

SUBSIDIARY LEGISLATION 423.46

**FEED-IN TARIFFS (ELECTRICITY
GENERATED FROM SOLAR PHOTOVOLTAIC
INSTALLATIONS) REGULATIONS**

10th September, 2010

*LEGAL NOTICE 422 of 2010, as amended by Legal Notices 70 of 2011
and 63 of 2012.*

1. (1) The title of these regulations is the Feed-in Tariffs (Electricity Generated from Solar Photovoltaic Installations) Regulations. Title and purpose.

(2) The purpose of these regulations is to establish a feed-in tariff for electricity generated from solar photovoltaic installations and hence to promote and support the generation of electricity from renewable energy sources.

2. (1) Unless otherwise stated in these regulations, the definitions in the Act shall apply. Definitions.
Amended by:
L.N. 70 of 2011.

(2) In these regulations, unless the context otherwise requires:

"the Act" means the Malta Resources Authority Act; Cap. 423.

"the Authority" means the Malta Resources Authority as established by the Act;

"commissioned" means the first time a solar photovoltaic installation is put into operation, following the establishment of operational readiness;

"distribution" means the transport of electricity on high voltage, medium voltage and low voltage distribution systems with a view to its delivery to consumers, but not including supply;

"distribution system" means all the interconnected technical facilities used for conveying electricity to final customers;

"domestic premises" means premises which include private dwellings with no persons registered with Enemalta as residing in them such as second homes, or private garages and common areas including roofs, stairs, terraces, gardens to buildings which are used solely for private dwellings;

"Enemalta" or "the Corporation" means the Enemalta Corporation established by the Enemalta Corporation Act; Cap. 272.

"FIT" means feed-in tariff;

"FIT scheme" means the annual scheme whereby a specific amount of electricity generated by eligible solar photovoltaic installations and exported to the distribution system are paid a feed-in tariff as established in terms of these regulations;

"generation" means the production of electricity;

"installation operator" means the owner of the solar photovoltaic installation;

"institutional households" shall include the following premises:

- (a) healthcare institutions such as premises used as a hospital, nursing home or as any institution providing medical or nursing care;
- (b) institutions for retired, elderly or disabled persons, including premises used as a home for the retired or elderly persons or persons with any disability;
- (c) educational institutions including premises used as a boarding school or for similar purposes;
- (d) care institutions including premises used as orphanages, shelter homes, open centres for refugees or for similar purposes;
- (e) religious institutions including premises used as convents, retreat houses, or for similar purposes;
- (f) military institutions such as military barracks;
- (g) other institutions including premises used as boarding houses, penal or correctional facilities or for similar purposes;

"kW" means kilo Watt;

"kWh" means kilo Watt hours;

"marginal cost per unit" means the additional cost of producing one more unit as prescribed in the Fourth Schedule;

"metering equipment" means the electricity meters provided by Enemalta including smart meters, any voltage and current transformers and any other associated equipment and wiring required to measure the quantity of electricity supplied or exported;

"the Minister" means the Minister responsible for resources;

"non-residential premises" means a building or plot of land which is used wholly or mainly for the purpose of conducting an economic activity, but does not include any building such as private garages or common areas to buildings which are used solely as private dwellings;

"operational readiness" means the capability to function in accordance with design and specifications;

"period of guaranteed payment of the feed-in tariff" means the period of time over which the feed-in tariff for all electricity generated from a solar photovoltaic installation is guaranteed;

"renewable energy sources" means renewable non-fossil energy sources, that is, wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

"residential premises" means any premises used solely and regularly as a private dwelling where at least one person resides but does not include institutional households;

"smart meters" shall have the same meaning as in the Electricity

Supply Regulations;

"spill-off tariff" means the tariff to be paid for every unit generated by the installation operator in excess of own consumption and exported to the distribution system;

"solar photovoltaic installation" means a solar photovoltaic system that generates electricity exclusively from solar radiation and consisting of all accessories including:

- (a) an array or arrays of photovoltaic modules that collect and absorb sunlight for conversion into electricity;
- (b) an inverter or inverters;
- (c) associated balance of system components, including wiring, conduits, switchgear, protection equipment, ancillary equipment and any other part of the installation necessary for the production and conveyance of electricity up to the metering equipment supplied by Enemalta,

after the said solar photovoltaic installation has been approved by the Authority as meeting the applicable criteria specified in the First Schedule;

"submission date" means, in the case of a solar photovoltaic installation mentioned in regulation 4(1), the date on which the request to participate in the FIT scheme is received by the Authority and, in the case of a solar photovoltaic installation mentioned in regulation 4(2), the date when a notification or an application for an authorisation to construct a solar photovoltaic installation, as the case may be, is received by the Authority together with the request to participate in the FIT scheme.

