

**2010 No. 44**

**RATING AND VALUATION**

**The Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010**

<i>Made</i>	- - - -	<i>10th February 2010</i>
<i>Laid before the Scottish Parliament</i>		<i>10th February 2010</i>
<i>Coming into force</i>	- -	<i>1st April 2010</i>

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) Regulations 2010 and come into force on 1st April 2010.

**Interpretation**

2. In these Regulations:—

“the 1975 Act” means the Local Government (Scotland) Act 1975(b);

“electronic communication” has the meaning given to it in section 15(1) of the Electronic Communications Act 2000(c);

“lands and heritages” has the meaning prescribed by and under section 42 of the Lands Valuation (Scotland) Act 1854(d);

“local authority” means the rating authority for the area in which the lands and heritages are situated;

“rateable value” means the rateable value entered in the valuation roll for that date in respect of the applicable lands and heritages and includes a rateable value so entered with retrospective effect;

“renewable heat or power” means heat or power produced from the following sources—

- (a) biomass;
- (b) biofuels;
- (c) fuel cells;

---

(a) c.39; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.  
(b) c.30.  
(c) c.7, which is relevantly amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.  
(d) c.91; section 42 was relevantly amended by the Local Government etc. (Scotland) Act 1994(c.39) (“the 1994 Act”), section 152.

- (d) photovoltaics;
- (e) water (including waves and tides, but excluding production from the pumped storage of water);
- (f) wind;
- (g) solar power;
- (h) geothermal sources;

but heat or power produced by a combined heat and power system is not renewable unless that system uses only sources of energy described in sub-paragraphs (a) to (h) and has an electrical capacity of 50 kilowatts or less; and

“valuation roll” means the roll made up under section 1 of the 1975 Act(a).

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

3.—(1) This regulation grants relief to a person who is liable to pay rates levied under section 7B of the 1975 Act(b) in respect of lands and heritages on a day where—

- (a) that person uses 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 paragraph (4), the relief granted by paragraph (1) shall be a reduction of the rates payable, by the percentage specified in the right hand column of the table below which corresponds to the range specified in the left hand column of that table into which the rateable value of the lands and heritages falls.

<i>Rateable Value</i>	<i>Percentage of rates relief</i>
£145,000 or less	100%
More than £145,000 but not exceeding £430,000	50%
More than £430,000 but not exceeding £860,000	25%
More than £860,000 but not exceeding £4,000,000	10%
More than £4,000,000	2.5%

(3) The amount of rate relief calculated under paragraph (2) shall be applied before the calculation of any other relief.

(4) The rate relief granted by paragraph (1) shall be made only to the extent that such relief granted is compatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union(c).

### **Applications for relief**

4.—(1) An application under these Regulations for relief shall be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer, and—

- (a) “person authorised to sign on behalf of the ratepayer” means, where the ratepayer is—
  - (i) a partnership, a partner of that partnership;
  - (ii) a trust, a trustee of that trust;

(a) Section 1 was repealed in part by the 1994 Act, Schedule 14, paragraph 1 and the Local Government and Rating Act 1997 (c.29), Schedule 4, paragraph 1.

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

(c) O.J. No. C.115, 9.5.2008, p.47.

- (iii) a body corporate, a director of that body; and
  - (b) “sign” or “signed”, in relation to an application made by electronic communication means an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000.
- (2) An application under paragraph (1) shall be made to the local authority by—
- (a) addressing it to the authority; and
  - (b) delivering it or sending it to the authority’s office by post or electronic communication.

**Exemptions and discretionary reductions and remissions**

5. Nothing in these Regulations shall—
- (a) require rates to be paid in respect of lands and heritages for any day where those lands and heritages are under any enactment entirely exempt from rates for that day; or
  - (b) prejudice any power of a rating authority to grant a reduction or remission of rates under section 4(5) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962(a), section 25A of the Local Government (Scotland) Act 1966(b) or paragraph 4 of Schedule 2 to the Local Government and Rating Act 1997(c).

*JOHN SWINNEY*  
A member of the Scottish Executive

St Andrew’s House  
Edinburgh,  
10th February 2010

---

(a) c.9. Section 4 is relevantly amended by the 1994 Act, Schedule 13, paragraph 57, the Local Government and Rating Act 1997 (c.29), Schedule 3, paragraph 2(a) and the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), section 98(3).

(b) c.51. Section 25A was inserted by the 1994 Act, section 156.

(c) c.29. Paragraph 4 was amended by the Local Government in Scotland Act 2003 (asp 1), section 28.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision to reduce the amount payable as non-domestic rates in respect of subjects in Scotland used solely for the generation of renewable heat or power (or both). They apply from the start of the 2010-2011 financial year.

Regulation 3 provides for a reduction in rates in accordance with a sliding scale for a person liable to pay non-domestic rates where the qualifying conditions are satisfied. The table in regulation 3(2) sets out the reduction, according to the value of the lands and heritages, on a sliding scale.

Regulation 4 provides that an application must be made to obtain the relief.

Regulation 5 allows for exemptions and discretionary reductions.

---

© Crown Copyright 2010

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.