

# DBULLETIN

## Court of Appeal decision on FiT cuts

The Department for Energy and Climate Change (DECC) has lost its battle to overturn the High Court's ruling which branded the implementation of the cuts to halve the Feed-in Tariff (FiT) as unlawful. DECC disagrees with the ruling and following judgment, Energy Secretary Chris Huhne has announced that they will be seeking permission to appeal to the Supreme Court.

DECC announced the cuts to the FiT in October (to take effect from 12 December 2011) to prevent the scheme from exceeding its budget before the official consultation on the reforms closed. In December the High Court ruled that the government's handling of the cuts was "legally flawed", following a legal challenge by Friends of the Earth and two solar firms - Solarcentury and HomeSun. Friends of the Earth called upon the government to focus on reforming the solar payments but the government appealed the ruling. A Court of Appeal case then ensued and on 25th January the three appeal judges unanimously agreed to uphold the High Court's ruling. This means that FiT payments will remain at the higher rate of 43.3p/kWh for now and the cuts purported to be imposed on 12th December are of no effect.

### **Is the Court of Appeal decision enough to restore confidence in the solar sector and reignite solar projects?**

Whilst the decision was welcomed by many engaged in and connected to the solar industry, it may be too late for those who have already aborted solar installation plans. Chris Huhne released a Ministerial Statement on 26th January announcing that the government has put before Parliament draft licence modifications that would bring a 21p/kWh rate into effect from 1st April for new solar panels commissioned on or after 3rd March. In his statement Chris Huhne said

"we want to maximise the number of installations that are possible within the available budget for FiTs, rather than use available money to pay a higher tariff to half the number of installations". According to the government, the scheme is already close to exceeding its budget for the financial year. Confirmation is awaited but given the economic outlook it seems likely that the cuts will come into effect from April this year.

DECC intends to publish phase 2 of the consultation by 9th February, which will include proposed tariffs for other technologies and a set of reforms for the scheme. DECC will also be publishing the response to phase 1 of the consultation on the proposals for energy efficiency and multi-installation tariff rates.

The restoration of higher FiT rates will be very good news for those schemes which have works in progress but it is unlikely to spark a new rush to install. Regardless of the timing of the cuts, there are many contractors and investors in the market who believe that solar FiT schemes would remain viable at a lower rate of 21p/kWh so there may still be a flicker of hope for getting solar PV schemes off the ground.

If you require any further information or if we can assist you with any of your energy and climate change matters please contact:

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