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STATUTORY INSTRUMENTS

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**2010 No. 678**

**ELECTRICITY**

**The Feed-in Tariffs (Specified Maximum  
Capacity and Functions) Order 2010**

<i>Made</i>	- - - -	<i>8th March 2010</i>
<i>Laid before Parliament</i>		<i>9th March 2010</i>
<i>Coming into force</i>	- -	<i>1st April 2010</i>

The Secretary of State, in exercise of the powers conferred by sections 41(4), 43(3)(a), and 104(2) of the Energy Act 2008 <sup>MI</sup>, makes the following Order:

**Marginal Citations**

**MI** [2008 c.32.](#)

**PART 1**

Introductory provisions

**Citation and commencement**

1. This Order may be cited as the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 and comes into force on 1st April 2010.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Energy Act 2008;

“accreditation” is approval by the Authority of an eligible installation as an accredited FIT installation under Part 3, unless the context otherwise requires;

“accredited FIT installation” means an eligible installation which has been given accreditation;

“anaerobic digestion” means the bacterial fermentation of organic material in the absence of free oxygen (excluding anaerobic digestion of sewage and material in a landfill);

“the Authority” means the Gas and Electricity Markets Authority;

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

“Balancing and Settlement Code” means the code for governance of electricity balancing and settlement in Great Britain<sup>M2</sup> which is maintained in accordance with the conditions of licences granted under section 6(1) of the Electricity Act 1989<sup>M3</sup>;

“central FIT register” means the register kept and maintained by the Authority in accordance with article 17;

“deemed export payment” means the payment made to a FIT generator or nominated recipient by a FIT licensee in respect of a deemed export of electricity;

“electricity supply licence” means a licence granted by the Authority under section 6(1)(d) of the Electricity Act 1989;

“extension” means an increase in the capacity of an installation to generate electricity;

“FIT” means feed-in tariff;

[<sup>F1</sup>“hydro generating station” has the meaning given to it in the ROO (but excluding such a station which generates electricity from water where the hydrostatic head of the water has been increased by pumping);]

“levelisation fund” means the fund maintained under article 32;

“MCS” means the Microgeneration Certification Scheme<sup>M4</sup> or equivalent schemes accredited under EN 45011<sup>M5</sup> which certify microgeneration products and installers in accordance with consistent standards;

“MCS certificate” means a certificate given under the MCS;

[<sup>F1</sup>“NFFO arrangement” has the meaning given to it in the ROO;]

“ROO” means the Renewables Obligation Order 2009<sup>M6</sup> in relation to an installation in England and Wales and Renewables Obligation (Scotland) Order 2009<sup>M7</sup> in relation to an installation in Scotland;

“ [<sup>F2</sup>Standard Licence Condition 33]” and “ [<sup>F2</sup>Standard Licence Condition 34]” mean the conditions so numbered in the standard conditions of electricity supply licences<sup>M8</sup>;

“tariff code” has the meaning given by article 10.

<sup>F3</sup>(2) .....

(3) In this Order the following expressions have the meanings given to them in Schedule A to Standard Licence Condition 33—

- “commissioned”;
- “confirmation date”;
- “declared net capacity”;
- “deemed export”;
- “eligible installation”;
- “eligibility date”;
- “eligible low-carbon energy source”;
- “export”;
- “export meter”;
- “export payment”;
- “FIT generator”;
- “FIT licensee”;
- “FIT payments”;

“FIT payment rate table”;  
“FIT scheme”;  
“FIT year”;  
“generation meter”;  
“generation payment”;  
[<sup>F4</sup>“MCS database”];  
“MCS-FIT technology”;  
“nominated recipient”;  
[<sup>F4</sup>“quarter”];  
“statement of FIT terms”;  
“total installed capacity”.

#### Textual Amendments

- F1** Words in art. 2(1) inserted (30.5.2011) by The Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment) Order 2011 (S.I. 2011/1181), arts. 1, **3(2)**
- F2** Words in art. 2(1) substituted (30.5.2011) by The Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment) Order 2011 (S.I. 2011/1181), arts. 1, **3(3)**
- F3** Art. 2(2) omitted (30.5.2011) by virtue of The Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment) Order 2011 (S.I. 2011/1181), arts. 1, **3(4)**
- F4** Words in art. 2(3) inserted (1.8.2012) by The Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment No. 2) Order 2012 (S.I. 2012/1393), arts. 1(2), **2**

#### Marginal Citations

- M2** Copies of the Balancing and Settlement Code are available: [www.elexon.co.uk](http://www.elexon.co.uk).
- M3** [1989 c.29](#).
- M4** Details of which are available at: [www.microgenerationcertification.org](http://www.microgenerationcertification.org).
- M5** ISBN 0580294153. Copies can be obtained from the British Standards Institution at: [www.bsigroup.com](http://www.bsigroup.com).
- M6** [S.I. 2009/785](#).
- M7** [S.S.I. 2009/140](#).
- M8** The standard conditions of electricity supply licences are at: [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Standard Conditions 33 and 34 are inserted, with effect from 1st April 2010, by modifications made under section 41 of the Act and copies are available from the Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW.

