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STATUTORY INSTRUMENTS

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**2012 No. 2782**

**The Feed-in Tariffs Order 2012**

**PART 1**

Introductory provisions

**Citation and commencement**

1. This Order may be cited as the Feed-in Tariffs Order 2012 and comes into force on 1st December 2012.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Energy Act 2008;

“the 1989 Act” means the Electricity Act 1989 <sup>M1</sup>;

“accreditation” means 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;

“central FIT register” means the register kept and maintained by the Authority in accordance with article 21;

[<sup>F1</sup>“commissioning date”, in relation to an installation, means the date on which the installation is commissioned;]

“community energy installation” has the meaning given in article 11;

[<sup>F2</sup>“community organisation” has the meaning given in article 11;]

“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;

“distribution system” has the same meaning as in section 4(4) of the 1989 Act <sup>M2</sup>;

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

“energy performance certificate” has the same meaning as in—

- (a) [<sup>F3</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>M3</sup>, in relation to a building in Scotland;

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

“FIT” means feed-in tariff;

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

“grid connection” means a connection between a generating installation and a transmission system or distribution system for the purpose of enabling electricity to be conveyed from the installation to that system;

“hydro generating station” means a generating installation driven by water, except for such an installation—

- (a) driven by waves, ocean currents or geothermal sources;
- (b) driven by tidal flows, unless also driven partly by non-tidal flows from a water course; or
- (c) where the hydrostatic head of the water has been increased by pumping;

“levelisation fund” means the fund maintained under article 25;

“licensee” means a person who is a holder of a licence under section 6(1)(d) of the 1989 Act;

[<sup>F4</sup>“MCS”, except in Schedule A1, means the Microgeneration Certification Scheme or equivalent schemes accredited in accordance with EN 45011(2) or EN ISO/IEC 17065:2012(3) which certify microgeneration products and installers in accordance with consistent standards;]

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

[<sup>F1</sup>“MCS-certified installation” has the meaning set out in Schedule A1 to this Order;]

[<sup>F5</sup>“mutualisation distribution”, “mutualisation notice” and “mutualisation payment” have the meaning given by article 30A(3);]

[<sup>F1</sup>“pause period” has the meaning given in article 8A;]

“ROO” means the Renewables Obligation Order 2009 <sup>M4</sup> in relation to an installation in England and Wales, and the Renewables Obligation (Scotland) Order 2009 <sup>M5</sup> in relation to an installation in Scotland;

“school installation” has the meaning given in article 12;

“Standard Licence Condition 33” and “Standard Licence Condition 34” mean the conditions so numbered in the standard conditions of electricity supply licences <sup>M6</sup>;

“tariff code” has the meaning given in article 13;

<sup>F6</sup>  
...

“transmission system” has the same meaning as in section 4(4) of the 1989 Act <sup>M7</sup>.

[<sup>F7</sup>“working day” means any day other than a Saturday or a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.]

(2) 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”;

“eligibility date”;

“eligible installation”;

“eligible low-carbon energy source”;

“energy efficiency requirement”;

“export”;

“export meter”;

“export payment”;

“export tariff”;

“FIT generator”;

“FIT licensee”;

“FIT notification”;

“FIT payments”;

“FIT scheme”;

“FIT year”;

“generation meter”;

[<sup>F8</sup>“generation meter reading”];

“generation payment”;

“generation tariff”;

[<sup>F9</sup>“insolvency event”]

[<sup>F9</sup>“mandatory FIT licensee”]

<sup>F10</sup> ...

“MCS-certified registration”;

“MCS-FIT technology”;

“nominated recipient”;

[<sup>F11</sup>“qualifies for accreditation;”]

“statement of FIT terms”;

“tariff date”;

[<sup>F12</sup>“tariff period”];

“total installed capacity”.

[<sup>F9</sup>“voluntary FIT licensee”]

[<sup>F13</sup>(3) In this Order—

“last resort supply direction” has the meaning given to it in the standard conditions of electricity supply licences; and

“stand-alone solar photovoltaic” has the meaning given to it in Annex 3 to Schedule A to Standard Licence Condition 33 of the standard conditions of electricity supply licences.]

[<sup>F14</sup>(4) In this Order, a reference to a particular description of eligible installations is a reference to eligible installations of one of the descriptions in the first column of the table in Schedule 1A.]

#### **Textual Amendments**

- F1** Words in art. 2 inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **3(a)(ii)** (with art. 24)

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- F2** Words in art. 2(1) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **3(a)**
- F3** Words in art. 2(1) substituted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **3(2)(a)**
- F4** Words in art. 2(1) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **3(a)(i)** (with art. 24)
- F5** Words in art. 2(1) inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **3(2)(b)**
- F6** Words in art. 2(1) omitted (20.3.2017) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **3(a)**
- F7** Words in art. 2(1) inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **3(2)(c)**
- F8** Words in art. 2(2) inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **3(b)(i)**
- F9** Words in art. 2(2) inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **3(3)**
- F10** Words in art. 2(2) omitted (15.1.2016) by virtue of [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **3(b)** (with art. 24)
- F11** Words in art. 2(2) inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **3**
- F12** Words in art. 2(2) inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **3(b)(ii)**
- F13** Art. 2(3) substituted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **3(b)**
- F14** Art. 2(4) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **3(c)** (with art. 24)

#### Marginal Citations

- M1** [1989 c.29](#).
- M2** The definition of “distribute” in section 4(4) of the 1989 Act (which explains the meaning of “distribution system”) was inserted by the [Utilities Act 2000 \(c.27\)](#), **section 28(3)**.
- M3** S.S.I 2008/309, amended by [S.S.I. 2012/208](#); there are other amending instruments but none is relevant.
- M4** [S.I. 2009/785](#), amended by [S.I. 2010/1107](#), [S.I. 2011/984](#) and [S.I. 2011/988](#).
- M5** [S.S.I. 2009/140](#), amended by [S.S.I. 2009/276](#), [S.S.I. 2010/147](#), [S.S.I. 2011/225](#) and [S.S.I. 2011/226](#).
- M6** The standard conditions of electricity supply licences are at: [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Standard Conditions 33 and 34 were inserted with effect from 1st April 2010, and the Schedule to Standard Condition 33 was substituted with effect from 1st December 2012, by modifications made under section 41 of the Act. Copies are available from the Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW.
- M7** The definition of “transmission system” was inserted by the [Energy Act 2004 \(c.20\)](#), **section 135(4)**.

