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STATUTORY INSTRUMENTS

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**2011 No. 2364**

**ELECTRICITY**

**The Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment No.3) Order 2011**

*Made - - - - 23rd September 2011*  
*Laid before Parliament 27th September 2011*  
*Coming into force - - 18th October 2011*

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, commencement and interpretation**

1.—(1) This Order may be cited as the Feed-in Tariffs (Specified Maximum Capacity and Functions) (Amendment No.3) Order 2011.

(2) This Order comes into force on 18th October 2011.

(3) In this Order—

(a) “the 2010 Order” means the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010(2); and

(b) a reference to an article by number alone is a reference to the article so numbered in the 2010 Order.

**Amendments to the 2010 Order**

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

(2) In paragraph (1), omit “from a FIT licensee”.

(3) Omit paragraphs (2) and (3).

(4) In paragraph (4)—

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

(b) omit sub-paragraph (b).

3. In article 16, for paragraph (1) substitute—

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(1) 2008 c.32.

(2) S.I. 2010/678, as amended by S.I. 2011/1181 and S.I. 2011/1655.

“16.—(1) Paragraph (2) applies where—

- (a) the Authority receives notice that an installation which uses an eligible low-carbon energy source (“the existing installation”) has been extended; and
- (b) either—
  - (i) a request for accreditation of the existing installation as an accredited FIT installation has been refused; or
  - (ii) if a request were made for accreditation of the existing installation, the request would be refused.”.

4. After article 16 insert—

**“Part 4: interpretation**

**16A.** In this Part, “notice”, in relation to an installation, means a notice given to the Authority by—

- (a) a FIT licensee; or
- (b) the owner of the installation.”.

**Transitional provision**

5.—(1) Paragraph (2) applies where an installation has been extended as described in paragraph (3) (“Case 1”) or paragraph (4) (“Case 2”).

(2) In relation to the accreditation of that extension, article 15 applies as if the amendments made by article 2(3) and (4) of this Order had not been made.

(3) Case 1 is that before 18th October 2011—

- (a) an extension to an accredited FIT installation has been commissioned; and
- (b) the Authority or the relevant FIT licensee has received notice of the extension.

(4) Case 2 is that—

- (a) before 18th October 2011—
  - (i) a request has been made to the Authority, or (in the case of an eligible installation with a total installed capacity not exceeding 50kW) a FIT licensee, for accreditation of an eligible installation which has been commissioned;
  - (ii) an extension to that eligible installation has been commissioned; and
  - (iii) the Authority or the FIT licensee has received notice of that extension; and
- (b) the eligible installation is subsequently accredited as an accredited FIT installation.

(5) In this article—

- (a) the following expressions have the same meanings as in the 2010 Order—
  - “accreditation”;
  - “accredited FIT installation”;
  - “the Authority”;
  - “central FIT register”;
  - “commissioned”;
  - “eligible installation”;
  - “extension”;
  - “FIT licensee”;

“FIT payments”; and

“total installed capacity”; and

- (b) in paragraph (3), “relevant FIT licensee” means the FIT licensee identified on the central FIT register as responsible for making FIT payments in respect of the accredited FIT installation.

23rd September 2011

*Charles Hendry*  
Minister of State  
Department of Energy and Climate Change

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Feed-in Tariffs (Specified Maximum Capacity and Functions) Order 2010 (S.I. 2010/678) (“the 2010 Order”).

The 2010 Order gives functions to the Gas and Electricity Markets Authority (“the Authority”) in connection with the administration of the feed-in tariffs scheme (“the FIT scheme”). Other provisions of the FIT scheme are contained in the modifications to electricity supply licences made under section 41 of the Energy Act 2008 (c.32) which are available from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

Article 2 amends article 15 of the 2010 Order (accreditation of extensions to accredited FIT installations) so that, in all cases where an installation is extended by increasing its capacity to generate electricity using the same energy source for which it is accredited, the extension is to be treated as a separate eligible installation and, if it is accredited to receive feed-in tariffs, is to be assigned a tariff code based on the aggregate capacity of both the extension and the existing installation.

Article 3 amends article 16 of the 2010 Order (accreditation of extensions to installations which are not accredited FIT installations) to clarify the circumstances in which paragraph (2) of that article applies.

Article 5 makes transitional provision. Paragraphs (2) and (3) of article 15 of the 2010 Order, which are revoked by this Order, will continue to apply to the accreditation of extensions in the two transitional cases set out in article 5(3) and (4). Under those paragraphs, extensions to an accredited FIT installation commissioned on or before the first anniversary of the confirmation date of the existing installation are to be treated as if they were part of the original installation for the purposes of accreditation.

An impact assessment has been prepared in respect of this Order and copies can be obtained from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.