## PART 2

### Specified maximum capacity

#### Specified maximum capacity

3. The specified maximum capacity of eligible installations is 5 megawatts of [<sup>F5</sup>total installed capacity].

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

### Textual Amendments

- F5** Words in art. 3 substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, 4

## PART 3

### Accreditation and matters relating to accreditation

#### CHAPTER 1

#### Accreditation

#### Accreditation of eligible installations

- 4.—(1) The Authority must carry out accreditation as provided by this article.
- (2) The Authority must accredit an eligible installation if article 5, 6 or 7 is satisfied but must not do so if article 8 or 9 applies.
- (3) Where the Authority accredits an eligible installation, it must—
- (a) update the central FIT register; and
  - (b) give notice to the FIT licensee of the accreditation which includes—
    - (i) the confirmation date;
    - (ii) the tariff code for the installation; and
    - (iii) the unique identifier for the installation.
- (4) Where the Authority does not accredit an eligible installation, it must give notice to the FIT licensee including reasons why the eligible installation was not accredited.

#### Accreditation of eligible installations not previously accredited under the ROO

- [<sup>F5</sup>5.—(1) Subject to articles 8 and 9, 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 (3).
- (2) The criteria referred to in paragraph (1)(b) are that—
- (a) the eligible installation—
    - (i) uses an MCS-FIT technology; and
    - (ii) is not a hydro generating station;
  - (b) the installation was first commissioned after 15th July 2009; and
  - (c) the installation has been submitted by a FIT licensee for registration under the process for MCS certified registration.
- (3) The criteria referred to in paragraph (1)(b) are that—
- (a) the eligible installation 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

- F6** Art. 5 substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, 5

#### [<sup>F7</sup>Accreditation of hydro generating stations with a capacity of 50 kilowatts or less

**5A.**—(1) Subject to articles 8 and 9, the Authority must accredit an eligible installation as an accredited FIT installation if—

- (a) it is a hydro generating station with a declared net capacity of 50 kilowatts or less; and  
(b) the Authority is satisfied that the installation meets the criteria in paragraph (2) or (3).
- (2) The criteria referred to in paragraph (1)(b) are that—
- (a) the eligible installation is first commissioned [<sup>F8</sup>on or after 1st April 2010]; 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.
- (3) The criteria referred to in paragraph (1)(b) are that—
- (a) the eligible installation is first commissioned after 1st October 2011; and  
(b) the installation has been submitted by a FIT licensee for registration under the process for MCS certified registration.

(4) In respect of an installation accredited under this article where the criteria in paragraph (2) are satisfied, the eligibility date is not as provided by Schedule A to Standard Licence Condition 33, but is the date on which the installation is first commissioned.]

#### Textual Amendments

- F7** Art. 5A inserted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, 6
- F8** Words in art. 5A(2)(a) substituted (1.10.2012) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No. 3\) Order 2012 \(S.I. 2012/2268\)](#), arts. 1(2), 2

#### Accreditation of eligible installations previously accredited under the ROO with a capacity of 50 kilowatts or less

**6.**—(1) Subject to articles 8 and 9, the Authority must accredit an eligible installation as an accredited FIT installation where—

- (a) the Authority receives from the FIT generator on or before [<sup>F9</sup>1st October 2011] a notice which—
- (i) states that the FIT generator wishes the eligible installation to be accredited; and  
(ii) identifies the FIT licensee which is to make FIT payments in respect of the eligible installation; and
- (b) the Authority is satisfied that the installation meets the criteria in paragraph (2).

(2) The criteria referred to in paragraph (1)(b) in respect of an eligible installation are that—

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

- (a) it has a declared net capacity of 50 kilowatts or less;
- (b) it was accredited under the ROO on or before the 31st March 2010; and
- (c) it uses one of the following eligible low-carbon energy sources—
  - (i) anaerobic digestion;
  - (ii) hydro generating station;
  - (iii) solar photovoltaic; or
  - (iv) wind.

[<sup>F10</sup>(3) Subject to paragraph (4), in respect of an installation accredited under this article, the eligibility date is not as provided by Schedule A to Standard Licence Condition 33, but is the date on which the notice given under paragraph (1)(a) is received by the Authority after 1st October 2010.

(4) The eligibility date as provided by Schedule A to Standard Licence Condition 33 does apply to an installation in respect of which the Authority received a notice under paragraph (1)(a) from a FIT generator on or before 1st October 2010.]

#### Textual Amendments

- F9** Words in art. 6(1)(a) substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **7(2)**
- F10** Art. 6(3)(4) inserted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **7(3)**

#### Accreditation of eligible installations previously accredited under the ROO with a capacity of more than 50 kilowatts

7.—(1) Subject to article 8, the Authority must accredit an eligible installation as an accredited FIT installation where—

- (a) the Authority receives from the FIT generator on or before 1st October 2010 a notice which—
  - (i) states that the FIT generator wishes the eligible installation to be accredited; and
  - (ii) identifies the FIT licensee which is to make FIT payments in respect of the eligible installation; and
- (b) the Authority is satisfied that the installation meets the criteria in paragraph (2).