## PART 2

### Specified maximum capacity

#### Specified maximum capacity

3. The specified maximum capacity of eligible installations is 5 megawatts of total installed capacity.

## PART 3

### Accreditation and matters relating to accreditation

#### CHAPTER 1

#### Accreditation

##### Application of this Chapter

<sup>F15</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>F16</sup>...
  - (iii) the application is within paragraph (1)(a) of article 8D (transitional installations) <sup>F17</sup>; or]

<sup>F18</sup>(iv) article 7B applies to the installation.]

(3) The conditions in this paragraph are that—

- (a) an application<sup>F19</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>F20</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

**F15** 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)

**F16** 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)**

**F17** 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)**

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- F18** 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)**
- F19** 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)**
- F20** 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

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

[<sup>F21</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>F21</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>F22</sup>...
- (b) to which article 8D (transitional installations) applies. [<sup>F23</sup>; or]  
[ to which article 7B applies.]]

<sup>F24</sup>(c)

(2) The Authority must accredit an eligible installation if article 6 is satisfied [<sup>F25</sup>but must not do so—

- (a) if article 7 [<sup>F26</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>F27</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>F28</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>F29</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>F30</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>F31</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>F32</sup>, if any,] within which the application will be considered by the Authority in accordance with this article.]

#### Textual Amendments

- F21** 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)
- F22** 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)**
- F23** 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)**
- F24** 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)**
- F25** 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)
- F26** 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)**
- F27** 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)
- F28** 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)
- F29** 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(c)** (with art. 24)
- F30** 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)
- F31** 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)
- F32** 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

6.—(1) Subject to [<sup>F33</sup>articles 7 [<sup>F34</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

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- (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

- F33** 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)
- F34** 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

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>F35</sup>Accreditation on or after 1st April 2019**

**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
  - (ii) the application date is within the period of 1 year beginning with the date on which the Authority receives 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**

**F35** Arts. 7A, 7B inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, 6

**[<sup>F35</sup>Certain delays in grid or radar works**

**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”);

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- (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**

**F35** 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**

**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>F36</sup>The pause period**

**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.]

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

### Textual Amendments

**F36** 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>F36</sup>The application limit

**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>F37</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>F38</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>F39</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>F39</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>F40</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>F41</sup> ...
- [<sup>F42</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
  - (iii) in respect of which the application date is within the period of 1 year 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>F42</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

- F36** 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)
- F37** Word in art. 8B(1) substituted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, 4
- F38** 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)
- F39** 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)
- F40** 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)
- F41** 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)
- F42** 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)

#### [<sup>F36</sup>The application limit: adjustments

**8C.**—(1) [<sup>F43</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>F44</sup>(1A) Paragraph (1) does not apply in relation to any tariff period beginning on or after 1st April 2019.]

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

(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

- F36** 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)
- F43** 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)**
- F44** 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>F36</sup>Transitional installations

**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>F45</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

- F36** 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)
- F45** 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

### Preliminary accreditation and pre-registration

#### Preliminary accreditation

- 9.—<sup>F46</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>F47</sup>or on or after 8th February 2016]<sup>F48</sup>but on or before 31st March 2019].
- (2) <sup>F49</sup>Subject to article 8B, the] Authority must, <sup>F50</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>F51</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>F52</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>F52</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—

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

- (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>F53</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>M8</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>F54</sup>; and]
- <sup>F55</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>M9</sup>;
  - (b) an impounding works licence under section 25 of the Water Resources Act 1991 <sup>M10</sup>; and
  - (c) consent under section 109(1) of the Water Resources Act 1991 <sup>M11</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>F56</sup>Subject to paragraph (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>F57</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>F57</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>F57</sup>treated as received] by the Authority.
- <sup>F58</sup>(8A) 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>F59</sup>treated as received] by the Authority.]

[<sup>F60</sup>(8B) For the purposes of paragraphs (8) and (8A), 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>F61</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>M12</sup>;

“planning permission” has the same meaning as in—

- (a) the Town and Country Planning Act 1990 <sup>M13</sup>, in relation to England and Wales;
- (b) the Town and Country Planning (Scotland) Act 1997 <sup>M14</sup>, in relation to Scotland.

#### Textual Amendments

- F46** 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)**
- F47** 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)
- F48** 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)**
- F49** 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)
- F50** 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)**
- F51** 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)
- F52** 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)**
- F53** 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)**
- F54** 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)**

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*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

- F55** Art. 9(4)(e) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(d)**
- F56** 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)**
- F57** 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)**
- F58** Art. 9(8A) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **4(f)**
- F59** 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)**
- F60** Art. 9(8B) inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(4)(b)**
- F61** 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

- M8** [S.S.I. 2011/209](#).
- M9** [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.
- M10** [1991 c.57](#). Section 25 was amended by the [Water Act 2003](#), sections 2 and 60(1) and [Schedule 9](#), Part 1.
- M11** [1991 c.57](#). Section 109(1) was amended by the [Environment Act 1995 \(c.25\)](#), [Schedule 22](#), paragraph 128.
- M12** 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.
- M13** [1990 c.8](#).
- M14** [1997 c.8](#).

### Effect of preliminary accreditation

- 10.**—(1) Paragraph (2) applies where—
- (a) an installation has been granted preliminary accreditation; and
  - <sup>F62</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>F63</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>F64</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>F65</sup>(d) its total installed capacity is greater;]
  - [<sup>F65</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>F66</sup>(e) .....
  - [<sup>F67</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>F67</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.]

**Textual Amendments**

- F62** Art. 10(1)(b) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **10(2)**
- F63** Art. 10(3) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **9(a)** (with art. 24)
- F64** Art. 10(3)(b) substituted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(5)(a)**
- F65** Art. 10(4)(d)(da) substituted for art. 10(4)(d) (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, **4(5)(b)**
- F66** Art. 10(4)(e) omitted (15.1.2016) by virtue of [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **9(c)** (with art. 24)
- F67** Art. 10(4)(f)(g) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **5(b)**

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*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

## Pre-registration of community energy installations

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>F68</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>F69</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>F70</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.

(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 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>F71</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>F71</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>F71</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>F71</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>F72</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>F73</sup>; and]
- [<sup>F74</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>F75</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>F76</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>M15</sup>;
  - [<sup>F77</sup>“community organisation” means—

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- (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>F78</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>M16</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

- F68** 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)**
- F69** Art. 11(2A) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **11(3)**
- F70** 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)**
- F71** 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)
- F72** 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)**
- F73** 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)**
- F74** 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)**
- F75** 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)**
- F76** 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)**
- F77** 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)**
- F78** 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

- M15** 2004 c.27. Sections 36B and 38A were inserted by [S.I. 2009/1941](#).
- M16** S.S.I 2008/309, to which there are amendments which are not relevant.

