12(2)**
- F77** Art. 12(5)(a)(b) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **11** (with art. 24)

#### Marginal Citations

- M10** 1996 c.56. Section 4 was amended by the [Education Act 1997 \(c.44\)](#), section 51 and Schedule 7, paragraph 10, the [Education Act 2002 \(c.32\)](#), Schedule 22, Part 3, the [Childcare Act 2006 \(c.21\)](#) section 95, the [Education Act 2011 \(c.21\)](#), Schedule 13, paragraph 9, and [S.I. 2010/1080](#), Schedule 1, Part 2, paragraph 97.
- M11** 1992 c.13. Section 91(3) was amended by the [Apprenticeships, Skills, Children and Learning Act 2009 \(c.22\)](#), Schedule 8, paragraph 13.
- M12** 2010 c.32. Section 1B was inserted by the [Education Act 2011 \(c.21\)](#), section 53(7).
- M13** 1980 c.44. The definition of “school” in section 135(1) was amended by the [Registered Establishments \(Scotland\) Act 1987 \(c.4\)](#), section 2(2), and the [Standards in Scotland's Schools etc. Act 2000 \(asp 6\)](#), Schedule 3.
- M14** 1992 c.37.

## CHAPTER 3 **E+W+S**

### Matters relating to accreditation

#### **Tariff codes** **E+W+S**

13. The Authority must assign a tariff code to each accredited FIT installation in accordance with—

- (a) the eligible low-carbon energy source used by, and capacity of, the accredited FIT installation;
- (b) the period in which the tariff date for the accredited FIT installation falls; and
- (c) such other information as may be relevant,

so that the tariff code enables identification of the FIT payment rates which apply to the installation.

#### **Unique identifiers for accredited FIT installations** **E+W+S**

14. The Authority must assign an identifier which is unique to each accredited FIT installation.

#### **Site of accredited FIT installations** **E+W+S**

15.—(1) Where an application has been made to the Authority—

- (a) for accreditation of an eligible installation as mentioned in article 4(a); or
- (b) for preliminary accreditation of an eligible installation,

before granting accreditation or preliminary accreditation the Authority must determine the site of the eligible installation in accordance with this article.

(2) Subject to paragraphs (3) to (5), the Authority must determine the site of an installation by reference to such of the following criteria as the Authority considers appropriate—

- (a) the meter point administration number (“MPAN”) of the meter measuring the supply of electricity to the premises at which the installation is, or is to be, located;
- (b) the address of the premises at which the installation is, or is to be, located;
- (c) the Ordnance Survey grid reference at which the installation is, or is to be, located; and
- (d) any other factors which the Authority considers relevant.

(3) Where—

- (a) two installations (“A” and “B”) share, or are to share, a single grid connection;
- (b) A and B are not otherwise electrically or mechanically connected; and
- (c) any of the circumstances in paragraph (4) applies,

paragraph (2)(a) is not to be taken into account in determining the site of A or B.

(4) The circumstances in this paragraph are that—

- (a) A and B are, or are to be, attached to separate self-contained private residential dwellings;
- (b) A and B are, or are to be, hydro generating stations which are supplied with water by or from different civil works;
- (c) A and B are, or are to be, hydro generating stations which are supplied with water by or from the same civil works, and A or B consists of one or more turbines (with their associated infrastructure) driven by a compensation flow supplied by or from those civil

works in a natural water course where there is a statutory obligation to maintain that compensation flow in that water course.

[<sup>F78</sup>(d) at least one of A or B is owned, or is to be owned, by a community organisation and the conditions in paragraph (7) are met.]

<sup>F79</sup>(5) .....

(6) In this article, “civil works”, in relation to a hydro generating station, means all man-made structures or works for holding water which are located on the inlet side of a turbine (turbine A), other than any such structures or works which supply water to another turbine before water is supplied to the structures or works which supply turbine A.

[<sup>F80</sup>(7) The conditions referred to in paragraph (4)(d) are that—

- (a) only A and B share, or are to share, the single grid connection referred to in paragraph (3) (a); and
- (b) for both A and B—
  - (i) the Tariff Dates; or
  - (ii) the Eligibility Dates,are on or after 1st April 2015.]

#### Textual Amendments

**F78** Art. 15(4)(d) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **7(a)**

**F79** Art. 15(5) omitted (15.1.2016) by virtue of [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **12** (with art. 24)

**F80** Art. 15(7) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **7(b)**

### Calculating and publishing FIT payment rates **E+W+S**

[<sup>F81</sup>**16.**—(1) On or before 1st February 2016, the Authority must publish a table setting out, for FIT year 7, the generation tariffs and export tariffs which are to apply to all accredited FIT installations with a tariff date before 15th January 2016.

