

2016 No. 121

RATING AND VALUATION

The Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2016

Made - - - - 22nd February 2016

Laid before the Scottish Parliament 24th February 2016

Coming into force - - 1st April 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2016 and come into force on 1st April 2016.

Amendment of the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010

2. The Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010(b) are amended as follows.

Amendment of regulation 3

3. In regulation 3 (amount payable as rates – lands and heritages used for renewable energy generation)—

- (a) in paragraph (1)—
 - (i) after sub-paragraph (a), insert—

“(aa) the lands and heritages are used for a project falling within regulation 3A (whether that project is carried out wholly on those lands and heritages or partly on those, and partly on other, lands and heritages);”;
 - (ii) at the end of sub-paragraph (b), insert “on or after 1st April 2016”;
- (b) in paragraph (2), for “paragraph (4)” substitute “regulation 3C(3)”;
- (c) omit paragraphs (3) and (4).

(a) 1994 c.39. Section 153 was amended by section 67 of the Climate Change (Scotland) Act 2009 (asp 12). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) S.S.I. 2010/44, as amended by S.S.I. 2010/440.

New regulations 3A to 3C

4. After regulation 3, insert—

“Projects referred to in regulation 3(1)

3A.—(1) A project falls within this regulation if there are arrangements in place which give to a community organisation or community organisations, in return for investment in the project by that organisation or those organisations, entitlement to a sum equivalent to—

- (a) at least 15% of the annual profit of the project; or
- (b) so much of the annual profit of the project as is attributable to 1 megawatt of the total installed capacity of the project (or more).

(2) In paragraph (1), “community organisation” has the same meaning as in article 11 of the Feed-in Tariffs Order 2012(a).

Amount payable as rates – new lands and heritages used for renewable energy generation

3B.—(1) This regulation grants relief to a person who is liable to pay rates levied under section 7B(b) of the 1975 Act in respect of lands and heritages which are first entered in the valuation roll on or after 1st April 2016 if—

- (a) that person is using the lands and heritages solely for the generation of renewable heat or power (or both); and
- (b) application for relief is made in accordance with regulation 4.

(2) Subject to regulation 3C(3), the relief granted by paragraph (1) is to be a reduction of the rates payable by—

- (a) 10% where the rateable value of the lands and heritages is £500,000 or less; and
- (b) 1.5% in any other case.

Relief – further provision

3C.—(1) Where relief is granted under regulation 3, no relief is to be granted under regulation 3B in respect of the same lands and heritages.

(2) The amount of relief calculated under regulation 3 or 3B is to be applied before the calculation of any other relief.

(3) The relief granted under regulation 3 or 3B is to be made only to the extent that such relief is compatible with Article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union(c).

(a) S.I. 2012/2782, as relevantly amended by S.I. 2015/35.

(b) Section 7B was inserted in the Local Government (Scotland) Act 1975 by the Local Government Finance Act 1992 (c.14), section 110(2) and was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 100(4).

(c) OJ C 326, 26.10.2012, p.47.

(4) No relief is to be granted under regulation 3 or 3B in respect of a day after 31st March 2017.”.

St Andrew's House,
Edinburgh
22nd February 2016

JOHN SWINNEY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010 (“the 2010 Regulations”).

Regulation 3 of the 2010 Regulations specifies that lands and heritages used solely for the generation of renewable heat or power (or both) attract relief from non-domestic rates. These Regulations amend regulation 3 so as to limit relief under that regulation to cases where the lands and heritages are being used for a project such as is referred to in new regulation 3A. A project falls within that regulation if it is one where a community organisation is, in return for investment in the project, entitled to payments at a specified level.

In addition, a new regulation 3B is inserted in the 2010 Regulations which grants certain relief in respect of lands and heritages used solely for the generation of renewable heat or power (or both) where those lands and heritages are first entered in the valuation roll on or after 1st April 2016.

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