

EXPLANATORY MEMORANDUM TO
THE FEED-IN TARIFFS (SPECIFIED MAXIMUM CAPACITY AND FUNCTIONS)
(AMENDMENT) ORDER 2012

2012 No. 671

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 This instrument amends the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (“the 2010 Order”), to extend a method of accreditation for feed-in tariffs for small-scale hydro generating stations.

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

3.1 None.

4. Legislative Context

4.1 The 2010 Order, together with provisions contained in Conditions 33 and 34 of the standard conditions of electricity supply licences (the “Standard Licence Conditions”), implement the feed-in tariffs scheme (“FITs scheme”) for small-scale low-carbon electricity generation. The Standard Licence Conditions impose obligations on electricity suppliers which are to pay feed-in tariffs, while the 2010 Order sets out Ofgem’s functions in relation to the FITs scheme.

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7.1 Under the 2010 Order as originally made, most types of generating installations with a capacity of 50 kilowatts or less were required to be registered under the Microgeneration Certification Scheme (“MCS”), or an equivalent scheme, as a condition of eligibility for FITs. Because of delays in getting MCS standards in place for micro hydro generating stations, article 5A was inserted by amendment to provide a transitional arrangement. It enables generating stations with a capacity of 50kW or less that are first commissioned on or before 31 March 2012 to be accredited for FITs if they meet the criteria, except as to capacity, for accreditation under the Renewables Obligation Order 2009 or the Renewables Obligation (Scotland) Order 2009.

7.2 In June 2011, the Government published a Microgeneration Strategy which proposed the withdrawal of the exclusive link between micro hydro and the MCS for the purposes of FITs eligibility and accreditation. A consultation paper published on 9 February 2012 as part of the current comprehensive review of the FITs scheme seeks views about longer term arrangements for the accreditation of micro hydro installations, and it is intended that changes resulting from that consultation will be implemented with effect from October 2012.

7.3 This Order amends article 5A to extend the application of the transitional arrangement to hydro generating stations which are first commissioned on or before 30 September 2012, in order to preserve it as a method of accreditation until the review is completed and those arrangements have been put in place.

- ***Consolidation***

7.4 If it is decided to make additional changes to the FITs scheme following the current comprehensive review, the Department will consider whether to consolidate the legislation rather than making further amendments to the 2010 Order.

8. Consultation outcome

8.1 There is no statutory duty to consult in relation to the 2010 Order, and consultation on the amendment made by this Order was not considered necessary in view of its minor nature.

9. Guidance

9.1 Ofgem already provides detailed guidance for existing and potential participants in the FITs scheme in a variety of forms. That guidance will be updated to alert electricity generators and suppliers and others to the amendment made by this Order.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as no impacts are foreseen on business, charities or voluntary bodies or on the public sector.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There are no regulatory impacts for firms employing up to 20 people as the instrument merely continues the application of an existing method of accreditation.

12. Monitoring & review

12.1 All aspects of the FITs scheme are currently being considered as part of the comprehensive review, further information on which is available from the Department of Energy and Climate Change's website.

13. Contact

13.1 Amanda Eden at the Department of Energy and Climate Change, email: amanda.eden@decc.gsi.gov.uk can answer any queries regarding the instrument.