3. These regulations shall apply to any solar photovoltaic installation which generates electricity exclusively using solar photovoltaic panels and insofar as such solar photovoltaic installation is installed either in a residential or domestic premises or non-residential or institutional household and is connected to the distribution system either directly or indirectly with the appropriate protection and metering equipment:

Applicability.
Amended by:
L.N. 70 of 2011.

Provided that these regulations shall not apply to installation operators who are benefiting from a project specific feed-in tariff agreement, or are benefiting from any other arrangement approved by the Authority.

4. (1) In the case of a solar photovoltaic installation commissioned and connected to the distribution system with the appropriate metering equipment provided by Enemalta prior to the entry into force of these regulations, the installation operator may opt either to:

Sale of electricity generated from solar photovoltaic installations.
Amended by:
L.N. 70 of 2011.

- (a) retain existing net metering arrangements with Enemalta and be paid the spill-off tariff for any electricity generated from the solar photovoltaic installation and exported to the distribution system paid prior to the entry into force of these regulations:

Provided that the installation operator may not avail

himself of this option when an undertaking with Enemalta existing prior to the entry into force of these regulations requires him to switch over from existing net metering arrangements to a feed-in tariff arrangement once this is established; or

- (b) request the Authority:
 - (i) either to sell all electricity generated by the solar photovoltaic installation to Enemalta in accordance with regulation 6,
 - (ii) or to generate electricity primarily for own consumption in the premises where the photovoltaic installation is located and to be paid the feed-in tariff in accordance with regulation 6 for any excess electricity generated and exported to the distribution system.

(2) In the case of any solar photovoltaic installation commissioned after the entry into force of these regulations and satisfying the eligibility criteria established in the First Schedule, the installation operator may:

- (a) either sell all electricity generated by the solar photovoltaic installation to Enemalta in accordance with regulation 6;
- (b) or generate electricity primarily for own consumption in the premises where the solar photovoltaic installation is located and be paid the feed-in tariff in accordance with regulation 6 for any excess electricity generated and exported to the distribution system.

(3) Where an installation operator referred to in subregulation (1) opts for either of the options in subregulation (1)(b), such installation operator will not be permitted to revert to the net metering arrangements provided in subregulation (1)(a).

(4) Any expenses incurred by the installation operator for the reversion from the existing net metering arrangements to the arrangements in subregulation (1)(b) shall be borne by the installation operator.

(5) Notwithstanding the provisions of subregulation (1)(a), an installation operator whose solar photovoltaic installation has been installed prior to the entry into force of these regulations, may not retain existing net metering arrangements if the capacity of the solar photovoltaic installation is increased after the entry into force of these regulations.

(6) The installation operator shall not be eligible for the feed-in tariff unless the solar photovoltaic installation is compliant with the eligibility criteria established by the First Schedule and he obtains the necessary authorisations, licences or permits from the relevant competent authorities and Enemalta.

(7) In the case where the installation operator opts to utilise the electricity generated by the solar photovoltaic installation, Enemalta shall install metering equipment to measure all the

electricity generated by the solar photovoltaic installation in addition to the import/export metering equipment.

(8) Subject to the satisfaction of the eligibility criteria established in the First Schedule, in the case where an installation operator increases the generation capacity of a solar photovoltaic installation which is connected to the distribution system, the feed-in tariff to be paid by Enemalta shall be that which is applicable during the year when such increased capacity is notified to or authorised by the Authority, and which feed-in tariff shall be payable in respect of the whole solar photovoltaic installation as increased in capacity.

(9) Where the installation operator has benefited from a grant on any part of the solar photovoltaic installation, the whole solar photovoltaic installation shall be deemed as benefitting from the grant for the purpose of determining the feed-in tariff applicable for the whole solar photovoltaic installation.

(10) The electricity generated from different installations within the same premises shall be separately metered when those installations generate such electricity from different renewable energy sources.

