
STATUTORY INSTRUMENTS

2015 No. 2045

The Feed-in Tariffs (Amendment) (No. 3) Order 2015

Citation and commencement

1. This Order may be cited as the Feed-in Tariffs (Amendment) (No. 3) Order 2015 and comes into force on 15th January 2016.

Amendment to the Feed-in Tariffs Order 2012

2.—(1) This Order amends the Feed-in Tariffs Order 2012⁽¹⁾ (“the 2012 Order”).

(2) A reference in this Order to a numbered article or Part or Schedule is to the article or Part or Schedule so numbered in the 2012 Order.

Article 2 (interpretation)

3. In article 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “MCS”, substitute—

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

(ii) in the appropriate places insert the following definitions—

““commissioning date”, in relation to an installation, means the date on which the installation is commissioned;”;

““MCS-certified installation” has the meaning set out in Schedule A1 to this Order;”;

““pause period” has the meaning given in article 8A;”;

““tariff period” means one of the following periods—

(a) the period beginning on 8th February 2016 and ending on 31st March 2016;

(b) the period of 3 months beginning on 1st April 2016; or

(c) any subsequent period of 3 months beginning on 1st July, 1st October, 1st January or 1st April;”;

(b) in paragraph (2), omit “MCS-certified installation”; and

(c) after paragraph (3), insert—

(1) S.I. 2012/2782 as amended by S.I. 2013/1099, 2014/1601, 2014/2865, 2015/35 and 2015/1659.

(2) European standards are published by the European Committee on Standardization (CEN): www.cen.eu.

(3) ISO standards can be obtained from the International Organization for Standardization: www.iso.org.

“(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.”.

Part 3 (accreditation and matters relating to accreditation)

4. For article 4 (application of this Chapter) substitute—

“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; or
 - (iii) the application is within paragraph (1)(a) of article 8D (transitional installations).

(3) The conditions in this paragraph are that—

- (a) an 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.”.

5. In article 5 (accreditation of eligible installations)—

(a) after paragraph (1) insert—

“(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.

(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; or
- (b) to which article 8D (transitional installations) applies.”;

- (b) in paragraph (2), for “but must not do so if article 7 or 8 applies” substitute—
 - “but must not do so—
 - (a) if article 7 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”;
 - (c) in paragraphs (4)(b) and (5)(a), for “article 4(a)” substitute “article 4(2)”;
 - (d) in paragraphs (4)(c) and (5)(b), for “article 4(b)” substitute “article 4(3)”;
 - (e) in paragraph (6), at the end insert “, 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 within which the application will be considered by the Authority in accordance with this article.”.
6. In article 6(1), for “articles 7 and 8” substitute “articles 7, 8, 8A and 8B”.
7. After article 8 (limit on numbers of eligible installations using combined heat and power) insert—

“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.

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 Table 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) 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.

- (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;
 - (ii) in relation to an application which meets the conditions in article 4(3), when an MCS Certificate is issued for the installation in respect of which the application for FIT payments is made; and
 - (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; and
 - (b) “relevant installation” means any eligible installation other than an installation 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.

The application limit: adjustments

8C.—(1) 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.

(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.

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
- (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 MCS-FIT technology, whose MCS certificate’s issue date is before 15th January 2016.

(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.”.

Amendments to articles 9 to 12

8. Article 9 (preliminary accreditation) is amended as follows—

- (a) in paragraph (1)(b), after “on or before 30th September 2015” insert “or on or after 8th February 2016”;
- (b) at the beginning of paragraph (2), for “The” substitute “Subject to article 8B, the”;
- (c) at the end of paragraph (2)(b), add “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.”; and
- (d) at the end of paragraph (9)(c), add “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.”.

9. In article 10 (effect of preliminary accreditation)—

(a) for paragraph (3) substitute—

“(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
- (b) the tariff period within which the Authority grants preliminary accreditation commences.”;

- (b) for paragraph (4)(d), substitute “its total installed capacity is different”; and
- (c) omit paragraph (4)(e).

10. In article 11 (pre-registration of community energy installations), in paragraph (5), for sub-paragraphs (a) and (b) substitute—

- “(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;
- (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;
- (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;
- (d) where the installation is commissioned and its application for pre-registration is received by the Authority on or after 8th February 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 first day of the tariff period within which the installation qualifies for accreditation.”.

