

**EXPLANATORY MEMORANDUM TO  
THE FEED-IN TARIFFS ORDER 2012**

**2012 No. 2782**

**1.** 1.1 This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Feed-in Tariffs (“FIT”) scheme is the Government’s main policy measure to encourage the deployment of small scale low carbon electricity generation in Great Britain.

2.2 The scheme was originally implemented in part through the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (“the 2010 Order”), which conferred functions on the Secretary of State and the Gas and Markets Authority (“the Authority”) in relation to the administration of the scheme. This Order revokes and remakes the 2010 Order with amendments to implement changes to the administration of the FIT scheme following a comprehensive review of the scheme.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The interpretation provision in this Order provides (as does the corresponding provision in the 2010 Order) that certain expressions used in the Order have the same meanings as in Schedule A to Standard Licence Condition 33 of electricity supply licences. The reason for this is to achieve consistency between the two instruments where the same concepts are used in both.

**4. Legislative Context**

4.1 This Order is made in exercise of the powers conferred on the Secretary of State by sections 41(4), 43(3)(a) and 104(2) of the Energy Act 2008.

4.2 Other provisions of the FIT scheme (in particular, obligations on electricity suppliers) are contained in Standard Licence Conditions 33 and 34 of electricity supply licences (“the FIT licence conditions”), which were inserted by modifications made under section 41 of the Energy Act 2008. An instrument revoking the existing Schedule A to Standard Licence Condition 33 and remaking it with amendments has been laid before Parliament in draft, and it is intended to bring it into force at the same time as this Order.

**5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- *What is being done and why*

7.1 This Order gives functions to the Authority and the Secretary of State to administer the FIT scheme and sets the maximum capacity for installations participating in the scheme. This Order provides a formal basis for ensuring a properly run FIT scheme to enable a switch to a low carbon economy and society by providing a support mechanism for distributed and small-scale electricity generation using renewable and other low-carbon sources. The FIT scheme is intended to encourage deployment of additional small scale, low carbon electricity generation, particularly by individuals, householders, organisations, businesses and communities who would not have traditionally engaged with the energy market.

7.2 Following the comprehensive review of the scheme, we are introducing a number of changes to the administration of the scheme. The principal changes effected by this Order are:

- The introduction of a power for the Authority to attach conditions to the accreditation of installations under the scheme.
- The introduction of a process for preliminary accreditation of certain (mostly larger) installations. The purpose of preliminary accreditation is to provide greater certainty to prospective generators before constructing such installations that they will be accredited under the scheme, and as to the tariff for which they will be eligible.
- The introduction of a process for certain community and education institutions to pre-register smaller solar photovoltaic installations with the Authority. This is ancillary to a new provision in the FIT licence conditions which enables such bodies to obtain a dispensation from the energy efficiency requirement which applies to solar PV installations that are wired to a building.
- The conferral on the Authority of more detailed powers of enforcement, including power to withdraw or suspend accreditation of installations in specified circumstances, in order to ensure that the Authority has sufficient powers to address any abuse of the scheme.
- An extension of the Secretary of State's duty to publish data about deployment of eligible installations, to include data about technologies other than solar PV. This is ancillary to a new cost control mechanism for technologies other than solar PV, which is being introduced by changes to the FIT licence conditions. The data is to be used by the Authority to calculate (in accordance with provision in the licence conditions) future changes to the payment rates for new installations entering the scheme.

- *Consolidation*

7.3 This Order consolidates with amendments the 2010 Order, which had previously been amended by several instruments.

## 8. Consultation outcome

8.1 A consultation paper was published on 9 February 2012, and closed on 26 April 2012, covering a wide range of issues including the treatment of community-owned installations, a preliminary accreditation mechanism, and other administrative issues. It also included proposals relating to tariffs and a cost-control mechanism for technologies other than solar PV, in relation to which the Government's decisions are being implemented through changes to the FIT licence conditions.

8.2 The Government's response to this consultation was published on 20 July 2012 setting out our final decisions following the consultation, which received 303 written responses.

8.3 A detailed analysis of the consultation responses and policy decisions is presented in the Government's response to the consultation on Phase 2B of the Comprehensive Review of Feed-in Tariffs, available on the Department of Energy and Climate Change's website at:  
[http://www.decc.gov.uk/en/content/cms/consultations/fits\\_rev\\_ph2b/fits\\_rev\\_ph2b.aspx](http://www.decc.gov.uk/en/content/cms/consultations/fits_rev_ph2b/fits_rev_ph2b.aspx)

8.4 In addition, a further focused consultation was held with electricity suppliers and Ofgem, over a two week period in September 2012. The consultation concentrated on specific scheme administration issues. A total of 17 responses to the consultation were received.

## **9. Guidance**

9.1 Ofgem already provides detailed guidance for electricity suppliers and potential participants in the FIT scheme in a variety of forms. That guidance will be updated to reflect the changes to the FIT scheme effected by this Order.

## **10. Impact**

10.1 An Impact Assessment for this instrument and the associated changes to the FIT licence conditions is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

11.1 The legislation does apply to small business.

11.2 There are no impacts for firms employing up to 20 people as the approach taken is that no electricity supply companies employ 20 or fewer people.

## **12. Monitoring & review**

12.1 The Department will continue to carry out ongoing monitoring of the FIT scheme to ensure that its objectives are delivered in a way which ensures value for money, particularly to consumers who ultimately pay. The Authority also carries out monitoring to ensure compliance by electricity suppliers and participants in the scheme with their obligations.

## **13. Contact**

13.1 Alasdair Grainger at the Department of Energy and Climate Change, email: [fits@decc.gsi.gov.uk](mailto:fits@decc.gsi.gov.uk), can answer any queries regarding the instrument.