### Pre-registration of school installations

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>F79</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>F80</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>F80</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—

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- (i) a school within the meaning of section 4 of the Education Act 1996 <sup>M17</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>M18</sup>; or
  - (iii) a 16 to 19 Academy within the meaning of section 1B of the Academies Act 2010 <sup>M19</sup>,
- (b) in Scotland—
- (i) a school within the meaning of section 135(1) of the Education (Scotland) Act 1980 <sup>M20</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>M21</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

- F79** 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)**
- F80** 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

- M17** 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.
- M18** 1992 c.13. Section 91(3) was amended by the [Apprenticeships, Skills, Children and Learning Act 2009 \(c.22\)](#), [Schedule 8](#), paragraph 13.
- M19** 2010 c.32. Section 1B was inserted by the [Education Act 2011 \(c.21\)](#), [section 53\(7\)](#).
- M20** 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](#).
- M21** 1992 c.37.

## CHAPTER 3

### Matters relating to accreditation

#### Tariff codes

- 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**

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

**Site of accredited FIT installations**

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>F81</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>F82</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>F83</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

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- (b) for both A and B—
- (i) the Tariff Dates; or
  - (ii) the Eligibility Dates,
- are on or after 1st April 2015.]

#### Textual Amendments

- F81** Art. 15(4)(d) inserted (1.4.2015) by [The Feed-in Tariffs \(Amendment\) Order 2015 \(S.I. 2015/35\)](#), arts. 1, **7(a)**
- F82** 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)
- F83** 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

**[<sup>F84</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>F85</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>F86</sup>35A]** and Schedule 2.]

#### Textual Amendments

- F84** 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)
- F85** Art. 16(2A) inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **5(a)**
- F86** 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.**

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>F87</sup>Withdrawal of preliminary accreditation for certain hydro generating stations**

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.

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(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.]

#### Textual Amendments

**F87** Art. 17A inserted (14.7.2014) by [The Feed-in Tariffs \(Amendment\) Order 2014 \(S.I. 2014/1601\)](#), arts. 1, 2

## PART 4

### Accreditation of extensions to installations

#### Accreditation of extensions to accredited FIT installations

**18.**—(1) Paragraph (2) applies where the Authority receives notice that an accredited FIT installation has been extended [<sup>F88</sup>and the commissioning date of the extension is before 15th January 2016].

(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 accredited FIT installation.

#### Textual Amendments

**F88** Words in art. 18(1) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 14 (with art. 24)

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

**19.**—(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[<sup>F89</sup>; and]

[<sup>F89</sup>(c) the commissioning date of the extension is before 15th January 2016.]

(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 tariff code based on the aggregate total installed capacity of both the extension and the existing installation.

#### **Textual Amendments**

**F89** Art. 19(1)(c) and word inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 15 (with art. 24)

#### **Part 4: interpretation**

- 20.** 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.

## **PART 5**

### **The central FIT register**

#### **The central FIT register**

- 21.**—(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 Schedule 1; 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**

- 22.** 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) if the correction affects the entitlement of a person to FIT payments, give notice of the change to the FIT licensee responsible for making those FIT payments.

#### **Modifications, nominations and terminations**

- 23.**—(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;

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- (b) that the statement of FIT terms has been amended; or
- (c) that a FIT generator has—
  - (i) appointed 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

- 24.**—(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 and B.

## [<sup>F90</sup>PART 5A

### Treatment of FIT generators following licence revocation

#### Textual Amendments

**F90** Pt. 5A inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, 5

### Accredited FIT installations

- 24A.**—(1) Paragraph (2) applies where—
- (a) a specified event has happened in relation to a FIT licensee (“A”);
  - (b) immediately before the event a FIT generator (“P”), or P’s nominated recipient, was entitled to receive FIT payments from A in respect of an accredited FIT installation; and
  - (c) another FIT licensee (“B”)—
    - (i) (where B is a mandatory FIT licensee) has received a notification from P that P is to transfer to B for FIT payments in respect of an accredited FIT installation; or
    - (ii) (where B is a voluntary FIT licensee) has received a request from P to transfer to B for FIT payments in respect of that installation and B has accepted that request in writing to P.
- (2) Where this paragraph applies—
- (a) the Authority may give a direction to B (“a continuity of FIT payments direction”) as to the matters to be taken into account by B in determining the date upon which P shall

- be deemed to have transferred from A to B in respect of the installation referred to in paragraph (1); and
- (b) the date determined by B may be earlier than the date of the notification or the request referred to in paragraph (1)(c).
- (3) For the purposes of paragraph (1), a specified event has happened in relation to A if—
- (a) A's electricity supply licence is revoked;
  - (b) a last resort supply direction is issued due to circumstances having arisen entitling the Authority to revoke A's electricity supply licence; or
  - (c) A suffers an insolvency event.

### **Other installations not yet accredited**

- 24B.**—(1) Paragraph (2) applies where—
- (a) a FIT licensee (“A”) has received a written request for MCS-certified registration from a FIT generator (“P”) in respect of an eligible installation accompanied by an MCS certificate in respect of that installation;
  - (b) following receipt of that request, a specified event has happened in relation to A; and
  - (c) another FIT licensee (“B”)—
    - (i) (where B is a mandatory FIT licensee) has received a notification from P that P's request for MCS-certified registration is to be treated as having been made to B; or
    - (ii) (where B is a voluntary FIT licensee) has received a request from P that P's request for MCS-certified registration be treated as having been made to B, and B has accepted this request in writing to P; and
  - (d) the installation is subsequently accredited.
- (2) Where this paragraph applies, the eligibility date for the installation referred to in paragraph (1)(a) is the later of—
- (a) the date on which the written request for MCS-certified registration accompanied by an MCS certificate in respect of that installation was received by A; or
  - (b) the date on which the installation was commissioned<sup>[F91]</sup>; or
- [ where the date on which the written request was received by A on or after 15th January <sup>F91</sup>(c) 2016, the first date of the tariff period within which the installation is accepted for accreditation by the Authority.]
- (3) For the purposes of paragraph (1)(b), a specified event has happened in relation to A if an event in article 24A(3) has occurred.]

#### **Textual Amendments**

**F91** Art. 24B(2)(c) and word inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 16 (with art. 24)

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## PART 6

### Levelisation

#### Levelisation fund

**25.**—<sup>[F92]</sup>(1) The Authority must maintain a fund (the “levelisation fund”) into which payments by licensees and from which payments by the Authority under this Part are to be made.