(2) The criteria referred to in paragraph (1)(b) in respect of an eligible installation are that—

- (a) it has a declared net capacity of more than 50 kilowatts; and
- (b) it was accredited under the provisions of the ROO during the period beginning on 15th July 2009 and ending on 31st March 2010.

#### Exceptions to accreditation applicable to all eligible installations

[<sup>F11</sup>**8.**—(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 installation 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 (other than an installation accredited under article 6 or 7 of this Order); or

(b) under this Part.

(3) Subject to paragraph (4), 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) a permitted grant; or

(b) a grant other than a permitted grant to which the conditions in paragraph (5) apply.

(5) The conditions referred to in paragraph 4(b) are that—

(a) the grant is made before 1st July 2011;

(b) the installation is first commissioned before 1st October 2011; and

(c) the Authority is satisfied that the making of FIT payments in respect of the installation would be in accordance with a de minimis Commission Regulation.

(6) In this article—

“a de minimis Commission Regulation” means—

(a) [Commission Regulation \(EC\) No. 1998/2006](#) on the application of Articles 87 and 88 of the EU Treaty to de minimis aid;

(b) [Commission Regulation \(EC\) No. 875/2007](#) on the application of Articles 87 and 88 of the EU Treaty to de minimis aid in the fisheries sector and amending Regulation (EC) No. 1860/2004; or

(c) [Commission Regulation \(EC\) No. 1535/2007](#) on the application of Articles 87 and 88 of the EU Treaty to de minimis aid in the sector of agricultural production;

“grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority;

“permitted grant” means—

(a) a grant made before 1st April 2010 in respect of the costs of purchasing or installing an eligible installation where the installation—

(i) was first commissioned before 15th July 2009; or

(ii) is on a residential property and was first commissioned during the period which began on 15th July 2009 and ended on 31st March 2010; or

(b) 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.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

(7) In this article, a grant is made when the offer of that grant is accepted by the recipient of the offer.]

#### Textual Amendments

**F11** Art. 8 substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **8**

#### Limit on numbers of eligible installations using combined heat and power

9.—(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.

### CHAPTER 2

#### Matters relating to accreditation

#### Tariff codes

10.—<sup>[F12]</sup>(1) The Authority must assign a tariff code to each accredited FIT installation in accordance with—

- (a) the descriptions of accredited FIT installation listed in the FIT payment rate <sup>[F13]</sup>tables]; and
- (b) the FIT year in which the eligibility date for the accredited FIT installation falls.

<sup>[F14]</sup>(2) Paragraph (3) applies in relation to an accredited FIT installation (“the relevant installation”) if the FIT payment rate <sup>[F15]</sup>tables specify] that two or more different FIT payment rates apply in different circumstances to accredited FIT installations of the same description, and with an eligibility date falling in the same FIT year, as the relevant installation.]

<sup>[F14]</sup>(3) Where this paragraph applies, the Authority must assign to the relevant installation a tariff code which, in addition to the matters mentioned in paragraph (1), identifies which FIT payment rate applies to it.]

#### Textual Amendments

**F12** Art. 10(1): art. 10 renumbered as art. 10(1) (1.8.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.2\) Order 2011 \(S.I. 2011/1655\)](#), arts. 1, **4(2)**

**F13** Word in art. 10(1)(a) substituted (1.8.2012) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No. 2\) Order 2012 \(S.I. 2012/1393\)](#), arts. 1(2), **3(a)**

**F14** Art. 10(2)(3) inserted (1.8.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.2\) Order 2011 \(S.I. 2011/1655\)](#), arts. 1, **art. 4(3)**

**F15** Words in art. 10(2) substituted (1.8.2012) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No. 2\) Order 2012 \(S.I. 2012/1393\)](#), arts. 1(2), **3(b)**



### Unique identifiers for accredited FIT installations

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

### Site of accredited FIT installations

12. The Authority must determine the site of an accredited FIT installation in accordance with the definition of “site” in Schedule A to Standard Licence Condition 33.

### Calculating and publishing FIT payment rates

<sup>F16</sup>13.—(1) On or before 1st March immediately before the beginning of each FIT year, the Authority must publish in accordance with clause 3.3.4 of Part 1 of Schedule A to Standard Licence Condition 33 a table or tables setting out the FIT payment rates which are to apply for that FIT year to the eligible installations specified in clause 3.3.2.2 of that Part (subject to the Secretary of State substituting or inserting in Schedule A to Standard Licence Condition 33 a new FIT payment rate table applying to those eligible installations).

(2) On or before the last day of the first month of each quarter the Authority must publish a table setting out the FIT payment rates which are to apply to solar photovoltaic eligible installations with an eligibility date in the following quarter.

(3) The Authority must determine the FIT payment rates in the table under paragraph (2)—

- (a) in accordance with Annex 3 to Schedule A to Standard Licence Condition 33; and
- (b) by reference to the data published by the Secretary of State under article 13A.]

