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15 March 2012

Our ref: 12/0299

Dear ,

RE: Supreme Court appeal against changes to FITs scheme and estimated costs

Thank you for your Freedom of Information request received on 22 February 2012 as set out below.

Your requests, received 22 February from

“Could you please supply me with the following information in compliance with the above Act?

- 1. The specific grounds upon which DECC based its request to the Supreme Court for permission to bring a direct appeal to that court following the rejection of the Departments appeal against changes to the Feed in Tariff Scheme in the High Court, heard on the 13th January 2012 (Judgement delivered on the 25th January 2012).*
- 2. The estimated cost of the proposed action.”*

We have now completed searching for the information you requested and the response is set out per question below.

“1. The specific grounds upon which DECC based its request to the Supreme Court for permission to bring a direct appeal to that court following the rejection of the Departments appeal against changes to the Feed in Tariff Scheme in the High Court, heard on the 13th January 2012 (Judgement delivered on the 25th January 2012).”

Our application for permission to appeal directly to the Supreme Court is for permission to appeal against the judgement of the Court of Appeal, which heard our appeal against the High Court’s judgement. The High Court gave its judgment on 21 December 2011, and the Court of Appeal judgment was delivered on 25 January 2012.

The information requested has been withheld under section 32(1) of the Freedom of Information Act which exempts information contained in certain litigation documents and court, tribunal and inquiry cases (see <http://www.justice.gov.uk/downlo+ads/information-access-rights/foi/foi-exemption-s32.pdf>). This is an absolute exemption and there is therefore no requirement to consider the public interest. You can apply to the registry of the Supreme Court to see the documents requested (a fee is charged for the application).

“2. The estimated cost of the proposed action.”

As of 25 January 2012, we have incurred costs of approximately £66,400 for the Judicial Review on proposals for installations with an eligibility date on or after 12 December 2011 to receive new lower tariffs when changes are made in April. If the Supreme Court agrees to hear our case then we will incur more costs, but it is not possible to estimate this cost at this stage. If the Supreme Court ultimately finds in our favour, we will expect to recover all or a substantial proportion of our costs.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the DECC Information Rights Unit (foi@decc.gsi.gov.uk)

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

Feed-in Tariffs Policy Development
Office of Renewable Energy Deployment
Department of Energy and Climate Change – www.decc.gov.uk