
STATUTORY INSTRUMENTS

2012 No. 2782

The Feed-in Tariffs Order 2012

PART 3

Accreditation and matters relating to accreditation

CHAPTER 1

Accreditation

Application of this Chapter

- 4.** This Chapter applies where—
- (a) an application is 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; or
 - (b) an application has been made to a FIT licensee for FIT payments for an eligible installation which uses an MCS-FIT technology, and the FIT licensee submits details of the installation to the Authority for accreditation under the process for MCS-certified registration.

Accreditation of eligible installations

- 5.—**(1) The Authority must carry out accreditation as provided by this article.
- (2) The Authority must accredit an eligible installation if article 6 is satisfied but must not do so if article 7 or 8 applies.
- (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 article 4(a), 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 article 4(b), 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 article 4(a), give notice of its decision to the person who made that application; and

- (b) in the case of an application mentioned in article 4(b), 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.

Accreditation of eligible installations not previously accredited under the ROO

6.—(1) Subject to articles 7 and 8, the Authority must accredit an eligible installation as an accredited FIT installation if it is satisfied that—

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

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.

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.

CHAPTER 2

Preliminary accreditation and pre-registration

Preliminary accreditation

- 9.—(1) This article applies where a person (“the prospective FIT generator”) proposes to construct or operate an eligible installation (other than an extension) which, when commissioned, will—
- (a) use anaerobic digestion;
 - (b) be a hydro generating station; or
 - (c) be a wind or solar photovoltaic installation, and have a declared net capacity of more than 50 kilowatts.
- (2) The Authority must, upon an application in writing by the prospective FIT generator, 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.
- (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;

- (b) is accompanied by documentary evidence, issued on or before the date of the application, of the satisfaction of the conditions in paragraph (4); and
 - (c) includes such other information as may be required by the Authority.
- (4) The conditions in this paragraph are that—
- (a) either—
 - (i) planning permission has been granted for the installation on or before the date of the application for preliminary accreditation; or
 - (ii) the Authority is satisfied that planning permission is not required for the installation;
 - (b) if the installation is to have a grid connection, either—
 - (i) the prospective FIT generator has entered into a grid connection agreement on or before the date of the application; or
 - (ii) the Authority is satisfied that a grid connection agreement is not required for the grid connection of the installation;
 - (c) if the installation is a hydro generating station in England and Wales, the Authority is satisfied that each of the licences and consents mentioned in paragraph (5)—
 - (i) has been granted for the installation on or before the date of the application; or
 - (ii) is not required for the installation; and
 - (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⁽¹⁾ 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.
- (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⁽²⁾;
 - (b) an impounding works licence under section 25 of the Water Resources Act 1991⁽³⁾; and
 - (c) consent under section 109(1) of the Water Resources Act 1991⁽⁴⁾.
- (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) 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 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 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 received by the Authority.

(1) S.I. 2011/209.

(2) 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.

(3) 1991 c.57. Section 25 was amended by the Water Act 2003, sections 2 and 60(1) and Schedule 9, Part 1.

(4) 1991 c.57. Section 109(1) was amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 128.

- (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.
- (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⁽⁵⁾;
- “planning permission” has the same meaning as in—
- (a) the Town and Country Planning Act 1990⁽⁶⁾, in relation to England and Wales;
 - (b) the Town and Country Planning (Scotland) Act 1997⁽⁷⁾, in relation to Scotland.

Effect of preliminary accreditation

- 10.**—(1) Paragraph (2) applies where—
- (a) an installation has been granted preliminary accreditation; and
 - (b) during the period of validity of the preliminary accreditation—
 - (i) the installation is commissioned; and
 - (ii) the Authority receives an application for accreditation of 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.
- (3) If the Authority grants the application for accreditation pursuant to paragraph (2), the installation’s tariff date is—
- (a) the date on which the Authority received the application for preliminary accreditation, if the Authority received it between 1st April and 31st December; or

⁽⁵⁾ 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.

⁽⁶⁾ 1990 c.8.

⁽⁷⁾ 1997 c.8.

- (b) the 1st April following the date on which the Authority received the application for preliminary accreditation, if the Authority received it between 1st January and 31st March.
- (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;
 - (d) its total installed capacity is greater; or
 - (e) 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.

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) 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.