#### Textual Amendments

**F16** Art. 13 substituted (1.8.2012) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No. 2\) Order 2012 \(S.I. 2012/1393\)](#), arts. 1(2), 4

### <sup>F17</sup>FIT deployment data for solar photovoltaic installations

13A.—(1) On or before the sixth working day before the end of the first month of each quarter, the Secretary of State must determine and publish—

- (a) the aggregate declared net capacity of solar photovoltaic installations with declared net capacity of 10 kilowatts or less which, in the preceding quarter, were registered on the MCS database;
- (b) the aggregate declared net capacity of solar photovoltaic installations with declared net capacity greater than 10 kilowatts but not exceeding 50 kilowatts which, in the preceding quarter, were registered on the MCS database; and
- (c) the aggregate total installed capacity of solar photovoltaic installations with declared net capacity greater than 50 kilowatts which, in the preceding quarter, were determined by the Authority to be entitled to accreditation.

(2) In paragraph (1)—

- (a) references to solar photovoltaic installations include extensions to existing installations; and
- (b) “working day” means any day except a Saturday or Sunday or a day which is a bank holiday or other public holiday in England and Wales.]

Status: Point in time view as at 01/10/2012.

Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)

**Textual Amendments**

**F17** Art. 13A inserted (1.8.2012) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No. 2\) Order 2012 \(S.I. 2012/1393\)](#), arts. 1(2), 5

**Deeming the amount of electricity exported from an accredited FIT installation**

14.—(1) The Secretary of State must determine the amount of electricity deemed to be exported by different categories of accredited FIT installation with a total installed capacity of 30 kilowatts or less where that amount is not measured by an export meter which is registered under the Balancing and Settlement Code.

(2) The amount under paragraph (1) must be expressed as a percentage of the amount of electricity shown on the generation meter of the accredited FIT installation.

(3) Different percentages may apply to different categories of accredited FIT installation.

(4) The determination of a percentage under paragraph (1) must be based on an estimate of the amount of electricity generated by the category of installation that would be exported.

(5) Except in respect of FIT year 1, a determination under paragraph (1) must be published 1 month before the beginning of each FIT year.

(6) For FIT year 1, the percentages are—

(a) 50% of the generation meter reading for accredited FIT installations using the following eligible low-carbon energy sources—

(i) combined heat and power

(ii) anaerobic digestion;

(iii) solar photovoltaic; or

(iv) wind;

and

(b) 75% of the generation meter reading for an accredited FIT installation which is a hydro generating station.

**PART 4**

**Accreditation of extensions to installations**

**Accreditation of extensions to accredited FIT installations**

15.—(1) This article applies where the Authority receives notice <sup>F18</sup>... that an accredited FIT installation has been extended.

<sup>F19</sup>(2) .....

<sup>F19</sup>(3) .....

(4) Paragraph (5) applies where—

(a) the accredited FIT installation is extended by increasing its capacity to generate electricity using the same eligible low-carbon energy source for which it is accredited <sup>F20</sup>...

<sup>F21</sup>(b) .....

(5) Where this paragraph applies, the Authority must—

- (a) treat the extension as a separate eligible installation;
  - (b) decide whether or not to accredit the extension in accordance with Part 3; and
  - (c) where it decides to accredit the extension, assign the extension a separate tariff code based on the aggregate total installed capacity of both the extension and the existing accredited FIT installation.
- (6) Paragraph (7) applies where the accredited FIT installation was extended by increasing its capacity to generate electricity using a different eligible low-carbon energy source to that for which it is accredited.
- (7) Where this paragraph applies, the Authority must—
- (a) treat the extension as a separate eligible installation; and
  - (b) decide whether or not to accredit the extension in accordance with Part 3.

#### Textual Amendments

- F18** Words in art. 15(1) omitted (18.10.2011) by virtue of [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), **2(2)**
- F19** Art. 15(2)(3) omitted (18.10.2011) by virtue of [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), **2(3)** (with art. 5)
- F20** Word in art. 15(4)(a) omitted (18.10.2011) by virtue of [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), **2(4)(a)** (with art. 5)
- F21** Art. 15(4)(b) omitted (18.10.2011) by virtue of [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), **2(4)(b)** (with art. 5)

#### Accreditation of extensions to installations which are not accredited FIT installations

- 16.—<sup>F22</sup>(1) Paragraph (2) applies where—
- (a) the Authority receives notice that an installation which uses an eligible low-carbon energy source (“the existing installation”) has been extended; and
  - (b) either—
    - (i) a request for accreditation of the existing installation as an accredited FIT installation has been refused; or
    - (ii) if a request were made for accreditation of the existing installation, the request would be refused.]
- (2) Where this paragraph applies, the Authority must—
- (a) treat the extension as a separate eligible installation;
  - (b) decide whether or not to accredit the extension in accordance with Part 3; and
  - (c) where it decides to accredit the extension, assign the extension a separate tariff code based on the aggregate total installed capacity of both the extension and the existing installation.