(11) For the purposes of these regulations, the owner of the installations generating electricity from renewable energy sources in the same premises may opt either to export all the electricity generated at the applicable feed in tariff as the case may be for each type of renewable energy source as separately metered, or to generate electricity primarily for own use and to export the surplus at the lowest of the applicable feed-in tariffs payable for the electricity generated and exported to the distribution system from renewable energy sources.

5. (1) The feed-in tariffs shall be due from the time when the installation operator first produces electricity exclusively from the solar photovoltaic installation and is connected to the distribution system as provided in regulation 3 or, for those solar photovoltaic installations commissioned prior to the entry into force of these regulations and where the installation operator has opted for either of the arrangements in accordance with regulation 4(1)(b), from the date of the necessary modifications to the installation connection effected by Enemalta which would permit the arrangements in regulation 4(1)(b).

Commencement
and duration of
feed-in tariff
payment.
*Amended by:
L.N. 70 of 2011.*

(2) The feed-in tariffs shall be paid for the period of guaranteed payment of the feed-in tariff referred to in the Second Schedule depending upon the applicable solar photovoltaic installation's location and the type of premises wherein it is installed.

(3) In the case of solar photovoltaic installations commissioned prior to the entry into force of these regulations and where the installation operator opts to sell all electricity generated from the solar photovoltaic installation to Enemalta in accordance with the provisions of regulation 4(1)(b), the period of guaranteed payment of the feed in tariff referred to in the Second Schedule shall include the period of time during which the installation operator has already benefited from net metering and spill off tariff

arrangements prior to the entry into force of these regulations:

Provided that in the case where the installation operator expands the existing capacity of the solar photovoltaic installation, the period of guaranteed payment of the feed-in tariff applicable for the entire installation after such expansion shall be considered as commencing from the date of installation of the metering equipment by Enemalta to enable the net metering arrangement for the original installation.

(4) Where any person replaces or increases the capacity of the solar photovoltaic installation in whole or in part, the installation operator shall not be entitled to the re-commencement or extension of the period of guaranteed payment of the feed-in tariff:

Provided that the same terms and conditions applicable for that period of guaranteed payment of the feed-in tariff shall subsist.

(5) The feed-in tariff shall only be applicable up to the extent of and for the total amount of electricity exported to the distribution system by the solar photovoltaic installation as approved by the Authority.

Feed-in tariff.
Amended by:
L.N. 70 of 2011.

6. The feed-in tariff to be paid by Enemalta to installation operators for electricity generated by solar photovoltaic installations in accordance with regulation 3 shall be as established in the Second Schedule:

Provided that any electricity generated by the solar photovoltaic installations and exported to the distribution system in excess of the thresholds established in the Second Schedule shall be paid at the applicable electricity rate as established in the Fourth Schedule:

Provided further that in the case where the installation operator benefits or has benefited from a grant of more than 50% of the initial capital investment with regard to the solar photovoltaic installation, the feed-in tariff that shall be paid by Enemalta shall decrease by €0.002 per kWh for every 1% exceeding the aforementioned 50% of the initial capital investment received as part of the grant:

Provided also that the feed in tariff shall not be less than the marginal cost per unit incurred by Enemalta as established in the Fourth Schedule.

Maximum
electricity exported
in FIT scheme.

7. (1) The total maximum electricity generated by solar photovoltaic installations and exported to the distribution system which shall be eligible to be paid the feed-in tariff for each annual FIT scheme and after the entry into force of these regulations shall be that established in the Third Schedule.

(2) The maximum electricity generated by solar photovoltaic installations and exported to the distribution system established in the Third Schedule shall be composed of electricity generated and exported to the distribution system by:

(a) solar photovoltaic installations approved by the Authority during the year for which the thresholds for

electricity generated and exported to the distribution has been established; and

- (b) solar photovoltaic installations approved by the Authority, commissioned prior to the entry into force of these regulations, and where the installation operators during the year in which the thresholds for electricity generated and exported to the distribution has been established have opted for either of the options in regulation 4(1)(b).

8. (1) Enemalta may set off amounts due by an installation operator for the supply of electricity against amounts due to the installation operator for the exporting of electricity under these regulations:

Setting off
payment claims.

Provided that such setting off shall only be permissible where the claims are undisputed or are certain, liquidated and due.