<sup>[F93]</sup>(2) The Authority may use the interest accruing on the levelisation fund to pay for all or part of its reasonable costs.]

<sup>[F93]</sup>(3) In this article, “reasonable costs” means costs of the Authority incurred as the result of administering the FIT scheme, as determined by the Secretary of State under article 38(1)(e).]

#### Textual Amendments

**F92** Art. 25(1): art. 25 renumbered as art. 25(1) (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 17 (with art. 24)

**F93** Art. 25(2)(3) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, 17 (with art. 24)

#### Calculation of annual levelisation payments

**26.**—(1) On or before 1st October following the end of each FIT year, the Authority must calculate the amount which each licensee is entitled to receive from, or required to pay into, the levelisation fund in respect of that FIT year in accordance with paragraphs (2) and (3).

(2) If the adjusted FIT contribution of a licensee for the FIT year was greater than its market share FIT contribution, the licensee is entitled to receive an annual levelisation payment equal to the difference between those amounts.

(3) If the adjusted FIT contribution of a licensee for the FIT year was less than its market share FIT contribution, the licensee must make an annual levelisation payment equal to the difference between those amounts.

#### Calculation of FIT contributions, etc.

**27.**—(1) Before the Authority calculates annual levelisation payments under article 26, it must determine in relation to each licensee—

- (a) the FIT contribution (if any);
- (b) the adjusted FIT contribution;
- (c) the market share; and
- (d) the market share FIT contribution,

of the licensee for the FIT Year.

(2) The FIT contribution of a licensee (“A”) in respect of a FIT year is the sum of the following <sup>[F94]</sup>payments made and incurred] by A during that FIT year—

- (a) generation payments;
- <sup>F95</sup>(b) .....
- (c) net deemed export payments; <sup>F96</sup>...
- (d) qualifying FIT costs <sup>[F97]</sup>; and]



[<sup>F98</sup>(e) for FIT year 10 and each subsequent FIT year, net metered export payments.]

(3) The adjusted FIT contribution of A in respect of a FIT year is A's FIT contribution (if any) adjusted by—

- (a) adding the amounts of any periodic levelisation payments [<sup>F99</sup>and mutualisation payments] made by A in respect of that FIT year; and
- (b) subtracting the amounts of any periodic levelisation payments [<sup>F100</sup>and mutualisation distributions”; and] received by A in respect of that FIT year.

(4) The market share of A in a FIT year means [<sup>F101</sup>A's relevant amount of electricity] in that FIT year, expressed as a percentage of the electricity supply market of Great Britain.

(5) The market share FIT contribution of A in respect of a FIT year is the sum of the FIT contributions of all licensees for that FIT year multiplied by the market share of A in that FIT year.

(6) In this article—

[<sup>F102</sup>“the capped amount of qualifying renewable electricity” is calculated in accordance with article 27A;]

“customer” has the same meaning as in the standard conditions of electricity supply licences;

[<sup>F103</sup>“EII excluded electricity” means electricity which—

- (a) constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015; and
- (b) is supplied on or after—
  - (i) 1st April 2019, where the Secretary of State is satisfied on or before 31st March 2019 that its deduction as set out in the definition of “relevant amount of electricity” would not breach the law relating to state aid; or
  - (ii) where the Secretary of State is not so satisfied on or before 31st March 2019, the first day of the first month following the day on which the Secretary of State is so satisfied;]

[<sup>F104</sup>“the electricity supply market of Great Britain” means—

- (a) for all FIT years up to and including FIT year 6, the amount of electricity supplied by all licensees to customers in Great Britain less the amount of electricity so supplied that is sourced from renewable resources and generated outside the United Kingdom; <sup>F105</sup> ...
- (b) for [<sup>F106</sup>FIT years 7 to 9], the amount of electricity supplied by all licensees to customers in Great Britain less any qualifying renewable electricity;
- (c) [<sup>F107</sup>for FIT year 10 and each subsequent FIT year, the total of all licensees' relevant amount of electricity;]

[<sup>F108</sup>“net deemed export payments” means deemed export payments made by a FIT licensee, less the value of deemed exports to the licensee as determined by the Secretary of State under article 38(1)(a), apportioned to the licensee in accordance with the market share of the licensee;]

[<sup>F109</sup>“net metered export payments” means payments made to a FIT generator or nominated recipient by a FIT licensee in respect of metered exported electricity from an accredited FIT installation, less the value of the export to the licensee as calculated in accordance with the determination of the Secretary of State under article 38(1)(f);]

<sup>F110</sup> ...

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

“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 38(1)(c); and

[<sup>F111</sup>“qualifying renewable electricity” is electricity which is—

- (a) produced from renewable sources (as defined in regulation 2(1) of the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003);
- (b) generated in a member State of the European Union other than the United Kingdom; and
- (c) generated by a generating installation which—
  - (i) had a capacity equal to or less than the specified maximum capacity; and
  - (ii) became operational on or after 1st April 2010;]

[<sup>F112</sup>“relevant amount of electricity” in relation to A means—

- (a) for all FIT years up to and including FIT year 6, 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;
- (b) for FIT years 7 to 9, the amount of electricity supplied by A to customers in Great Britain, less A’s capped amount of qualifying renewable electricity for that FIT year;
- (c) subject to paragraph (d), for FIT year 10 and each subsequent FIT year, the amount of electricity supplied by A to customers in Great Britain, less—
  - (i) the amount of electricity supplied by A that is EII excluded electricity for that FIT year; and
  - (ii) A’s capped amount of qualifying renewable electricity for that FIT year; and
- (d) for FIT year 10 and each subsequent FIT year, where the calculation in paragraph (c) results in an amount that is less than zero, nil electricity.]