#### Textual Amendments

- F22** Art. 16(1) substituted (18.10.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), **3**

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

#### [<sup>F23</sup>Part 4: interpretation

**16A.** In this Part, “notice”, in relation to an installation, means a notice given to the Authority by—

- (a) a FIT licensee; or
- (b) the owner of the installation.]

#### Textual Amendments

**F23** Art. 16A inserted (18.10.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment No.3\) Order 2011 \(S.I. 2011/2364\)](#), arts. 1(2), 4

## PART 5

### The central FIT register

#### The central FIT register

- 17.**—(1) It is the function of the Authority to keep and maintain the central FIT register.
- (2) The central FIT register—
- (a) must contain the information described in the Schedule to this Order; and
  - (b) may contain such additional information which the Authority considers is relevant to the efficient operation of the FIT scheme.
- (3) The Authority must, so far as it is possible, ensure that entries in the central FIT register are accurate and up to date.
- (4) From information on the central FIT register, the Authority must publish the number of—
- (a) accredited FIT installations participating in the FIT scheme;
  - (b) accredited FIT installations using combined heat and power; and
  - (c) FIT licensees.
- (5) The Authority must publish the information described in paragraph (4) as often as it sees fit during the FIT year but, in any event, at least once every 3 months.

#### Error in the central FIT register

**18.** Where the Authority discovers that there is an error on the central FIT register, the Authority must—

- (a) update the central FIT register to correct the error; and
- (b) give notice of that update to any FIT licensee or FIT generator affected by the error.

#### Modifications, nominations and terminations

**19.**—(1) Paragraph (2) applies where the Authority is given notice by a FIT licensee of any of the following matters—

- (a) that an accredited FIT installation has been modified;
- (b) that the statement of FIT terms has been amended; or
- (c) that a FIT generator has—

- (i) nominated a nominated recipient or changed a nominated recipient; or
- (ii) terminated the FIT generator's participation in the FIT scheme.

(2) Where this paragraph applies, the Authority must update the central FIT register and give notice to the FIT licensee (and, in the case of a termination, the FIT generator)—

- (a) that the central FIT register has been updated; and
- (b) when the update was made.

(3) In this article, “modified” in relation to an accredited FIT installation excludes an extension to the installation.

### **Switching**

**20.**—(1) Paragraph (2) applies where FIT payments in respect of an accredited FIT installation are paid by a FIT licensee (“A”) in substitution for the FIT licensee (“B”) entered on the central FIT register (“a switch”).

(2) Where the Authority receives notice from both A and B of the switch and the date of the switch, the Authority must—

- (a) update the central FIT register and include the date of the switch; and
- (b) give notice of that update to A, B and the FIT generator.

### **Suspension and removal from the central FIT register**

**21.**—(1) Subject to paragraph (3), the Authority may suspend or remove an accredited FIT installation from the central FIT register where it is given notice by a FIT licensee that the accredited FIT installation has been modified in such a way that it would not be accredited under Part 3.

(2) Where the Authority suspends or removes an accredited FIT installation under paragraph (1), it must give notice to the FIT licensee and FIT generator giving reasons why the installation was suspended or removed.

(3) Any suspension or removal under paragraph (1) may be varied or revoked by the Authority.

(4) In this article, “modified” in relation to an accredited FIT installation includes an extension to which article 15(3)(b) applies.

## **PART 6**

### **Levelisation process**

#### **CHAPTER 1**

#### **Annual Levelisation**

### **Annual levelisation payments**

**22.**—(1) The Authority must make annual levelisation payments to licensees and receive annual levelisation payments from licensees.

(2) Subject to article 35, the Authority must make annual levelisation payments out of the levelisation fund and ensure that annual levelisation payments are made into the levelisation fund.

(3) The Authority must, in respect of a FIT year, ensure that the total amount of annual and periodic levelisation payments made out of the levelisation fund is equal to the total amount of annual and periodic levelisation payments made into the fund.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (revoked). (See end of Document for details)*

### **Calculation of levelisation payments**

**23.**—(1) On or before 1st October following the end of a FIT year, the Authority must calculate whether or not each FIT licensee is liable to make an annual levelisation payment to the Authority or is entitled to receive an annual levelisation payment from the Authority in respect of that FIT year.

(2) The Authority must make a calculation under paragraph (1) in accordance with article 24.

### **Calculation of levelisation payments**

**24.** Where in respect of a FIT year the amount of the adjusted FIT contribution of a licensee (“A”)—

- (a) exceeds the amount of A's market share contribution, A is entitled to receive an annual levelisation payment from the Authority in respect of the difference between those amounts; or
- (b) is less than the amount of A's market share FIT contribution, A must make an annual levelisation payment to the Authority in respect of the difference between those amounts.

### **Calculation of FIT contributions**

**25.**—(1) The FIT contribution of a licensee in respect of a FIT year means the sum of the following payments made and costs incurred by the licensee during that year—

- (a) generation payments;
- (b) net metered export payments;
- (c) net deemed export payments; and
- (d) qualifying FIT costs.

