
STATUTORY INSTRUMENTS

2018 No. 1380

ELECTRICITY

The Feed-in Tariffs (Closure, etc.) Order 2018

Made - - - - *17th December 2018*
Laid before Parliament *18th December 2018*
Coming into force - - *1st February 2019*

The Secretary of State, in exercise of the powers conferred by sections 43(3)(a) and 104(2) of the Energy Act 2008(1), makes the following Order:

Citation and commencement

1. This Order may be cited as the Feed-in Tariffs (Closure, etc.) Order 2018 and comes into force on 1st February 2019.

Amendment to the Feed-in Tariffs Order 2012

2. The Feed-in Tariffs Order 2012(2) is amended in accordance with articles 3 to 16.

Amendment to article 4 (application of this Chapter)

3.—(1) Article 4 is amended as follows.

(2) In paragraph (2)(b)—

- (a) at the end of paragraph (ii), omit “or”;
- (b) at the end of paragraph (iii), insert “; or”;
- (c) after paragraph (iii), insert—

“(iv) article 7B applies to the installation.”.

Amendment to article 5 (accreditation of eligible installations)

4.—(1) Article 5 is amended as follows.

(2) In paragraph (1B)—

(1) 2008 c. 32.

(2) S.I. 2012/2782 as amended by S.I. 2013/1099, 2015/35, 2015/1659, 2015/2045 and 2016/319. There are other amendments not relevant to this Order.

- (a) at the end of sub-paragraph (a), omit “or”;
- (b) at the end of sub-paragraph (b), insert “; or”;
- (c) after sub-paragraph (b), insert—
 - “(c) to which article 7B applies.”.
- (3) In paragraph (2)(a), after “article 7”, insert “, 7A(1)”.
- (4) In paragraph (6), after “next tariff period”, insert “, if any”.

Amendment to article 6 (accreditation of eligible installations not previously accredited under the ROO)

- 5.—(1) Article 6 is amended as follows.
- (2) In paragraph (1), after “articles 7”, insert “, 7A”.

New articles 7A and 7B inserted

- 6. After article 7, insert—

“Accreditation on or after 1st April 2019

7A.—(1) The Authority must not accredit an eligible installation in respect of which the application date is on or after 1st April 2019 as an accredited FIT installation.

- (2) Paragraph (1) does not apply to—
 - (a) an eligible installation in respect of which—
 - (i) preliminary accreditation is granted in accordance with article 9(2); and
 - (ii) the application date is within the relevant period of validity;
 - (b) an eligible installation which is pre-registered in accordance with article 11(2)(a) or article 12(2)(a), and in respect of which—
 - (i) the application for pre-registration is received by the Authority on or before 31st March 2019; and
 - (ii) the application date is within the period of 1 year beginning with the date on which the Authority receives the application for pre-registration;
 - (c) an eligible installation which uses an MCS-FIT technology and which is not pre-registered in accordance with article 11(2)(a) or article 12(2)(a), and in respect of which—
 - (i) an MCS certificate is issued on or before 31st March 2019; and
 - (ii) the application date is on or before 31st March 2020; or
 - (d) an eligible installation to which article 7B applies.
- (3) In this article—
 - “application date” has the meaning given in article 8A(5);
 - “relevant period of validity” means the period of validity of an eligible installation’s preliminary accreditation, as set out in article 9(8) or (8A).

Certain delays in grid or radar works

7B.—(1) This article applies to an eligible installation in relation to which the conditions in paragraph (2) are met.

