
STATUTORY INSTRUMENTS

2013 No. 1099

The Feed-in Tariffs (Amendment) Order 2013

PART 2

Amendments to the Order

Levelisation, mutualisation and correction

- 6.—(1) Part 6 (Levelisation) of the Order is amended as follows.
- (2) In article 27(2), omit sub-paragraph (b).
- (3) In article 27(3)—
- (a) in sub-paragraph (a), after “levelisation payments”, add “and mutualisation payments”;
 - (b) in sub-paragraph (b), after “levelisation payments”, add “and mutualisation distributions”;
and
 - (c) in paragraph (6), omit the definition of “net metered export payment”.
- (4) In article 29, after “has calculated”, delete “periodic levelisation payments or annual”.
- (5) In article 30, after paragraph (2), insert—
- “(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).”.
- (6) After article 30, insert—

“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 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.

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.

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).

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.

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(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.”.