Guidance Note on:
(a) Process for applications for extensions under clause 9.6 of the REFIT 2 Scheme Terms and Conditions
(b) Process for applications for extensions under clause 9.6 of the REFIT 3 Terms and Conditions

Purpose of this Guidance Note:
This Guidance Note applies to applicants who are currently approved under REFIT 2 and REFIT 3 Schemes, and assumes a familiarity with and knowledge of the REFIT 2 and REFIT 3 Terms and Conditions. This Guidance Note is intended to assist persons considering making applications for extensions of time pursuant to clause 9.6 of the REFIT 2 Terms and Conditions and clause 9.6 of the REFIT 3 Terms and Conditions. Clause 9.6 of REFIT 2 and REFIT 3 Terms and Conditions are worded in identical manner and this Guidance Note applies to applications under both Schemes. Condition 9.6 is contained in Annex 1 to this Guidance Note together with links to the Terms and Conditions of REFIT 2 and Refit 3 respectively.

This Guidance Note should be read in conjunction with the Terms and Conditions of the REFIT 2 and REFIT 3 Schemes. The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case. While every effort is made to ensure that the information given is accurate, responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

Applications for extension of time:
Clause 9.6 of REFIT 2 and REFIT 3 Terms and Conditions respectively, provides that applicants may apply in writing to the Minister for extensions of time where, due to circumstances beyond their control, they are unable to meet specific time deadlines pertaining to material or information required to be submitted to the Department, and providing the reasons and the extended time required. The Minister at his sole discretion will consider such applications, and may accede to a request provided the applicant meets the five sub-conditions of Clause 9.6 in their application. This is a discretionary power of the Minister, and he is not obliged to accede to any application, and Clause 9.6 does not give rise to any legitimate expectation or promise of any kind.

The five sub-conditions of Clause 9.6
Each of the five (5) sub-conditions of Clause 9.6 must be met and therefore must be detailed in the application for an extension under clause 9.6. Documentation supporting the application and each of the sub-conditions should be submitted by applicants where applicable.
In particular, it is necessary that applicants submit documentation to evidence how any extension of time sought will result in the obligation involved being realised within the extended time sought.

Extension of time for connection timelines under REFIT 2 and REFIT 3:

For Applications regarding the following connection timelines:

- For REFIT 2 this means that projects must be connected by 31 December 2019.
  "connected" under REFIT 2 means:
  (a) site substation works constructed and site energised or site substation works constructed and turbines/generating station delivered onsite (with evidence of same submitted to Department) by 31 December 2019, and
  (b) REFIT Power Purchase Agreement (PPA) commenced on the basis of having at least 75% of installed capacity by 31 March 2020.

- For REFIT 3 this means that projects must be connected by 30 September 2019.
  "connected" under REFIT 3 means:

  1. Evidence previously provided by 30 September 2017 that the project has funding arranged for the completion of the construction of the project and has contractually committed to the delivery of the turbine. and
  2. The REFIT Power Purchase Agreement (PPA) commenced on the basis of having the installed capacity operational by 30 September 2019.

In respect of sub-condition (v) – that the obligation referred to can be reasonably shown to be achievable by the requested extended date – the Minister in considering whether to grant extensions will examine the following matters as indicative of sub-condition (v) being demonstrated, and the absence of any of these will be a strong indicator of inability to meet sub-condition (v):

- The relevant Project has full planning permission now and for the duration for which the extension is sought;
- Further, that full planning permission exists for the grid connection and associated works involved;
That the Project has been confirmed by ESB Networks (ESBN) as included in their Connection Programme and a confirmed expected connection date has been provided to the applicant by ESBN; and

- It must be shown that the project is expected to meet the required conditions for ‘connected’, as defined above under the REFIT 2 Scheme or the REFIT 3 Scheme, whichever is applicable in the circumstances of the application, by the requested extension date.

**Decisions on extension requests:**

Only projects that meet all the relevant sub-conditions of Clause 9.6 of REFIT 2 and REFIT 3 Terms and Conditions, in their applications for extensions, will be considered. Thereafter it should be noted that there is no obligation upon the Minister to issue an extension to deadlines under the REFIT schemes. Extensions will only be considered in exceptional circumstances in order to maximise connections of renewable energy projects, in accordance with REFIT 2 & REFIT 3 Schemes and the State Aid Decision regarding same, and to minimise costs to consumers and at the sole discretion of the Minister.

**Applications can be made by email to Refitquery@DCCAE.gov.ie:** or by post to the address below:

Principal Officer,  
Electricity Policy Division,  
Department of Communications, Climate Action and Environment,  
29-31 Adelaide Road,  
Dublin 2.  
D02 X285

Electricity Policy Division  
20 June 2019
Annex 1

**Condition 9.6 of the REFIT 2 and 3 Schemes**

Condition 9.6 states that:

*If the applicant, due to circumstances beyond their control, will be unable to meet specific time deadlines pertaining to material or information required to be submitted to the Department and if an extension to the time limit is required, then the applicant shall give prior written notification to the Minister setting out the reasons and the extended period which the applicant requires to meet the relevant obligation and the Minister may, at his sole discretion, if satisfied that:*

(i) the circumstances stated have occurred, and  
(ii) the reasons for the delay are outside the control of the applicant, and  
(iii) do not arise due to the fault or neglect of the applicant, its servants or agents, and  
(iv) that the time extension sought is reasonable, and  
(v) that the obligation referred to can be reasonably shown to be achievable by the requested extended date,

accede to the request to extend the time deadline limit (but the Minister shall not be obliged to do so and this discretionary power shall not give rise to any legitimate expectation or promise of any kind).