11. In article 12 (pre-registration of school installations), in paragraph (5), for sub-paragraphs (a) and (b) substitute—

- “(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;

- (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.”.

Article 15 (site of accredited FIT installation)

12. Omit article 15(5).

Article 16 (calculating and publishing FIT payment rates)

13. For article 16 (calculating and publishing FIT payment rates), substitute—

“Calculating and publishing FIT payment rates

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.

(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 36 and Schedule 2.”.

Removal of the extension rule

14. In article 18 (accreditation of extensions to accredited FIT installations), at the end of paragraph (1) insert “and the commissioning date of the extension is before 15th January 2016”.

15. In article 19 (accreditation of extensions to installations which are not accredited FIT installations), after paragraph (1)(b), insert—

“; and

- (c) the commissioning date of the extension is before 15th January 2016.”.

Article 24B (other installations not yet accredited)

16. In article 24B (other installations not yet accredited), after paragraph (2)—

“; or

- (c) where the date on which the written request was received by A on or after 15th January 2016, the first date of the tariff period within which the installation is accepted for accreditation by the Authority.”.

Amendments to levelisation

17. In article 25 (levelisation fund), renumber the first sentence as paragraph (1), and add—

“(2) The Authority may use the interest accruing on the levelisation fund to pay for all or part of its reasonable costs.

(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).”.

18.—(1) Article 27 (calculation of FIT contributions, etc) is amended as follows.

(2) In paragraph (2), for “payments made and costs incurred”, substitute “payments made and incurred”.

(3) In paragraph (6)—

(a) for the definition of—

(i) “the electricity supply market of Great Britain”, substitute—

““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; and
- (b) for FIT year 7 and subsequent FIT years, the amount of electricity supplied by all licensees to customers in Great Britain less any qualifying renewable electricity;”;

(ii) “the relevant amount of electricity supplied by A”, substitute—

““the relevant amount of electricity supplied by 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; and
- (b) for FIT year 7 and each subsequent FIT year, 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;”;

(b) before the definition of “customer”, insert—

““the capped amount of qualifying renewable electricity” is calculated in accordance with article 27A;”;

(c) after the definition of “qualifying FIT costs”, insert—

““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(4));
- (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;”.

19. After article 27, insert—

“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 the electricity supply market of Great Britain in that FIT year; or
- (b) where this sub-paragraph applies, the amount given by—

$$CQE = \frac{LQE}{TQE} \times cap$$

where—

- (i) “cap” is defined in paragraph (3);
- (ii) “LQE” is the licensee’s total amount of qualifying renewable electricity supplied to the electricity supply market of Great Britain in that FIT year;
- (iii) “TQE” is the total amount of qualifying renewable electricity supplied to the electricity supply market of 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.”.

Article 38 (determinations relating to levelisation)

20. In article 38 (determinations relating to levelisation), after paragraph (1)(d), insert—

- “(e) the reasonable costs of the Authority incurred as the result of administering the FIT scheme for the purposes of article 25.”.

New Schedule A1 (MCS-certified installations)

21. Before Schedule 1 (the Central FIT Register), insert the schedule that is set out in Schedule 1 to this Order.

New Schedule 1A (limit of aggregate capacity of eligible installations)

22. After Schedule 1 (the Central FIT Register), insert the schedule that is set out in Schedule 2 to this Order.

New Schedule 2 (publication of FIT deployment data)

23. For Schedule 2 (publication of FIT deployment data), substitute the schedule that is set out in Schedule 3 to this Order.

Savings

24.—(1) Where an application for accreditation of a commissioned eligible installation has been made before 15th January 2016 and has not been determined before that date, the Authority must determine whether to accredit the installation in accordance with the 2012 Order as if it had not been amended by this Order.

(2) The tables published by the Authority under article 16 of the 2012 Order as it applied before this Order came into force, setting out the FIT payment rates to apply to accredited FIT installations, shall continue to have effect in relation to installations which were commissioned before 15th January 2016 and for which an application for accreditation was made before that date.

16th December 2015

Amber Rudd
Secretary of State
Department of Energy and Climate Change