- (2) The conditions are that—
- (a) preliminary accreditation is granted in respect of the eligible installation in accordance with article 9(2);
 - (b) the last day of the relevant period of validity is on or after 31st March 2019;
 - (c) the eligible installation is commissioned; and
 - (d) an application for accreditation of the eligible installation, and the documents specified in paragraph (3) or (4), are received by the Authority within the period of 1 year beginning on the day after the last day of the relevant period of validity.
- (3) The documents specified in this paragraph are—
- (a) evidence of a grid connection agreement with a relevant network operator for the making of a grid connection in respect of the eligible installation (“the relevant grid works”);
 - (b) a copy of a document written by, or on behalf of, the relevant network operator which estimated or set a date for completion of the relevant grid works (“the planned grid works completion date”) no later than the last day of the relevant period of validity;
 - (c) a letter or email written by, or on behalf of, the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—
 - (i) the relevant grid works were completed after the planned grid works completion date; and
 - (ii) in the relevant network operator’s opinion, the failure to complete the relevant grid works on or before the planned grid works completion date was not due to any breach by the installation developer of any agreement with the relevant network operator; and
 - (d) a declaration by the FIT generator that, to the best of the FIT generator’s knowledge and belief, the eligible installation would have been commissioned on or before the last day of the relevant period of validity if the relevant grid works had been completed on or before the planned grid works completion date.
- (4) The documents specified in this paragraph are—
- (a) evidence of an agreement between the installation developer and a person who is not the installation developer (“the radar works agreement”) for radar works (“the relevant radar works”);
 - (b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than the installation developer) which estimated or set a date for completion of the relevant radar works (“the planned radar works completion date”) which was no later than the last day of the relevant period of validity;
 - (c) a letter or email written by, or on behalf of, a party to the radar works agreement (other than the installation developer) confirming (whether or not such confirmation is subject to any conditions or other terms) that—
 - (i) the relevant radar works were completed after the planned radar works completion date; and
 - (ii) in that party’s opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach by the installation developer of the radar works agreement; and
 - (d) a declaration by the FIT generator that, to the best of the FIT generator’s knowledge and belief, the eligible installation would have been commissioned on

or before the last day of the relevant period of validity if the relevant radar works had been completed on or before the planned radar works completion date.

(5) In this article—

“grid connection agreement” means an agreement in writing with a relevant network operator for the making of a grid connection;

“installation developer” means the FIT generator or the person who arranged for construction of the eligible installation;

“radar works” means—

- (a) the construction of a radar station;
- (b) the installation of radar equipment;
- (c) the carrying out of modifications to a radar station or to radar equipment; or
- (d) the testing of a radar station or radar equipment;

“relevant network operator” means the holder of a licence under section 6(1)(b) or 6(1)(c) of the 1989 Act;

“relevant period of validity” has the meaning given to it in article 7A(3).”.

Amendment to article 8B (the application limit)

7.—(1) Article 8B is amended as follows.

(2) At the beginning of paragraph (3), insert “Subject to paragraph (3A).”.

(3) After paragraph (3), insert—

“(3A) Where by virtue of the operation of paragraph (3) the Authority must determine whether to grant an eligible installation accreditation or preliminary accreditation in any tariff period beginning on or after 1st April 2019, the Authority must determine not to grant the installation accreditation or preliminary accreditation.

(3B) Where the Authority receives an application for accreditation in respect of a relevant community energy installation, the Authority must determine not to accredit the installation where the application limit for an installation of that particular description for the tariff period beginning on 1st January 2019—

- (a) has been exceeded; or
- (b) is exceeded by virtue of receipt of the application for accreditation.”.

(4) In paragraph (4)—

(a) at the end of sub-paragraph (a)(iii), omit “and”;

(b) for sub-paragraph (b), substitute—

“(b) “relevant community energy installation” means an eligible installation—

- (i) which is pre-registered in accordance with article 11(2)(a);
- (ii) in respect of which the MCS certificate is issued on or after 1st April 2019; and
- (iii) in respect of which the application date is within the period of 1 year beginning with the date on which the Authority received the application for pre-registration;

and despite sub-paragraph (a), for the purposes of paragraph (3B) an application for accreditation of a relevant community energy installation is to be treated as being received by the Authority during the tariff period beginning on 1st January 2019;

- (c) “relevant installation” means any eligible installation other than an installation—
- (i) 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;
 - (ii) to which article 7B applies; or
 - (iii) which is a relevant community energy installation.”.

Amendment to article 8C (the application limit: adjustments)

- 8.**—(1) Article 8C is amended as follows.
- (2) At the beginning of paragraph (1), insert “Subject to paragraph (1A),”.
- (3) After paragraph (1), insert—
- “(1A) Paragraph (1) does not apply in relation to any tariff period beginning on or after 1st April 2019.”.