#### Textual Amendments

- F94** Words in art. 27(2) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **18(2)** (with art. 24)
- F95** Art. 27(2)(b) omitted (1.7.2013) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(2)**
- F96** Word in art. 27(2)(c) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(2)(a)**
- F97** Word in art. 27(2)(d) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(2)(b)**
- F98** Art. 27(2)(e) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(2)(c)**
- F99** Words in art. 27(3)(a) added (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(3)(a)**
- F100** Words in art. 27(3)(b) added (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(3)(b)**
- F101** Words in art. 27(4) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(3)**
- F102** Words in art. 27(6) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **18(3)(b)** (with art. 24)
- F103** Words in art. 27(6) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(a)**

- F104** Words in art. 27(6) substituted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **18(3)(a)(i)** (with art. 24)
- F105** Word in art. 27(6) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(b)(i)**
- F106** Words in art. 27(6) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(b)(ii)**
- F107** Words in art. 27(6) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(b)(iii)**
- F108** Words in art. 27(6) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(c)**
- F109** Words in art. 27(6) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(d)**
- F110** Words in art. 27(6) omitted (1.7.2013) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(3)(c)**
- F111** Words in art. 27(6) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **18(3)(c)** (with art. 24)
- F112** Words in art. 27(6) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **13(4)(e)**

### <sup>F113</sup>**The capped amount of qualifying renewable electricity**

**27A.**—(1) For the purposes of article 27(6), the capped amount of qualifying renewable electricity (“CQE”) for a licensee (A) in a FIT year is—

- (a) except where sub-paragraph (b) applies, the amount of qualifying renewable electricity supplied by A to <sup>F114</sup>customers in] Great Britain in that FIT year; or
- (b) where this sub-paragraph applies, the amount given by—

$$CQE=LQETQE\times\text{cap}$$

where—

- (i) “cap” is defined in paragraph (3);
- (ii) “LQE” is the licensee’s total amount of qualifying renewable electricity supplied to <sup>F114</sup>customers in] Great Britain in that FIT year;
- (iii) “TQE” is the total amount of qualifying renewable electricity supplied to <sup>F114</sup>customers in] Great Britain in that FIT year.

(2) Paragraph (1)(b) applies where the Authority determines that the TQE exceeds the amount of the cap for the FIT year in which that electricity was supplied.

(3) For the purposes of this article, the cap which applies in respect of qualifying renewable electricity supplied during a FIT year is—

- (a) for FIT year 7: 8,117,254 megawatt hours;
- (b) for subsequent FIT years, the cap which applied in the previous FIT year multiplied by 1.1.]

### **Textual Amendments**

- F113** Art. 27A inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **19** (with art. 24)
- F114** Words in art. 27A(1) substituted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **14(2)**

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

## Periodic levelisation

28.—(1) In this Part—

- (a) a “periodic levelisation payment” is a payment—
  - (i) made to a licensee out of the levelisation fund; or
  - (ii) made by a licensee into the levelisation fund,
 on account of the licensee's annual levelisation payment for a FIT year.
- (b) a “periodic levelisation period” is a period determined and published by the Authority in accordance with this article.

(2) The Authority must, not later than 1st March before the beginning of each FIT year, determine and publish the periodic levelisation periods which are to apply in that FIT year.

(3) Each periodic levelisation period must be a period of three months or less falling wholly within the relevant FIT year.

(4) The Authority may vary the periodic levelisation periods that apply in a FIT year, but if it does so it must publish the variation at least one month before the variation is to take effect.

(5) In each periodic levelisation period, the Authority must calculate the periodic levelisation payment which each licensee is required to make, or is entitled to receive.

(6) A calculation under paragraph (5) must be based on the Authority's estimate of the difference between the licensee's FIT contribution and its market share FIT contribution for the FIT year in which the periodic levelisation period falls.

## Notice of levelisation payments

29. After the Authority has calculated <sup>F115</sup>... levelisation payments, it must give notice—

- (a) to each licensee which is liable to make or entitled to receive a levelisation payment, of the amount of that payment; and
- (b) to each licensee which is liable to make a levelisation payment, of the date by which the payment is to be made.

### Textual Amendments

**F115** Words in art. 29 deleted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(4)**

## Payments by the Authority

30.—(1) Where a licensee is given notice that it is entitled to receive a levelisation payment, subject to paragraphs (2) and (3) the Authority must make that payment as soon as possible after the notice is given.

(2) If a licensee fails to make a levelisation payment to the Authority by the date on which it is due (a “late payment”), the Authority may suspend in whole or in part any levelisation payment due to that licensee until the late payment has been made.

[<sup>F116</sup>(2A) Where the late payment is in respect of a periodic levelisation payment and article 30A does not apply, if the payment is received by the Authority—

- (a) before the Authority makes an annual levelisation calculation for that FIT year under article 26, the payment shall be included in the Authority's calculations under that article; or

(b) after the Authority makes an annual levelisation calculation for that FIT year under article 26, the payment shall be distributed in accordance with article 30D(2).]

(3) If the Authority believes that the amount in the levelisation fund will not be sufficient to enable it to make a levelisation payment out of the fund, the Authority may defer all or part of that payment until there is a sufficient amount in the levelisation fund.

#### **Textual Amendments**

**F116** Art. 30(2A) inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(5)**

#### **[<sup>F117</sup>Mutualisation**

**30A.**—(1) This article applies—

- (a) if one or more licensees fail to make the whole or part of a periodic levelisation payment to the Authority within 5 working days of the date on which it is due (“the due date”); and
- (b) after 5 working days following the due date, the total of unpaid amounts (“the total”) is equal to or greater than the lower limit of the mutualisation trigger range.

(2) In paragraph (3), “the amount to be mutualised” means the lesser of—

- (a) the total referred to in paragraph (1)(b); or
- (b) the upper limit of the mutualisation trigger range.

(3) The Authority must—

- (a) apportion the amount to be mutualised between all licensees other than the defaulting licensee, in proportion to each licensee’s market share at the due date;
- (b) give notice to each of those licensees (a “mutualisation notice”)—
  - (i) that it is liable to make a payment of the amount apportioned to it (a “mutualisation payment”);
  - (ii) of the date by which the mutualisation payment is due; and
- (c) where paragraph (4) applies, make a distribution of the total amounts received by the Authority (a “mutualisation distribution”) to any licensee which—
  - (i) is not a defaulting licensee; and
  - (ii) to whom, because of the unpaid amounts, payment of all or part of a periodic levelisation payment to which it is entitled to under article 28 has been deferred.

(4) Paragraph (3)(c) applies if—

- (a) the date by which the mutualisation payment is due has passed; and
- (b) the Authority has received mutualisation payments.

(5) If after giving a mutualisation notice to a licensee, the Authority identifies that any mutualisation payment specified in that notice is incorrect, the Authority must—

- (a) cancel that mutualisation notice; and
- (b) issue a further mutualisation notice under paragraph (3).

(6) Where a mutualisation notice is issued to a licensee in accordance with paragraph (5)(b) (“the new notice”), the Authority may treat any mutualisation payment made by that licensee in respect of the cancelled notice as a mutualisation payment made in respect of the new notice.

(7) Where, after receiving mutualisation payments from licensees, the Authority receives an unpaid amount from a defaulting licensee, the Authority must within 20 working days distribute

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that amount among qualifying licensees in proportion to their market shares at the unpaid amount's due date.