(2) Where the amounts due to the installation operator for the exporting of electricity referred to in subregulation (1) are in excess of the amounts due by an installation operator for the supply of electricity by Enemalta, the Corporation shall credit the installation operator the balance due by means of a credit note:

Provided that the installation operator may request to be paid the balance due by means of such credit note after four consecutive billing periods for the supply of electricity by Enemalta to the installation operator have elapsed.

(3) Meter readings for the electricity exported shall be taken with the same frequency as the readings of consumption of electricity supplied by Enemalta.

9. (1) Following the expiry of the period of guaranteed payment of the feed-in tariff, the installation operator may opt and by written notice to Enemalta request the Corporation to effect the necessary modification to the solar photovoltaic installation connection to the distribution system to enable the installation operator to utilise the electricity generated from the solar photovoltaic installation for his own use within his premises and to be compensated for any exported electricity at the applicable rate for such electricity at the time as provided in the Fourth Schedule and subject to regulation 4(7):

Sale of electricity
after the expiry of
the period of
guaranteed
payment of the
feed-in tariff.

Provided that Enemalta shall accede to the installation operator's request after effecting the necessary modifications to the solar photovoltaic installation connection to the distribution system.

(2) Any installation operator who opts for such arrangements as established in subregulation (1) shall bear the costs of any modifications necessary including those related to the metering and connection required by Enemalta.

(3) Where the installation operator does not inform Enemalta to effect the necessary modification to the solar photovoltaic installation connection as provided in subregulation (1), Enemalta shall continue to purchase all the electricity generated by the solar

photovoltaic installation and exported to the distribution system, and shall reimburse the installation operator for such electricity at the rate established in the Fourth Schedule.

Obligations of installation operators.

10. Installation operators shall:

- (a) submit such information as the Authority may reasonably require;
- (b) inform the Authority and Enemalta, in the form and manner they may reasonable require, if the solar photovoltaic installation is disconnected or transferred, sold or in any form modified in such a way as to degrade its performance during the period of guaranteed payment of the feed-in tariff established in terms of these regulations;
- (c) comply at all times with the provisions of the applicable legislation, notification, authorisation, licence conditions and Network Code as approved by the Authority;
- (d) make available to Enemalta and to the Authority data required to be recorded for the purposes of these regulations.

Succession and transferability of obligations and benefits under the FIT scheme.

11. Where an installation operator is deceased, or by reason of any other act or event, permanently ceases to be the installation operator, payment of the feed-in tariffs for electricity generated by solar photovoltaic installation under these regulations for the remaining period of guaranteed payment of the feed-in tariff may be transferable to the new installation owner:

Provided that:

- (a) the new installation operator informs Enemalta and the Authority of such change in ownership in such form and manner as they may establish, together with any documentary proof and information that they may establish for such purposes;
- (b) the new installation operator takes over all obligations held by the previous installation operator;
- (c) such person shall not be considered by Enemalta and the Authority as a new installation operator if such installation operator is not in compliance with any other law, permit or any requirement in relation to the solar photovoltaic installation.

Change of use of premises.

12. In the case of change of use of premises during the period of guaranteed payment of the feed-in tariff established by these regulations, the applicable tariff and the period of guaranteed payment of the feed-in tariff shall change accordingly:

Provided that in such cases the period of guaranteed payment of the feed-in tariff shall include the time for which the installation operator has already benefited from a feed in-tariff.

13. Installation operators shall not be entitled to any tradable green certificate for electricity generated from the solar photovoltaic installation and for which the feed-in tariff is paid or for which the installation operator enjoys a net metering arrangement with a spill-off tariff or benefits from any of the arrangements provided in regulation 9.

Tradeable green certificates.

14. The provisions dealing with access, inspection, modification or tampering of meters found in the Electricity Supply Regulations shall *mutatis mutandis* apply to solar photovoltaic installation operators in the same manner as provided for in those regulations.