Amendment to article 9 (preliminary accreditation)

- 9.**—(1) Article 9 is amended as follows.
- (2) In paragraph (1)(b), after “8th February 2016”, insert “but on or before 31st March 2019”.

Amendment to article 10 (effect of preliminary accreditation)

- 10.**—(1) Article 10 is amended as follows.
- (2) In paragraph (1), for sub-paragraph (b), substitute—
- “(b) either—
- (i) during the period of validity of the preliminary accreditation—
 - (aa) the installation is commissioned; and
 - (bb) the Authority receives an application for accreditation of the installation;
 - or
 - (ii) article 7B applies to the installation.”.

Amendment to article 11 (pre-registration of community energy installations)

- 11.**—(1) Article 11 is amended as follows.
- (2) At the beginning of paragraph (2), insert “Subject to paragraph (2A),”.
- (3) After paragraph (2), insert—
- “(2A) The Authority must not pre-register a community energy installation in respect of which an MCS certificate has not been issued where, at the time that the application for pre-registration is received by the Authority, the application limit for installations of that particular description for the tariff period beginning on 1st January 2019—
- (a) has been exceeded; or
 - (b) would be exceeded if an MCS certificate were to be issued for the installation during the tariff period beginning on 1st January 2019.”.
- (4) In paragraph (3), after “the application”, insert “is received by the Authority on or before 31st March 2019, and”.

- (5) In paragraph (5)—
- (a) in sub-paragraph (d), after “on or after 8th February 2016”, insert “, and its MCS certificate is issued on or before 31st March 2019”;
 - (b) at the end of sub-paragraph (d)(ii), insert “; and”;
 - (c) after sub-paragraph (d)(ii), insert—
 - “(e) where the installation’s MCS certificate is issued on or after 1st April 2019—
 - (i) the eligibility date is the date on which the application for FIT payments is received by a FIT licensee; and
 - (ii) the tariff date is 1st January 2019.”.

Amendment to article 12 (pre-registration of school installations)

12.—(1) Article 12 is amended as follows.

(2) In paragraph (3), after “the application”, insert “is received by the Authority on or before 31st March 2019, and”.

Amendment to article 27 (calculation of FIT contributions, etc.)

13.—(1) Article 27 is amended as follows.

(2) In paragraph (2)—

- (a) at the end of sub-paragraph (c), omit “and”;
- (b) at the end of sub-paragraph (d), insert “; and”;
- (c) after sub-paragraph (d), insert—
 - “(e) for FIT year 10 and each subsequent FIT year, net metered export payments.”.

(3) In paragraph (4), for “the relevant amount of electricity supplied by A”, substitute “A’s relevant amount of electricity”.

(4) In paragraph (6)—

- (a) after the definition of “customer”, insert—
 - ““EII excluded electricity” means electricity which—
 - (a) constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(3); and
 - (b) is supplied on or after—
 - (i) 1st April 2019, where the Secretary of State is satisfied on or before 31st March 2019 that its deduction as set out in the definition of “relevant amount of electricity” would not breach the law relating to state aid; or
 - (ii) where the Secretary of State is not so satisfied on or before 31st March 2019, the first day of the first month following the day on which the Secretary of State is so satisfied;”;
- (b) in the definition of “the electricity supply market of Great Britain”—
 - (i) at the end of paragraph (a), omit “and”;

- (ii) in paragraph (b), for “FIT year 7 and subsequent FIT years”, substitute “FIT years 7 to 9”;
- (iii) after paragraph (b), insert—
 - “(c) for FIT year 10 and each subsequent FIT year, the total of all licensees’ relevant amount of electricity;”;
- (c) for the definition of “net deemed export payments”, substitute—
 - ““net deemed export payments” means deemed export payments made by a FIT licensee, less the value of deemed exports to the licensee as determined by the Secretary of State under article 38(1)(a), apportioned to the licensee in accordance with the market share of the licensee;”;
- (d) after the definition of “net deemed export payments”, insert—
 - ““net metered export payments” means payments made to a FIT generator or nominated recipient by a FIT licensee in respect of metered exported electricity from an accredited FIT installation, less the value of the export to the licensee as calculated in accordance with the determination of the Secretary of State under article 38(1)(f);”;
- (e) for the definition of “the relevant amount of electricity supplied by A”, substitute—
 - ““relevant amount of electricity” in relation to 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;
 - (b) for FIT years 7 to 9, 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;
 - (c) subject to paragraph (d), for FIT year 10 and each subsequent FIT year, the amount of electricity supplied by A to customers in Great Britain, less—
 - (i) the amount of electricity supplied by A that is EII excluded electricity for that FIT year; and
 - (ii) A’s capped amount of qualifying renewable electricity for that FIT year; and
 - (d) for FIT year 10 and each subsequent FIT year, where the calculation in paragraph (c) results in an amount that is less than zero, nil electricity.”.