- (8) Where the Authority receives a mutualisation payment after the date on which it is due—
- (a) if the Authority has not yet made a mutualisation distribution, then this amount shall be included in the distribution; or
  - (b) if the Authority has made a mutualisation distribution, then this amount shall be distributed in accordance with article 30D(2).
- (9) In this article—
- “defaulting licensee” means a licensee which has failed to make the whole or part of a periodic levelisation payment to the Authority by the date on which it is due;
- “market share” is to be determined in accordance with article 27;
- “mutualisation trigger range” has the meaning set out in article 38;
- “qualifying licensee” is a licensee who has made a mutualisation payment under paragraph (3) in respect of the unpaid amount mentioned in paragraph (7); and
- “unpaid amount” means an amount of a periodic levelisation payment which a defaulting licensee has failed to pay by the date on which it is due.

#### **Textual Amendments**

**F117** Arts. 30A-30D inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(6)**

#### **Termination of supply licence**

- 30B.**—(1) This article applies if the electricity supply licence of a licensee (E) is terminated.
- (2) E is not to be treated as a licensee for the purposes of any periodic levelisation, annual levelisation or mutualisation which takes place after the termination of its licence.
- (3) If, before the termination of E's licence, it has been determined upon a periodic or annual levelisation under this Part that E is liable to pay or entitled to receive an amount, to the extent that the amount is unpaid, E remains subject—
- (a) to that liability, or
  - (b) to such part of the entitlement that the Authority shall determine.
- (4) If—
- (a) an annual levelisation takes place after the termination of E's licence; and
  - (b) E had received or paid periodic levelisation payments for the FIT Year to which the annual levelisation relates,

the Authority may adjust the annual levelisation payment of each remaining licensee to ensure that the total amount of levelisation payments made or due to be made by licensees for the FIT Year is equal to the total amount of levelisation payments received or due to be received by licensees for the FIT Year.

- (5) For the purposes of this article an electricity supply licence is terminated if—
- (a) it is revoked by the Authority in accordance with the terms of the licence;
  - (b) it is surrendered by the licensee; or
  - (c) it expires by effluxion of time.

#### **Textual Amendments**

**F117** Arts. 30A-30D inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(6)**

#### **Levelisation correction**

**30C.**—(1) Paragraph (2) applies where the Authority identifies that any determination or calculation under article 26(1) or article 27, made before or after the coming into force of this article, is incorrect.

(2) The Authority may, having regard to any payment made or received under the articles listed in paragraph (1), calculate any levelisation payment that each licensee is entitled to receive from, or is required to pay into, the levelisation fund in order to correct the error identified under paragraph (1).

(3) After making a calculation under paragraph (2), the Authority must give notice to licensees in accordance with article 29.

(4) Payments received from licensees in respect of a FIT year as a result of paragraph (2) shall be distributed in accordance with article 30D(2).

#### **Textual Amendments**

**F117** Arts. 30A-30D inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(6)**

#### **Late payments**

**30D.**—(1) This article applies when the Authority receives a payment as a consequence of the application of—

- (a) article 30(2A)(b);
- (b) article 30A(8); or
- (c) article 30C(3).

(2) The Authority must distribute the payment to licensees in proportion to each licensee's market share.

(3) For the purposes of paragraph (2), a licensee's market share is to be calculated in accordance with article 27(4) in respect of the FIT year in which the payment was received by the Authority.

(4) The distribution under paragraph (2) must be made on or before 1st October following the end of the FIT year in which the payment was received.

(5) Before making a distribution under paragraph (2), the Authority must give notice to each licensee entitled to receive part of the distribution setting out—

- (a) what the distribution relates to; and
- (b) the amount the licensee is to receive.]

#### **Textual Amendments**

**F117** Arts. 30A-30D inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **6(6)**

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## PART 7

### Administrative functions of the Authority

#### Publication of guidance

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

#### List of FIT licensees

**32.**—(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.

#### Annual reports

**33.** 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 Standard Licence Conditions 33 and 34;
- (b) in respect of each FIT licensee—
  - (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.

#### Additional information

**34.**—(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

**35.**—<sup>F118</sup>(A1) This article does not apply where any loss of entitlement to FIT payments arises by virtue of Part 8A.]

(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.

**Textual Amendments**

**F118** Art. 35(A1) inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, 6

**[<sup>F119</sup>Notices to reduce, withhold or recoup generation payments for the purposes of Part 8A**

**35ZA.**—(1) Where the Authority has good reason to believe that a FIT generator or nominated recipient may have received a generation payment to which it was not entitled by virtue of articles 38C or 38E, the Authority may give notice to the FIT licensee which made the payment to—

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

(2) Where the Authority has good reason to believe that a FIT generator or nominated recipient may have received a generation payment to which it was not entitled by virtue of articles 38D(3), 38F(3), 38G(5) or 38H(3) the Authority may, if it considers it appropriate to do so in the circumstances, give notice to the FIT licensee which made the payment to—

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

(3) At the same time as the Authority gives notice to the FIT licensee under paragraph (1) or (2), the Authority must give notice to the FIT generator or nominated recipient—

- (a) stating the reasons why payments are being reduced, withheld or recouped; and
- (b) providing the FIT generator or nominated recipient with a right to make representations or objections to the Authority within a reasonable time limit specified by the Authority.

(4) On receiving representations or objections from a FIT generator or nominated recipient, the Authority must take those representations and objections into account when determining, for the purpose of paragraph (5), whether the FIT generator or nominated recipient was entitled to receive the generation payment.

(5) Where, having issued a notice under paragraph (1) or (2), the Authority subsequently establishes that the FIT generator or nominated recipient was entitled to receive the generation payment, the Authority must give notice to the FIT licensee that—

- (a) the amount of any generation payment which was reduced, withheld or recouped should be paid to the FIT generator or nominated recipient as soon as possible; and

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- (b) where generation payments have been withheld, generation payments to the FIT generator or nominated recipient should recommence.]

**Textual Amendments**

**F119** Art. 35ZA inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, 7

**[<sup>F120</sup>FIT applications data**

**35A.** The Authority must determine and publish data in accordance with Schedule 2.]

**Textual Amendments**

**F120** Art. 35A inserted (31.3.2016) by [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, 5(1)

## PART 8

### Functions of the Secretary of State

**FIT deployment data**

<sup>F121</sup>**36.** .....

**Textual Amendments**

**F121** Art. 36 omitted (31.3.2016) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2016 \(S.I. 2016/319\)](#), arts. 1, 5(2)

**Deemed exports**

**37.—(1)** The Secretary of State must determine in respect of each FIT year the amount of electricity deemed to be exported by accredited FIT installations with a total installed capacity of 30 kilowatts or less where the amount of electricity exported by such installations is not measured by an export meter.