(2) The amount of the adjusted FIT contribution of a licensee means the licensee's FIT contribution adjusted by any periodic levelisation payments made by the licensee or periodic levelisation payments received by the licensee in the FIT year.

(3) In this article—

- (a) “net deemed export payments” means deemed export payments made by a licensee, less the value of deemed exports to that licensee, that value having been determined by the Secretary of State under article 28;
- (b) “net metered export payment” means a payment made to a FIT generator or nominated recipient by a FIT licensee in respect of the export of electricity from an accredited FIT installation measured by meter, less the value of that export, that value having been determined by the Secretary of State under article 28;
- (c) “qualifying FIT costs” means the reasonable costs of a licensee incurred as a result of the FIT scheme (excluding the cost of FIT payments), as determined by the Secretary of State under article 28.

### **Market share FIT contribution**

**26.** The amount of a market share FIT contribution of a licensee (“A”) in respect of a FIT year means the sum of FIT contributions for all licensees for that year multiplied by the market share of A for that year.

## **Market share**

27.—(1) The market share of a licensee (“A”) in a FIT year means the relevant amount of electricity supplied by A in that year expressed as a percentage of the electricity supply market of Great Britain.

(2) In paragraph (1)—

- (a) the electricity supply market of Great Britain means the amount of electricity supplied by all licensees to customers in Great Britain, less the amount of any electricity so supplied that is sourced from renewable sources and generated outside the United Kingdom;
- (b) the relevant amount of electricity supplied by A means the amount of electricity supplied by A to customers in Great Britain, less the amount of any electricity so supplied that is sourced from renewable sources and generated outside the United Kingdom.

(3) In paragraph (2) “customer” has the same meaning as it has in the standard conditions of electricity supply licences.

## **Determinations and publications made by the Secretary of State**

28.—(1) The Secretary of State must determine in respect of a FIT year—

- (a) the value per kilowatt hour of electricity for the purpose of net metered exports;
- (b) the value of deemed exports for the purpose of net deemed export payments;
- (c) the costs of a licensee which constitute qualifying FIT costs.

(2) Except in respect of FIT year 1, the Secretary of State must publish a determination made under paragraph (1) 1 month before the beginning of each FIT year.

(3) For FIT year 1, the values under sub-paragraphs (1)(a) and (b) are as follows—

- (a) the value of electricity for the purpose of net metered exports is 3 pence per kilowatt hour;
- (b) the value of deemed exports for the purpose of deemed export payments is the amount of electricity deemed to have been exported by accredited FIT installations during FIT year 1, multiplied by the average time weighted system sell price for electricity given in the Balancing and Settlement Code in respect of FIT year 1, this value to be apportioned to a licensee in accordance with the market share of the licensee.

(4) For FIT year 1, the costs under sub-paragraph (1)(c) may be—

- (i) determined by the Secretary of State during FIT year 1; and
- (ii) published by the Secretary of State during FIT year 1 after determination has been made.

## **CHAPTER 2**

### **Periodic levelisation**

#### **Periodic levelisation**

29.—(1) During a FIT year the Authority must make levelisation payments and receive levelisation payments on account of such payments for that year.

(2) A levelisation payment to be made or received on account under paragraph (1) is a periodic levelisation payment.

(3) Subject to article 35, the Authority must make periodic levelisation payments out of the levelisation fund and ensure that periodic levelisation payments are made into the levelisation fund.

(4) Subject to article 31, it is the function of the Authority to determine the periods during a FIT year when periodic levelisation payments may be made and received (“periodic levelisation periods”).

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(5) The Authority—

- (a) may require a licensee to make a periodic levelisation payment at any time during a periodic levelisation period; but
- (b) is not required to make a periodic levelisation payment to a licensee before the end of a periodic levelisation period.

### **Calculation of periodic levelisation payments**

**30.** In respect of a FIT year, the Authority must calculate periodic levelisation payments for a FIT licensee based on its estimate of the difference between the licensee's FIT contribution and its market share FIT contribution for that year.

### **Periodic levelisation periods**

**31.**—(1) A periodic levelisation period—

- (a) must not be longer than 3 months;
- (b) may begin on the first day of a FIT year; and
- (c) must not end after the end of the FIT year.

(2) There may be more than one periodic levelisation period during a FIT year.

(3) Except in respect of FIT year 1, the Authority must publish on or before 1st March before the beginning of each FIT year the periodic levelisation periods which apply for that year.

(4) Subject to paragraph (5), for FIT year 1, the periodic levelisation periods are—

- (a) the period beginning on 1st April 2010 and ending on 30th June 2010;
- (b) the period beginning on 1st July 2010 and ending on 30th September 2010;
- (c) the period beginning on 1st October 2010 and ending on 31st December 2010;
- (d) the period beginning on 1st January 2011 and ending on 31st March 2011.

(5) The Authority may vary the periodic levelisation periods that apply to a FIT year but where it does so it must publish the variation at least 1 month before the variation is to take effect.