(2) On or before 1st February in each subsequent year the Authority must publish a table setting out, for the following FIT year (“the relevant FIT year”) the generation tariffs and export tariffs which are to apply to all accredited FIT installations with a tariff date before the start of the relevant FIT year.

[<sup>F82</sup>(2A) On or before 1st April 2017, the Authority must publish a table setting out, for FIT year 8, the generation tariffs and export tariffs which are to apply to all accredited FIT installations with a tariff date before 1st April 2017 and, for the purposes of Standard Licence Condition 33, this table replaces any other table published under paragraph (2) with respect to FIT year 8.]

(3) Within the first 5 working days of each tariff period, the Authority must publish a table (“the Quarterly Tariff Table”)—

- (a) setting out the generation tariffs which are to apply to eligible installations with a tariff date in that tariff period;
- (b) if article 8C applies, setting out adjustments to the limit applicable for installations of a particular description as set out in Table 1 to Schedule 1A for that tariff period, in accordance with paragraph (2) to that article.

(4) The Authority must determine the FIT payment rates under paragraphs (1), (2) and (3)—

- (a) in accordance with Annexes 3, 4, 4A and 5 to Schedule A to Standard Licence Condition 33; and
- (b) by reference to the data published by the Authority under article [<sup>F83</sup>35A] and Schedule 2.]

#### Textual Amendments

- F81** Art. 16 substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **13** (with art. 24)
- F82** Art. 16(2A) inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **5(a)**
- F83** Word in art. 16(4)(b) substituted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **5(b)**

#### Withdrawal of accreditation, etc. **E+W+S**

**17.**—(1) The Authority may take any of the actions mentioned in paragraph (2) in relation to an accredited FIT installation if—

- (a) the Authority has reason to believe that any of the circumstances mentioned in paragraph (3) apply; and
- (b) the Authority considers the action to be appropriate having regard to those circumstances.

(2) The actions referred to in paragraph (1) are—

- (a) withdrawing accreditation of the installation;
- (b) suspending accreditation of the installation;
- (c) changing the tariff code assigned to the installation;
- (d) attaching conditions to the accreditation; or
- (e) amending conditions attached to the accreditation.

(3) The circumstances referred to in paragraph (1)(a) are that—

- (a) the decision to grant the accreditation (or, if the installation had preliminary accreditation, the decision to grant the preliminary accreditation) was based on information which was incorrect in a material particular;
- (b) any condition attached to the accreditation has not been complied with;
- (c) the installation has been extended or otherwise modified in such a way that it would not be entitled to accreditation; or
- (d) the Authority has received notice from a relevant public authority that the construction or operation of the installation is in breach of any provision of legislation or of any licence or consent granted for the installation;

(4) In paragraph (3)(d), “relevant public authority” means a court or tribunal, or a public authority responsible for enforcing the legislative provision or the licence or authorisation in question.

(5) If the Authority takes any action under this article in relation to an accredited FIT installation it must—

- (a) amend the central FIT register to record the action; and
- (b) give notice to the FIT licensee and FIT generator, which must—
  - (i) include reasons for taking the action; and
  - (ii) specify the date on which the action taken has effect.



(6) The Authority may revoke or vary any action taken under this article and, if it does so, paragraph (5) applies to the variation or revocation as it does to the taking of that action.

**[<sup>F84</sup>Withdrawal of preliminary accreditation for certain hydro generating stations E+W+S**

**17A.**—(1) The Authority must withdraw any preliminary accreditation granted under article 9 in respect of a relevant hydro generating station if—

- (a) it is requested to do so by notice from the prospective FIT generator in respect of that relevant hydro generating station; and
- (b) it is satisfied that the application for preliminary accreditation in respect of the relevant hydro generating station was received by the Authority during the period beginning with 1st December 2012 and ending with 31st December 2012.

(2) Where the Authority withdraws a preliminary accreditation in accordance with paragraph (1) it must give notice to the prospective FIT generator specifying the date on which the withdrawal has effect.

(3) In this article—

“prospective FIT generator” has the same meaning as in article 9; and

“relevant hydro generating station” means a hydro generating station with a total installed capacity greater than 100kW but not exceeding 500kW.]

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**Textual Amendments**

**F84** Art. 17A inserted (14.7.2014) by [The Feed-in Tariffs \(Amendment\) Order 2014 \(S.I. 2014/1601\)](#), arts. 1, 2

**Changes to legislation:**

There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012, PART 3.