(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 proportion of electricity generated by the category of installation that would be exported.

(5) The Secretary of State must publish a determination under paragraph (1) not less than one month before the beginning of the FIT year to which it relates.

**Determinations relating to levelisation**

**38.—(1)** The Secretary of State must determine in respect of each FIT year—

(a) the value to FIT licensees, in pence per kilowatt hour, of deemed exports for the purpose of calculating the net deemed export payments of FIT licensees;

<sup>F122</sup>(b) . . . . .

(c) the costs of licensees which constitute qualifying FIT costs <sup>F123</sup> ...

<sup>F124</sup>(d) a lower and a higher limit for the unpaid amounts (as referred to in article 30A(1)(b) and defined in article 30A(9)) that will trigger a mutualisation (“the mutualisation trigger range”).]

<sup>F125</sup>(e) the reasonable costs of the Authority incurred as the result of administering the FIT scheme for the purposes of article 25.][<sup>F126</sup>; and]

<sup>F127</sup>(f) for FIT year 10 and each subsequent FIT year, the value to FIT licensees, in pence per kilowatt hour, of metered exported electricity for the purpose of calculating the net metered export payments of FIT licensees.]

(2) The Secretary of State must publish a determination under paragraph (1) not less than one month before the beginning of the FIT year to which it relates.

<sup>F128</sup>**38A.** For the period commencing on 1st July 2013 until the end of the FIT year within which that date falls, the mutualisation trigger range (as defined in article 38(1)(d)) shall be £1,700,000 to £16,900,000.]

**Textual Amendments**

**F122** Art. 38(1)(b) omitted (1.7.2013) by virtue of [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **7(2)(a)**

**F123** Word in art. 38(1)(c) omitted (1.2.2019) by virtue of [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **15(2)(a)**

**F124** Art. 38(1)(d) and word inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **7(2)(b)**

**F125** Art. 38(1)(e) inserted (15.1.2016) by [The Feed-in Tariffs \(Amendment\) \(No. 3\) Order 2015 \(S.I. 2015/2045\)](#), arts. 1, **20** (with art. 24)

**F126** Word in art. 38(1)(e) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **15(2)(b)**

**F127** Art. 38(1)(f) inserted (1.2.2019) by [The Feed-in Tariffs \(Closure, etc.\) Order 2018 \(S.I. 2018/1380\)](#), arts. 1, **15(2)(c)**

**F128** Art. 38A inserted (1.7.2013) by [The Feed-in Tariffs \(Amendment\) Order 2013 \(S.I. 2013/1099\)](#), arts. 1, **7(3)**

## <sup>F129</sup>PART 8A

### Anaerobic digestion installations and entitlement to generation payments

**Textual Amendments**

**F129** Pt. 8A inserted (20.3.2017) by [The Feed-in Tariffs \(Amendment\) Order 2017 \(S.I. 2017/131\)](#), arts. 1, **8(1)**

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

## **Application**

**38B.** This Part applies to the FIT generator or nominated recipient of an anaerobic digestion installation in respect of which accreditation was granted pursuant to—

- (a) an application for preliminary accreditation made on or after 1st May 2017; or
- (b) an application for accreditation made on or after 1st May 2017, other than an application made during the period of validity of any preliminary accreditation granted in respect of the installation,

in this Part referred to as a “relevant installation”.

## **Ongoing obligation to meet sustainability criteria**

**38C.** The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation, using biogas other than sustainable biogas.

## **Ongoing obligation to provide quarterly declarations relating to sustainability criteria**

**38D.—(1)** The FIT generator or nominated recipient must, in relation to each consignment of biomass used to make the biogas used to generate electricity at the relevant installation during a quarterly reporting period, provide the Authority with a declaration that states—

- (a) whether the biogas was made from feedstock that was waste;
- (b) whether the biogas met the greenhouse gas criteria and where the criteria are met, the greenhouse gas emissions for that biogas calculated in accordance with Schedule 2A; and
- (c) whether the biogas was made from feedstock which was solid biomass which met the land criteria.

(2) The FIT generator or nominated recipient must provide the declaration within 28 days after the quarterly reporting period to which the declaration relates.

(3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which a declaration has not been provided in accordance with this article.

## **Entitlement to generation payments for electricity produced annually from biogas derived other than from waste and residue**

**38E.** Where less than 50% of the energy content of the biogas used to generate electricity at a relevant installation during an annual reporting period is derived from waste or residue, the FIT generator or nominated recipient is entitled to generation payments calculated in accordance with the following formula—

$$A \times (1.5 - B)$$

where—

A = the total generation payments to which the FIT generator or nominated recipient would be entitled, but for this paragraph;

B = the proportion of the energy content of the biogas which is not derived from waste or residue, expressed as a decimal and rounded to 4 decimal places.

## **Ongoing obligation to provide annual declarations relating to feedstock types**

**38F.—(1)** The FIT generator or nominated recipient must submit to the Authority a declaration containing the following information for each annual reporting period—

- (a) the total amount of electricity generated during the period by the relevant installation;
  - (b) details of feedstock used to make the biogas used to generate the electricity; and
  - (c) the proportion of the energy content of the biogas which was not derived from waste or residue, expressed as a decimal and rounded to 4 decimal places.
- (2) The FIT generator or nominated recipient must provide the declaration within 3 months after the annual reporting period to which the declaration relates.
- (3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which a declaration has not been submitted in accordance with this article.

**Ongoing obligation to provide annual audit report relating to sustainability criteria and feedstock type**

**38G.**—(1) This article applies in respect of a relevant installation with a total installed capacity of 1 megawatt or above.

(2) The FIT generator or nominated recipient must, in relation to an annual reporting period, submit to the Authority an audit report that—

- (a) is prepared by a person who is not the FIT generator or nominated recipient, or a person connected to either within the meaning of section 1122 of the Corporation Tax Act 2010;
- (b) is prepared in accordance with the International Standard on Assurance Engagements 3000 (Revised): Assurance engagements other than audits or reviews of historical financial information dated 9th December 2013 or an equivalent standard;
- (c) states whether anything has come to the attention of the person preparing the report to indicate that the information in the declarations provided under article 38D in respect of the annual reporting period (“the sustainability information”) is not accurate;
- (d) considers—
  - (i) whether the systems used to produce the sustainability information are likely to produce information that is reasonably accurate and reliable;
  - (ii) whether there are controls in place to help protect the sustainability information against material misstatements due to fraud or error;
  - (iii) the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the FIT generator or nominated recipient relied in preparing the sustainability information; and
  - (iv) the robustness of the data on which the FIT generator or nominated recipient relied in preparing the sustainability information; and
- (e) states that the person preparing the report has reviewed the declaration provided under article 38F in respect of the annual reporting period and states whether the declaration is correct.