## **CHAPTER 3**

### **General provisions relating to levelisation**

#### **Levelisation fund**

**32.** The Authority must maintain a fund (“levelisation fund”) into which payments by FIT licensees and from which payments by the Authority under this Part are to be made.

#### **Notices of levelisation payments**

**33.**—<sup>[F24]</sup>(1) Where a licensee—

- (a) is entitled to a levelisation payment from the Authority; or
- (b) must make a levelisation payment to the Authority,

the Authority must give notice to the licensee of that matter.]

(2) Where the Authority gives notice to a licensee stating that it must make a levelisation payment, the notice must state the date on or before which the payment must be received.

(3) Where a licensee is given notice that it is entitled to receive an a levelisation payment, that payment must be made by the Authority as soon as possible after the notice is given.



#### **Textual Amendments**

**F24** Art. 33(1) substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **9**

#### **Late payments**

**34.** Where a licensee fails to make a levelisation payment to the Authority by the date required for such payment (“a late payment”), the Authority may suspend payment of a levelisation payment to which the licensee may be entitled (or part of such payment) until the late payment has been made.

#### **Shortfalls in the levelisation fund**

**35.**—(1) Paragraph (2) applies where the Authority believes that the amount in the levelisation fund will not be sufficient to enable it to make a levelisation payment when that payment is due to be made.

(2) Where this paragraph applies, the Authority may defer the payment of all or part of the amount due until there is a sufficient amount in the levelisation fund.

## **PART 7**

### **Administrative functions of the Authority and notices**

#### **Publication of guidance**

**36.** The Authority may publish procedural guidance to FIT generators, nominated recipients and licensees in connection with the administration of the scheme.

#### **List of FIT licensees**

**37.**—(1) In respect of each FIT year, the Authority must publish the information it has received in FIT notifications from FIT licensees.

(2) The Authority must publish that information as soon as possible after the start of each FIT year.

(3) For the purposes of this article, “FIT notification” has the meaning given to it in Schedule A to [<sup>F25</sup>Standard Licence Condition 33].

#### **Textual Amendments**

**F25** Words in art. 37(3) substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **10**

#### **Annual reports**

**38.** On or before 31st December after the end of each FIT year the Authority must provide to the Secretary of State a report in respect of that FIT year setting out the following—

- (a) whether or not each FIT licensee has complied with its obligations under [<sup>F26</sup>Standard Licence Condition 33 and Standard Licence Condition 34];
- (b) in respect of each FIT licensee—

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- (i) the total FIT payments made;
  - (ii) the total generation payments made; and
  - (iii) the total export payments made,
- by the FIT licensee;
- (c) the total amount of electricity generated under the FIT scheme; and
  - (d) the total number of accredited FIT installations participating in the FIT scheme.

#### Textual Amendments

**F26** Words in art. 38(a) substituted (30.5.2011) by [The Feed-in Tariffs \(Specified Maximum Capacity and Functions\) \(Amendment\) Order 2011 \(S.I. 2011/1181\)](#), arts. 1, **11**

#### Additional information

**39.**—(1) The Authority may require a licensee to provide it with any information which it believes the licensee holds and which in the Authority's opinion, it requires in order to discharge its functions under the FIT scheme.

(2) On request from the Secretary of State, the Authority must provide to the Secretary of State such additional information in relation to the FIT scheme as is requested.

#### Notices to reduce, withhold or recoup FIT payments

**40.**—(1) Where the Authority has good reason to believe that a FIT generator or nominated recipient may have received a FIT payment to which it was not entitled, the Authority may give notice to the FIT licensee which made the payment to—

- (a) reduce further FIT payments due to be made to the FIT generator or nominated recipient until any amount overpaid has been recovered;
- (b) withhold further FIT payments due to be made to the FIT generator or nominated recipient; or
- (c) recoup any amount overpaid from the FIT generator or nominated recipient.

(2) Where the Authority subsequently establishes that the FIT generator or nominated recipient was entitled to receive the FIT payment, the Authority must give notice to the FIT licensee that—

- (a) the amount of any FIT payment which was reduced, withheld or recouped should be paid to the FIT generator or nominated recipient as soon as possible; and
- (b) where FIT payments have been withheld, FIT payments to the FIT generator or nominated recipient should recommence.

#### Notices

**41.** A notice under this Order—

- (a) must be in writing; and
- (b) may be transmitted by electronic means.

## SCHEDULE

### The central FIT register

1.—(1) The central FIT register must contain sufficient information to identify each accredited FIT installation.

(2) Information under paragraph (1) must include, in respect of each accredited FIT installation—

- (a) the tariff code assigned under article 10;
- (b) the unique identifier assigned under article 11;
- (c) the site of the installation determined under article 12;
- (d) the confirmation date;
- (e) whether or not the installation has been extended;
- (f) whether or not the installation has been modified (other than by way of an extension which falls within Part 4);
- (g) if applicable, the number of the MCS certificate;
- (h) the eligible low carbon energy source used;
- (i) the total installed capacity;
- (j) details of the FIT generator and, if applicable, details of the FIT generator's nominated recipient;
- (k) whether or not an export payment is paid and how that export payment is determined;
- (l) the date of the statement of FIT terms;
- (m) details of the generation and, if applicable, export meters which apply to the accredited FIT installation, including meter point administration numbers.