Amendment to article 27A (the capped amount of qualifying renewable electricity)

14.—(1) Article 27A is amended as follows.

(2) In paragraph (1), each time it appears, for “the electricity supply market of”, substitute “customers in”.

Amendment to article 38 (determinations relating to levelisation)

15.—(1) Article 38 is amended as follows.

(2) In paragraph (1)—

- (a) at the end of sub-paragraphs (a) and (d), omit “and”;
- (b) at the end of sub-paragraph (e), insert “; and”;

(c) after sub-paragraph (e), insert—

“(f) for FIT year 10 and each subsequent FIT year, the value to FIT licensees, in pence per kilowatt hour, of metered exported electricity for the purpose of calculating the net metered export payments of FIT licensees.”.

Amendment to Schedule A1 (MCS-certified installations)

16.—(1) Schedule A1 is amended as follows.

(2) In paragraph 2(a)—

(a) in paragraph (i), after “a solar photovoltaic installation”, insert “with a commissioning date on or before 11th March 2019”;

(b) after paragraph (i), insert—

“(ia) a solar photovoltaic installation with a commissioning date on or after 12th March 2019, version 3.4 of the document entitled Microgeneration Installation Standard: MIS 3002 requirements for MCS contractors undertaking the supply, design, installation, set to work commissioning and handover of solar-photovoltaic (PV) microgeneration systems (published on 9th November 2018)(4);”;

(c) in paragraph (iii), after “a heat-led combined heat and power installation”, insert “with a commissioning date on or before 11th March 2019”;

(d) at the end of paragraph (iii), omit “or”;

(e) after paragraph (iii), insert—

“(iia) a heat-led combined heat and power installation with a commissioning date on or after 12th March 2019, version 3.3 of the document entitled Microgeneration Installation Standard: MIS 3007 requirements for MCS contractors undertaking the design, supply, installation, set to work, commissioning and handover of a heating system containing a micro-cogeneration package or add-on units (published on 12th November 2018)(5);”;

(f) in paragraph (iv), after “an electricity-led combined heat and power installation”, insert “with a commissioning date on or before 11th March 2019”;

(g) after paragraph (iv), insert—

“(iva) an electricity-led combined heat and power installation with a commissioning date on or after 12th March 2019, version 2.4 of the document entitled Microgeneration Installation Standard: MIS 3007-2 requirements for MCS contractors undertaking the design, supply, installation, set to work, commissioning and handover of a heating system containing an electricity-led micro-cogeneration package or add-on unit(s) (published on 12th November 2018)(6); or”.

(4) Available at <https://www.microgenerationcertification.org/mcs-standards/installer-standards/solar-pv/> and from the Department of Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET on request.

(5) Available at <https://www.microgenerationcertification.org/mcs-standards/installer-standards/micro-combined-heat-and-power-systems-micro-chp/> and from the Department of Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET on request.

(6) Available at <https://www.microgenerationcertification.org/mcs-standards/installer-standards/micro-combined-heat-and-power-systems-micro-chp/> and from the Department of Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET on request.

17th December 2018

Claire Perry
Minister of State for Energy and Clean Growth
Department for Business, Energy and Industrial
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Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order, which applies to Great Britain, amends the Feed-in Tariffs Order 2012.

Articles 3, 4 and 5 amend article 4 (application of this Chapter), article 5 (accreditation of eligible installations) and article 6 (accreditation of eligible installations not previously accredited under the ROO) to prohibit the Authority (the Gas and Electricity Markets Authority) from accrediting installations when new article 7A(1) applies, and to give effect to a grace period introduced in new article 7B.

