

EXPLANATORY MEMORANDUM TO

THE FEED-IN TARIFFS (AMENDMENT) (CORONAVIRUS) (NO 2) ORDER 2020

2020 No. 957

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument provides small-scale renewable electricity generators with extra time to apply for accreditation under the Feed-In Tariffs scheme (“FIT scheme”) following unavoidable delays in commissioning their projects caused by the Coronavirus pandemic.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Section 41 to 43 of the Energy Act 2008 (“the Act”) provide powers to establish a FIT scheme for the small-scale generation of electricity.
- 6.2 The Feed-In Tariffs Order 2012 (“the 2012 Order”) (as amended), made under section 41(4), 43(3) and 104(2) of the Act, sets out the function of the Gas and Electricity Markets Authority (“the Authority”) and the Secretary of State in connection with the administration of the FIT scheme including procedures by which the Authority will accredit installations applying to the scheme.

6.3 The Feed-In Tariffs (Amendment) (Coronavirus) (No2) Order 2020 extends the deadlines by which applications for accreditation can be made for eligible installations (those with initial accreditation deadlines falling on or after 1 March 2020) under the 2012 Order.

7. Policy background

What is being done and why?

7.1 The FIT scheme was the Government's main policy measure to encourage the deployment of small-scale low-carbon electricity generation in Great Britain. The scheme closed to new applications on 31st March 2019 subject to a number of time-limited extensions.

7.2 The Feed-In Tariffs (Amendment) (Coronavirus) Order 2020 extended the deadlines by which applications for accreditation could be made for eligible installations with accreditation deadlines between 1 March-30 September 2020 because of COVID-19 related delays. This was an emergency piece of legislation with no consultation possible so was limited to those installations with the most immediate deadlines. Hydro installations, with longer deadlines, are also being affected by similar COVID-19 disruptions and in addition are limited by the seasonality of construction. As a consequence, they are at risk of being unable to complete construction, commission the installations and submit their application for accreditation in time. This will affect up to 140 installations. Without action, this will result in the loss of significant investment in the projects.

7.3 In these circumstances, Government has decided to extend the validity periods for hydro installations with initial accreditation deadlines falling on or after 1 October 2020. It has also been decided to increase to 12 months the six-month extension granted to all installations with initial accreditation deadlines falling between 1 March-30 September. This means that:

- ROO-FIT scale hydro installations will be given 36 months to commission and apply for accreditation.
- ROO-FIT scale community hydro installations will be given 42 months to commission and apply for accreditation.
- Microgeneration Certification Scheme (MCS) scale community energy installations (solar PV with a declared net capacity of 50kW or less) will be given 24 months to commission and apply for accreditation.
- ROO-FIT scale community energy installations (solar PV with a declared net capacity over 50kW) will be given 24 months to commission and apply for accreditation.
- ROO-FIT scale wind (with a declared net capacity over 50kW) and anaerobic digestion installations will be given 24 months to commission and apply for accreditation.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation of the 2012 Order is planned at this time.

10. Consultation outcome

10.1 A four-week consultation was held between 19 June-17 July. 50 responses were received from across the hydro and community energy sectors including developers, financiers, installers, consultants, trade bodies and community groups. There was unanimous support for a 12-month extension for all hydro installations.

10.2 Government also took the opportunity to engage with stakeholders on the appropriateness of the existing extension. 19 responses were received and whilst the evidence provided suggested that the majority of community solar PV installations had been able to complete and accredit there were a significant number who were still impacted and endangered due to ongoing COVID-19 delays. Government therefore considers it appropriate and proportionate to provide a simple 12-month extension for all installations with initial accreditation deadlines falling on or after 1 March 2020, providing parity across the FIT technologies.

11. Guidance

11.1 The Authority, as administrators of the FIT scheme, intend to publish revised suppliers guidance on the new arrangements.

12. Impact

12.1 The impact on business, charities or voluntary bodies will be to give installations that are near to completion but delayed by issues beyond their control additional time to apply for support under the FIT scheme.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it does not increase the number of projects that are eligible to apply for support under the FIT scheme. It would be disproportionate to do so.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to reduce the regulatory burden on small businesses. This places no new burden on small businesses who will benefit from the measures.

14. Monitoring & review

14.1 The Department considers the extension sufficient and does not intend to review further. However, if evidence comes to light this will be reconsidered.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kwasi Kwarteng has made the following statement:

“A review provision is not appropriate because this is a short time-limited measure and would be disproportionate.”

15. Contact

- 15.1 Fiona Shand at the Department for Business, Energy and Industrial Strategy (Telephone: 0300 068 6108 or email: fiona.shand@beis.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Vicky Dawe, Deputy Director for Renewable Electricity Support Schemes, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kwasi Kwarteng, Minister of State at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.