STATUTORY INSTRUMENTS

2015 No. 2045

ELECTRICITY

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

Made - - - -	*16th December 2015*
Laid before Parliament	*18th December 2015*
Coming into force - -	*15th January 2016*

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 (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(**2**) ("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)(**3**) or EN ISO/IEC 17065:2012(3)(**4**) which certify microgeneration products and installers in accordance with consistent standards;"; and

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

(**1**) 2008 c. 32.
(**2**) S.I. 2012/2782 as amended by S.I. 2013/1099, 2014/1601, 2014/2865, 2015/35 and 2015/1659.
(**3**) European standards are published by the European Committee on Standardization (CEN): www.cen.eu.
(**4**) ISO standards can be obtained from the International Organization for Standardization: www.iso.org.

""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—

"(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";