

Amendment to Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010

Amendment of article 2

3.—(1) Article 2 (interpretation) is amended as follows.

(2) In paragraph (1), at the appropriate place insert—
““hydro generating station” has the meaning given to it in the ROO (but excluding such a station which generates electricity from water where the hydrostatic head of the water has been increased by pumping);” and

““NFFO arrangement” has the meaning given to it in the ROO;”.

(3) In paragraph (1), for “Standard Condition 33”, substitute “Standard Licence Condition 33” and for “Standard Condition 34” substitute “Standard Licence Condition 34”.

(4) Omit paragraph (2).

Explanatory note:

Article 3 amends article 2 (interpretation) of the 2010 Order, including the insertion of a new definition of hydro generating station.

Amendment of article 3

4. In article 3 (specified maximum capacity), for “declared net capacity” substitute “total installed capacity”.

Explanatory note:

Article 4 amends article 3 of the 2010 Order to change the measure of capacity used in setting the specified maximum capacity of eligible installations under the FIT scheme.

Insertion of article 5A

6. After article 5 (accreditation of eligible installations not previously accredited under the ROO), insert—

“Accreditation of hydro generating stations with a capacity of 50 kilowatts or less

5A.—(1) Subject to articles 8 and 9, the Authority must accredit an eligible installation as an accredited FIT installation if—

(a) it is a hydro generating station with a declared net capacity of 50 kilowatts or less; and

(b) the Authority is satisfied that the installation meets the criteria in paragraph (2) or (3).

(2) The criteria referred to in paragraph (1)(b) are that—

(a) the eligible installation is first commissioned during the period which began on 1st April 2010 and ends on 1st October 2011; 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.

(3) The criteria referred to in paragraph (1)(b) are that—

(a) the eligible installation is first commissioned after 1st October 2011; and

(b) the installation has been submitted by a FIT licensee for registration under the process for MCS certified registration.

(4) In respect of an installation accredited under this article where the criteria in paragraph (2) are satisfied, the eligibility date is not as provided by Schedule A to Standard Licence Condition 33, but is the date on which the installation is first commissioned.”.

Article 6 inserts article 5A into the 2010 Order. This provides for the accreditation of hydro generating stations with a capacity of 50 kilowatts or less and for the eligibility date of certain of these installations.

Amendment of article 6

7.—(1) Article 6 (accreditation of eligible installations previously accredited under the ROO with a capacity of 50 kilowatts or less) is amended as follows.

(2) In paragraph (1)(a), for “1st October 2010” substitute “1st October 2011”.

(3) After paragraph (2) insert—

“(3) Subject to paragraph (4), in respect of an installation accredited under this article, the

Amendment to Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010

eligibility date is not as provided by Schedule A to Standard Licence Condition 33, but is the date on which the notice given under paragraph (1)(a) is received by the Authority after 1st October 2010.

(4) The eligibility date as provided by Schedule A to Standard Licence Condition 33 does apply to an installation in respect of which the Authority received a notice under paragraph (1)(a) from a FIT generator on or before 1st October 2010.”.

Explanatory note:

Article 7 amends article 6 of the 2010 Order to extend the period in which a FIT generator may submit a notice to the Authority for accreditation until 1st October 2011. Where such a notice is received after 1st October 2010, the eligibility date for the purposes of accreditation of the FIT generator's installation is the date of the notice. This amendment does not affect the accreditation of such installations where the FIT generator gave notice before 1st October 2010 in accordance with the provision in the 2010 Order.

Amendment of article 8

8. For article 8 (exceptions to accreditation applicable to all eligible installations) substitute—
“**8.**—(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 installation 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 (other than an installation accredited under article 6 or 7 of this Order); or

(b) under this Part.

(3) Subject to paragraph (4), 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) a permitted grant; or

(b) a grant other than a permitted grant to which the conditions in paragraph (5) apply.

(5) The conditions referred to in paragraph 4(b) are that—

(a) the grant is made before 1st July 2011;

(b) the installation is first commissioned before 1st October 2011; and

(c) the Authority is satisfied that the making of FIT payments in respect of the installation would be in accordance with a de minimis Commission Regulation.

(6) In this article—

“a de minimis Commission Regulation” means—

(a) Commission Regulation (EC) No. 1998/2006(a) on the application of Articles 87 and 88 of the EU Treaty(b) to de minimis aid;

(b) Commission Regulation (EC) No. 875/2007(c) on the application of Articles 87 and 88 of the EU Treaty to de minimis aid in the fisheries sector and amending Regulation (EC) No. 1860/2004(d); or

Amendment to Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010

(c) Commission Regulation (EC) No. 1535/2007(e) on the application of Articles 87 and 88 of the EU Treaty to de minimis aid in the sector of agricultural production; “grant from public funds” means a grant made by a public authority or by any person distributing funds on behalf of a public authority;

“permitted grant” means—

(a) a grant made before 1st April 2010 in respect of the costs of purchasing or installing an eligible installation where the installation—

(i) was first commissioned before 15th July 2009; or

(ii) is on a residential property and was first commissioned during the period which began on 15th July 2009 and ended on 31st March 2010; or

(b) 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.

(7) In this article, a grant is made when the offer of that grant is accepted by the recipient of the offer.”.

Explanatory note:

Article 8 substitutes a new article 8 of the 2010 Order. This provides exceptions to accreditation under the FIT scheme which are applicable to all eligible installations, including where the purchasing and installation costs of the installation have been funded by a grant from public funds.

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