(3) The conditions are that the application—

- (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—

- (a) the eligibility date of the installation is the later of—
 - (i) the date on which the Authority received the application for pre-registration; or
 - (ii) the date on which the installation was commissioned,and is not as provided in Standard Licence Condition 33; and
 - (b) the tariff date of the installation is the date on which the Authority received the application for pre-registration.
- (6) In this article—
- “community benefit or co-operative society” means—
- (a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965⁽⁸⁾ (“the 1965 Act”) as a community benefit society or as a co-operative society; or
 - (b) a pre-2010 Act society (as defined in section 4A(1) of the 1965 Act⁽⁹⁾);
- “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⁽¹⁰⁾;
- “community organisation” means—
- (a) a community interest company; or
 - (b) a community benefit or co-operative society,
- other than such a company or society with more than 50 employees;
- “dwelling” has the same meaning as in—
- (a) the Energy Performance of Buildings (Certificates and Inspections) Regulations 2007⁽¹¹⁾, in relation to a building in England or Wales; and
 - (b) the Energy Performance of Buildings (Scotland) Regulations 2008⁽¹²⁾, 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.

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.

⁽⁸⁾ 1965 c.12. The Act is renamed the Co-operative and Community Benefit Societies Act 1965 by section 2 of the Co-operative and Community Benefit Societies Act 2010 (c.7).

⁽⁹⁾ Section 4A is inserted by section 1 of the Co-operative and Community Benefit Societies Act 2010 (c.7).

⁽¹⁰⁾ 2004 c.27. Sections 36B and 38A were inserted by S.I. 2009/1941.

⁽¹¹⁾ S.I. 2007/991, to which there are amendments which are not relevant.

⁽¹²⁾ S.S.I 2008/309, to which there are amendments which are not relevant.

(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—

- (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—

- (a) the eligibility date of the installation is the date on which the Authority received the application for pre-registration, and is not as provided in Standard Licence Condition 33; and
- (b) the tariff date of the installation is the same as its eligibility date.

(6) In this article—

“education provider” means—

- (a) the owner of a building used as the premises of a qualifying educational institution; or
- (b) a person or body responsible for the management of such an institution;

“qualifying educational institution” means—

- (a) in England and Wales—
 - (i) a school within the meaning of section 4 of the Education Act 1996⁽¹³⁾;
 - (ii) an institution within the further education sector, within the meaning of section 91(3) of the Further and Higher Education Act 1992⁽¹⁴⁾; or
 - (iii) a 16 to 19 Academy within the meaning of section 1B of the Academies Act 2010⁽¹⁵⁾;
- (b) in Scotland—

(13) 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.

(14) 1992 c.13. Section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), Schedule 8, paragraph 13.

(15) 2010 c.32. Section 1B was inserted by the Education Act 2011 (c.21), section 53(7).

- (i) a school within the meaning of section 135(1) of the Education (Scotland) Act 1980⁽¹⁶⁾; or
- (ii) a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992⁽¹⁷⁾;

“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.

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—

⁽¹⁶⁾ 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.

⁽¹⁷⁾ 1992 c.37.

- (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.

(5) Except where paragraph (4)(c) applies, all hydro generating station turbines which are, or are to be, supplied with water by or from the same civil works have a single site.

(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.

Calculating and publishing FIT payment rates

16.—(1) On or before 1st February in each year, the Authority must publish a table setting out, for the following FIT year (“the relevant FIT year”)—

- (a) the generation tariffs which are to apply to solar photovoltaic installations with a tariff date before the start of the relevant FIT year;
- (b) the generation tariffs which are to apply (subject to any changes under paragraph (2)) to all other accredited FIT installations; and
- (c) the export tariffs which are to apply to all accredited FIT installations.

(2) On or before 1st August in 2014 and each subsequent year, the Authority must—

- (a) determine whether any changes to the generation tariffs published under paragraph (1)(b) are to apply to accredited FIT installations with a tariff date on or after the following 1st October; and
- (b) publish those changes.

(3) On or before the dates specified in the first column of the following table the Authority must publish a table setting out the generation tariffs which are to apply, for the FIT year in which the period specified in the corresponding entry in the second column of the table (the “solar tariff period”) falls, to solar photovoltaic eligible installations with a tariff date in that solar tariff period.

<i>Publication date</i>	<i>Solar tariff period</i>
1st March 2013	1st May 2013 to 30th June 2013
1st May (in 2013 and each subsequent year)	the following 1st July to 30th September
1st August (in 2013 and each subsequent year)	the following 1st October to 31st December
1st November (in 2013 and each subsequent year)	the following 1st January to 31st March
1st February (in 2014 and each subsequent year)	the following 1st April to 30th June

Publication date

Solar tariff period

- (4) The Authority must determine the FIT payment rates under paragraphs (1), (2) and (3)—
- (a) in accordance with Annexes 3, 4 and 5 to Schedule A to Standard Licence Condition 33; and
 - (b) by reference to the data published by the Secretary of State under article 36 and Schedule 2.

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.