2. The central FIT register must contain sufficient information to identify, in respect of each accredited FIT installation,—

- (a) the FIT licensee responsible for making FIT payments;
- (b) the FIT generator and any nominated recipient to which the FIT licensee makes FIT payments.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which applies to Great Britain, makes provision for the purposes of a feed-in tariffs scheme (“FIT scheme”), under which licensed electricity suppliers will pay small-scale generators of renewable electricity at prescribed tariffs for the amounts of electricity that they generate and the amounts that they export to the distribution network. The Order confers functions on the Gas and Electricity Markets Authority (“the Authority”) and the Secretary of State in connection with the administration of the FIT scheme. Other provisions of the FIT scheme are contained in the modifications made to electricity supply licences under section 41 of the Energy Act 2008 (c.32) (“the FIT licence modifications”) and which are available from the Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW.

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Article 3 sets the specified maximum capacity for eligible installations in the FIT scheme at 5 megawatts.

Chapter 1 of Part 3 (articles 4 to 9) gives the Authority the duty of accrediting eligible installations as accredited FIT installations for the purposes of the FIT scheme. An “eligible installation” means an installation capable of producing small-scale low carbon generation from one of the following sources of energy or technologies: (a) anaerobic digestion, (b) hydro generating station, (c) combined heat and power with an electrical capacity of 2kW or less, (d) solar photovoltaic or (e) wind.

Article 5 provides for the accreditation of eligible installations which were not previously accredited under the Renewables Obligation Order 2009 (S.I. 2009/785) or the Renewables Obligation (Scotland) Order 2009 (S.S.I. 2009/140) (collectively described as the “ROO”). Articles 6 and 7 provide for the accreditation of eligible installations which were previously accredited under the ROO.

Article 8 and 9 provide exceptions to accreditation. In particular and there are restrictions on the accreditation of installations where the capital costs of purchase or installation have been funded by a grant from public funds. Article 9 sets a limit of 30,000 on the number of combined heat and power installations using fossil fuel that may be accredited.

Chapter 2 of Part 3 (articles 10 to 14) confer additional functions on the Authority in relation to accreditation. Under article 10 the Authority must assign a tariff code to each type of accredited FIT installation. Under article 11 the Authority must assign a unique identifier to each accredited FIT installation. Under article 12 the Authority must determine the site of an accredited FIT installation.

Under article 13 the Authority must adjust the FIT payment rate table (which appears in the FIT licence modifications) in line with the retail price index every year and publish the updated table. Under article 14 the Secretary of State must determine the amount of electricity deemed to be exported by certain small accredited FIT installations which do not have an export meter.

Part 4 (articles 15 and 16) provide for the accreditation of extensions to accredited FIT installations.

Part 5 (articles 17 to 21) provides for the keeping of a central FIT register. Under article 17 the Authority must keep and maintain the central FIT register, which must contain the information in the Schedule. It also provides that the Authority must publish certain information from the register. Articles 18 to 21 make provision for changes to the register.

Part 6 (articles 22 to 35) make provision for a levelisation process, under which FIT licensees are to make payment to or receive payments from the Authority for the purpose of ensuring that the costs of participating in the FIT scheme are proportionate to their market shares in the electricity supply market in Great Britain. Articles 22 to 27 provide for the Authority to make and to receive annual levelisation payments. They also describe the calculations required to determine annual levelisation payments. Under article 28 the Secretary of State must determine certain values and costs for the purposes of calculating annual levelisation payments.

Articles 29 to 31 provide for the Authority to make and to receive periodic levelisation payments on account of annual levelisation payments. Under article 31, the Authority must determine and publish the periods when periodic levelisation payments will be calculated.

Article 32 requires the Authority to keep a fund (“the levelisation fund”) into which and from which levelisation payments are made. Article 33 provides for the Authority to give notices relating to the making of levelisation payments. Article 34 describes the steps that the Authority may take where a levelisation payment is made late. Under article 35 the Authority may defer making part or all of a levelisation payment due until such time as there are sufficient moneys in the levelisation fund.

Part 7 (articles 36 to 41) confers additional functions on the Authority. Under article 36 the Authority may publish procedural guidance in connection with the administration of the FIT scheme. Article 37 provides that the Authority must publish information it has received from FIT licensees in FIT notifications. Under article 38, the Authority must provide an annual report to the Secretary of State. Under article 39, the Authority may require information from a licensee in

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order to discharge its functions under the FIT scheme. The Authority must provide information to the Secretary of State as is requested. Under article 40, the Authority may give notice to a FIT licensee to reduce, withhold or recoup FIT payments to a FIT generator or nominated recipient where it has good reason to believe the FIT generator or nominated recipient has received a FIT payment to which it was not entitled. Article 41 describes the form of notices under this Order. An impact assessment has been prepared in respect of this Order and copies can be obtained from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

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**Changes to legislation:**

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