Article 6 inserts a new article 7A (accreditation on or after 1st April 2019) and a new article 7B (certain delays in grid or radar works). The new article 7A prohibits the Authority from accrediting any installations on or after 1st April 2019, subject to exceptions as follows.

New article 7A(2)(a) excepts installations for which applications for preliminary accreditation are received by the Authority on or before 31st March 2019 and which apply for accreditation during the period of validity of their preliminary accreditation.

New article 7A(2)(b) excepts community energy or school installations for which applications for pre-registration are received by the Authority on or before 31st March 2019, and which apply for accreditation during the period of one year following receipt of the pre-registration application.

New article 7A(2)(c) excepts MCS-scale (solar PV, wind and combined heat and power installations with a declared net capacity of no more than 50kW) installations that are not pre-registered as a community energy or school installation for which an MCS certificate is issued on or before 31st March 2019, and which apply for accreditation on or before 31st March 2020.

New article 7A(2)(d) excepts applications to which the grace period set out in the new article 7B applies.

The new article 7B provides for a one year grace period for installations which have received preliminary accreditation on or before 31st March 2019 and then experience a delay in commissioning due to delays in grid works or radar works.

Articles 7 and 8 amend articles 8B (the application limit) and 8C (the application limit: adjustments) to make provision for how certain installations affected by new article 7A should count towards deployment caps. In particular, a new paragraph 3A is inserted into article 8B which provides that the Authority must determine not to grant accreditation or preliminary accreditation to installations which have applied on or before 31st March 2019 but for which eligibility would otherwise be assessed in a tariff period beginning on or after 1st April 2019, due to the operation of the deployment caps; and a new paragraph 3B and definition of “relevant community energy installation” are inserted into article 8B which provide that community energy installations with an MCS certificate issued on or after 1st April 2019 will have their eligibility assessed by reference to the deployment cap for the tariff period commencing 1st January 2019.

Article 9 amends article 9 (preliminary accreditation) to provide that generators cannot apply for preliminary accreditation on or after 1st April 2019.

Article 10 amends article 10 (effect of preliminary accreditation) to provide that the Authority may accredit an installation which received preliminary accreditation on or before 31st March 2019, and to which the new article 7B grace period applies.

Article 11 amends article 11 (pre-registration of community energy installations) to provide that the Authority must not pre-register a community energy installation where it receives the application for

pre-registration on or after 1st April 2019, nor where an MCS certificate has not been issued for the installation and the relevant deployment cap for the tariff period commencing 1st January 2019 has been exceeded (or would be exceeded if an MCS certificate were issued for the installation). Article 11 also inserts a new sub-paragraph (e) into article 11(5) to provide that, where a community energy installation is pre-registered on or before 31st March 2019 but commissions and accredits after that date, its tariff date is 1st January 2019.

Article 12 amends article 12 (pre-registration of school installations) to provide that the Authority must not pre-register a school installation where it receives the application for pre-registration on or after 1st April 2019.

Articles 13 and 14 amend articles 27 (calculation of FIT contributions, etc.) and 27A (the capped amount of qualifying renewable electricity) to make amendments to how annual levelisation payments are calculated, and to clarify how the calculation operates. In particular, article 27(2) is amended to include net metered export payments in the calculation of a FIT licensee's annual contribution; and article 27(6) is amended to introduce an exemption from that calculation for electricity supplied to energy intensive industry customers (subject to receipt of state aid approval).

Article 15 amends article 38 (determinations relating to levelisation) to include a determination relating to net metered export payments in the Secretary of State's annual determination.

Article 16 amends the definition of "relevant installation standard" in paragraph 2 of Schedule A1 to the Order to refer to updated installation standards for solar photovoltaic installations with a commissioning date on or after 12th March 2019; for heat-led combined heat and power installations with a commissioning date on or after 12th March 2019; and for electricity-led combined heat and power installations with a commissioning date on or after 12th March 2019. Copies of the updated installation standards can be made available on request from the Department of Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

An explanatory memorandum is available with this Order on www.legislation.gov.uk.

An impact assessment has been produced in respect of the changes to the Feed-in Tariffs scheme brought about by this Order and can be obtained from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.