
STATUTORY INSTRUMENTS

2017 No. 155

The Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017

Insertion of regulation 3A

6. After regulation 3 of the 2009 Regulations insert—

“Qualifying as a smaller proposer

3A.—(1) For the purpose of these Regulations, a person mentioned in regulation 4(2) qualifies as a smaller proposer on a day if on that day the person—

- (a) falls within the definition of “micro business” in section 33(3) of the Small Business, Enterprise and Employment Act 2015 (“the 2015 Act”)(1), subject to the modifications(2) contained in this regulation; or
- (b) is an individual who does not fall within the definition of “undertaking” in section 33(6) of the 2015 Act, subject to the modifications contained in this regulation.

(2) In paragraph (a) of the definition of “undertaking” in section 33(6) of the 2015 Act, the reference to “businesses” is to be read as if section 27 of that Act applies to that reference.

(3) In determining whether an undertaking meets the “micro business size conditions” defined in section 33(3) of the 2015 Act, all business activities within the meaning of section 27 of that Act (“business activities”) carried on by the undertaking must be taken into account.

(4) Regulations made under section 33(4) of the 2015 Act do not apply to the meaning of “micro business” in section 33 of that Act.

(5) The definition of “micro business” in section 33(3) of the 2015 Act is to be read as if—

- (a) “balance sheet total” means the aggregate of the amounts shown as assets in a balance sheet of the undertaking’s assets and liabilities prepared by the undertaking during the last 12 month period;
- (b) “head count of staff” means the average number of persons employed by the undertaking, as determined under paragraph (6) of this regulation;
- (c) “micro business threshold” means—
 - (i) in relation to balance sheet total, £2 million;
 - (ii) in relation to turnover, for an undertaking that has carried on business activities for at least 12 months, £2 million;

(1) [2015 c. 26](#).

(2) Section 33(5) of the Small Business, Enterprise and Employment Act [2015 \(c. 26\)](#) provides that section 33 and regulations made under that section are to be read subject to any modifications made by subordinate legislation made by a Minister of the Crown that uses the term “micro business” and defines it by reference to that section.

- (iii) in relation to turnover, for an undertaking that has carried on business activities for less than 12 months, an amount proportionally adjusted; and
 - (d) “turnover” has the same meaning as in section 474(1) of the Companies Act 2006(3).
- (6) The average number of persons employed by the undertaking is determined as follows—
- (a) for an undertaking that has carried on business activities for at least 12 months—
 - (i) for each month in the last 12 month period, find the number of persons employed under contracts of employment by the undertaking at any time in that month;
 - (ii) add together the monthly totals; and
 - (iii) divide by 12;
 - (b) for an undertaking that has carried on business activities for less than 12 months—
 - (i) for each of those months, find the number of persons employed under contracts of employment by the undertaking at any time in that month;
 - (ii) add together the monthly totals; and
 - (iii) divide by the number of monthly totals.
- (7) In this regulation, “last 12 month period” means the period of 12 months ending on the day mentioned in paragraph (1).”.