(3) Paragraph (2) does not apply in respect of an annual reporting period that is reduced to less than 3 months as a result of the Authority specifying a date for the purpose of article 38I.

(4) The FIT generator or nominated recipient must provide the audit report within 3 months after the annual reporting period to which the audit report relates.

(5) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period in which an audit report has not been submitted in accordance with this article.

*Status: Point in time view as at 01/02/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)*

### **Ongoing obligation to provide quarterly meter readings to the FIT licensee**

**38H.**—(1) The FIT generator or nominated recipient must provide generation meter readings to its FIT licensee for electricity generated by the relevant installation during a quarterly reporting period.

(2) The FIT generator must provide the generation meter readings within 28 days after the quarterly reporting period.

(3) The FIT generator or nominated recipient is not entitled to generation payments for electricity generated by the relevant installation during any period that meter readings have not been submitted in accordance with this article.

(4) When determining the amount of electricity generated by a relevant installation during a certain period (“Period A”) and the periods for which generation meter readings are available do not equate precisely with Period A, the amount of electricity generated during Period A is to be pro-rated by reference to the available meter readings.

### **Reporting periods**

**38I.**—(1) In this Part—

- (a) a quarterly reporting period in respect of a relevant installation is each consecutive 3 month period; and
- (b) an annual reporting period in respect of a relevant installation is each consecutive 12 month period,

commencing on a date specified by the Authority by notice given to the FIT generator or nominated recipient, and its FIT licensee, or where the Authority has not specified a date, the eligibility date for the installation.

(2) When specifying a date from which reporting periods commence, the Authority may specify a date that has the effect of—

- (a) reducing the preceding quarterly reporting period to a period of less than 3 months; or
- (b) reducing the preceding annual reporting period to a period of less than 12 months,

and must ensure that each reporting period begins immediately on the previous period ending.

### **Interpretation**

**38J.** In this Part—

“annual reporting period”, in respect of a relevant installation, means a period described in article 38I(1)(b);

“energy content” means the energy contained within a substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of BS 7420:1991 (Guide for the determination of calorific values of solid, liquid and gaseous fuels (including definitions));

“greenhouse gas criteria” means the criteria set out in Schedule 2A;

“land criteria” has the meaning given in regulation 36A of the Renewable Heat Incentive Scheme Regulations 2011 or in the event that these regulations are revoked and replaced by regulations made in exercise of the powers conferred by sections 100 and 104(2) of the Energy Act 2008, the meaning given in those regulations;

“quarterly reporting period”, in respect of a relevant installation, means a period described in article 38I(1)(a);

“sustainable biogas” means—

- (a) biogas which—
    - (i) meets the greenhouse gas criteria; and
    - (ii) is made wholly from feedstock which is solid biomass which meets the land criteria;
  - (b) biogas which is made wholly from feedstock which is waste; or
  - (c) biogas which consists of a combination of the biogas listed in paragraphs (a) and (b);
- “waste” has the meaning given in Article 3(1) of the [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste and includes excreta produced by animals.]

## PART 9

### Miscellaneous

#### Notices

- 39.** A notice under this Order—
- (a) must be in writing; and
  - (b) may be transmitted by electronic means.

#### Revocations, transitional provisions and savings

- 40.**—(1) The instruments listed in Schedule 3 are revoked.
- (2) Where an application for accreditation of an eligible installation has been made before 1st December 2012 and has not been determined before that date, articles 5 to 8 and 14 do not apply, and the Authority must determine—
- (a) whether to accredit the installation; and
  - (b) the site of the installation,
- in accordance with the 2010 Order as if it had not been revoked.
- (3) Where an application for accreditation of an eligible installation is made on or after 1st December 2012, article 7(3) does not prevent the Authority from accrediting the installation if, had article 8 of the 2010 Order not been revoked, any grant from public funds made in respect of the costs of purchasing or installing the installation would have—
- (a) met the conditions in paragraph (5) of that article; or
  - (b) fallen within sub-paragraph (a) of the definition of “permitted grant” in paragraph (6) of that article.
- (4) Until such time as section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 <sup>M22</sup> comes into force, the definition of “community organisation” in article 11(6) has effect as if for sub-paragraph (b) there were substituted—
- “(b) a society registered under the Industrial and Provident Societies Act 1965 ”. <sup>M23</sup>
- (5) The tables published by the Authority under article 13(2) of the 2010 Order <sup>M24</sup> setting out the FIT payment rates to apply to solar photovoltaic eligible installations with an eligibility date in the periods from—
- (a) 1st November 2012 to 31st January 2013; and
  - (b) 1st February 2013 to 30th April 2013,
- shall continue to have effect, subject to the modification in paragraph (6).

**Status:** Point in time view as at 01/02/2019.

**Changes to legislation:** There are currently no known outstanding effects for the The Feed-in Tariffs Order 2012. (See end of Document for details)

(6) In relation to eligible installations with a tariff date on or after 1st December 2012, the tables referred to in paragraph (5) shall, instead of applying to installations with an eligibility date in the period referred to in paragraph (5)(a) or (b), apply to installations with a tariff date in that period.

(7) The determinations made by the Secretary of State under articles 14 and 28 of the 2010 Order in respect of FIT Year 3 shall continue to have effect, except as provided in paragraph (8).

(8) The determination made under article 28(1)(a) of the 2010 Order shall have effect in respect of the period from 1st April 2012 to 30th November 2012 only, and in respect of the period from 1st December 2012 to 31st March 2013 the value of electricity for the purpose of net metered exports is 4.5 pence per kilowatt hour.

(9) In this article, “the 2010 Order” means the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 <sup>M25</sup>.

#### Marginal Citations

**M22** [2010 c. 7](#).

**M23** [1965 c.12](#).

**M24** Article 13(2) was inserted in the 2010 Order by [S.I. 2012/1393](#).

**M25** [S.I. 2010/678](#), amended by [S.I. 2011/1181](#), [S.I. 2011/1655](#), [S.I. 2011/2364](#), [S.I. 2012/671](#), [S.I. 2012/1393](#) and [S.I. 2012/2268](#).

Department of Energy and Climate Change

*Gregory Barker*  
Minister of State



**Status:**

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**Changes to legislation:**

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