Access, inspection, etc. of metering equipment.
S.L. 423.01

*Amended by:
L.N. 70 of 2011.*

FIRST SCHEDULE

(Regulation 4)

Eligibility Criteria to participate in FIT scheme

Eligibility Criteria:

The electricity generated by a solar photovoltaic installation and exported to the distribution system is eligible to be paid at the established feed-in tariff rate determined by these regulations subject to the following criteria being satisfied:

1. The electricity is exclusively generated using solar radiation from solar photovoltaic installations which are approved by the Authority.
2. The electricity generated by the solar photovoltaic installation and exported to the distribution system is within the thresholds specified in the Second Schedule.
3. The solar photovoltaic installation has been approved by the Authority for participation in the FIT scheme during the year for which the applicable feed-in tariff is established. In the case of a solar photovoltaic installation mentioned in regulation 4(1), the submission date of a request to participate in the FIT scheme shall be considered in the determination of eligibility for the FIT scheme. In the case of a solar photovoltaic installation mentioned in regulation 4(2), the submission date of the notification or application for authorisation (as applicable) together with the request to participate in the FIT scheme, shall be considered in the determination of eligibility for the FIT scheme.
4. A solar photovoltaic installation shall be considered as eligible for participation in the FIT scheme if the amount proposed for export to the distribution system may be accommodated within the total maximum of electricity generated by solar photovoltaic installations eligible to benefit from the FIT scheme for the applicable year as determined in regulation 7 and in the Third Schedule. Participation to the FIT scheme shall be determined on a first-come first-served basis and each kW installed shall be attributed a generation of 1600kWh.
5. The solar photovoltaic installation is notified to or authorised by the Authority in accordance with any applicable legislation.
6. The solar photovoltaic installation is commissioned at least within 12 months from the date of -
 - a. notification to the Authority of the solar photovoltaic installation, or
 - b. authorisation granted by the Authority to construct the solar photovoltaic installation.
7. The installation operator complies at all times with the obligations established in these regulations, the Network Code and all other applicable legislation.

SECOND SCHEDULE
(Regulations 3, 5, 6)

*Amended by:
L.N. 70 of 2011;
L.N. 63 of 2012.*

1. Electricity generated exclusively by solar photovoltaic installations installed on residential or domestic premises in accordance with regulation 3 and exported to the distribution system up to a threshold of 4800kWh/annum.

The feed-in tariff to be paid by Enemalta to an installation operator for electricity generated from solar photovoltaic installations approved for the FIT scheme in the years 2010, 2011 and the first six months of 2012 and installed on residential or domestic premises shall amount to:

- (a) 25 cents per kWh for a period of guaranteed payment of the feed-in tariff of 8 years for electricity generated from solar photovoltaic installations located in Malta;
- (b) 28 cents per kWh for a period of guaranteed payment of the feed-in tariff of 8 years for electricity generated from solar photovoltaic installations located in Gozo.

2. Electricity generated exclusively by solar photovoltaic installations installed on non-residential premises or institutional households in accordance with regulation 3 and exported to the distribution system up to a threshold of 160,000kWh.

The feed-in tariff paid by Enemalta to an installation operator for electricity generated from solar photovoltaic installations approved for the FIT scheme in the years 2010, 2011 and the first six months of 2012 and installed on non-residential premises or institutional household premises in accordance with regulation 3 for a period of guaranteed payment of the feed-in tariff of 7 years shall amount to 20 cents per kWh.

THIRD SCHEDULE
(Regulation 7)

*Substituted by:
L.N. 70 of 2011.*

Total maximum electricity generated by solar photovoltaic installations and exported to the distribution system eligible to benefit from the feed-in tariff

Year	Total maximum electricity generated by solar photovoltaic installations and exported to the distribution system eligible to benefit from the FIT scheme
2010	12,000,000kWh
2011	24,000,000 kWh plus any unallocated units remaining from 2010

*Amended by:
L.N. 70 of 2011.*

FOURTH SCHEDULE

(Regulations 6, 9)

Electricity rate per kWh applicable for electricity generated by the solar photovoltaic installation and exported to the distribution system after the expiry of the period of guaranteed payment of the feed in tariff or where the thresholds for the eligibility of the FIT are exceeded.

The electricity rate per kWh referred to in regulations 6 and 9 that shall be paid by Enemalta to the installation operator for any electricity generated by the solar photovoltaic installation and exported to the distribution system for each year after period of guaranteed payment of the feed-in tariff referred to in the Second Schedule or at any time when in excess of the thresholds defined in the Second Schedule shall amount to the marginal cost per unit of electricity incurred by Enemalta for the particular year as approved by the Authority.

The Authority may define which cost items may be considered in the determination of the marginal cost per unit of electricity incurred by Enemalta.

The marginal cost per unit for the year 2011 shall be of eleven cents (€0.11) per kWh.
