

**2013 No. 108**

**RATING AND VALUATION, ENGLAND**

**The Non-Domestic Rating (Renewable Energy Projects)  
Regulations 2013**

<i>Made</i> - - - -	<i>22nd January 2013</i>
<i>Laid before Parliament</i>	<i>24th January 2013</i>
<i>Coming into force</i> - -	<i>18th February 2013</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by paragraph 40 of Schedule 7B to the Local Government Finance Act 1988(a), makes the following Regulations:

Before making these Regulations, the Secretary of State for Communities and Local Government has consulted such persons as he thinks fit in accordance with paragraph 40(8) of Schedule 7B.

These Regulations are made with the consent of the Treasury in accordance with paragraph 40(10) of Schedule 7B.

**PART 1**

**General**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 and come into force on 18th February 2013.

(2) The designations made by these Regulations take effect on 1st April 2013.

**Interpretation**

2. In these Regulations—

“the 1988 Act” means the Local Government Finance Act 1988;

“altered hereditament” has the meaning given by paragraph 1 of Schedule 1;

“authority” means a billing authority in England whose area includes a hereditament within a designated class;

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(a) 1988 c.41. Schedule 7B was inserted into the Local Government Finance Act 1988 by Section 1 of, and Schedule 1 to, the Local Government Finance Act 2012 (c.17).

“biomass” is to be construed in accordance with article 4 of the Renewables Obligation Order 2009<sup>(a)</sup>;

“designated class” means a class of hereditaments designated by Part 2;

“generating plant” means—

- (a) in relation to a hereditament falling within class A to E, plant in or on the hereditament which is used or available for use for the purposes of generating electricity;
- (b) in relation to a hereditament falling within class F, plant which is used or available for use for the purposes of generating electricity;

“new hereditament” has the meaning given by paragraph 1 of Schedule 2;

“non-domestic rating income” in relation to a hereditament has the meaning given by regulation 13;

“notional 31st March 2013 rateable value”—

- (a) where Schedule 1 applies, has the meaning given by paragraph 3 of that Schedule; and
- (b) where Schedule 2 applies, is to be calculated in accordance with paragraph 2 of that Schedule;

“old hereditament” has the meaning given by paragraph 1(1) of Schedule 2;

“original hereditament” has the meaning given by paragraph 1 of Schedule 1;

“rateable plant and machinery” means plant and machinery specified in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000<sup>(b)</sup>;

“relevant valuation officer” means the valuation officer for an authority whose area includes a hereditament within a designated class;

“relevant year” means the year for which a calculation under Schedule 7B is being made; and

“renewable power station” has the meaning given by regulation 5.

### **Certificates: general**

3.—(1) The relevant valuation officer must certify the values which fall to be certified under these Regulations as soon as reasonably practicable after the authority has requested certification.

(2) A certificate under these Regulations has effect for each day beginning with the date that the circumstances which led the authority to request certification first arose.

(3) A certificate under these Regulations must specify the date on which the certificate takes effect in accordance with paragraph (2) or (4), as the case may be.

(4) Where the relevant valuation officer forms the opinion that a certificate under these Regulations is inaccurate, the relevant valuation officer must certify the value which in that officer’s opinion should be substituted for that originally certified.

(5) A certificate under paragraph (4) has effect in place of the previous certificate.

(6) The relevant valuation officer certifying a value in pursuance of these Regulations must send a copy of the certificate to the authority concerned.

(7) A certificate under these Regulations must be retained by the relevant valuation officer who made it.

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(a) S.I. 2009/785. Article 4 was amended by article 5 of the Renewables Obligation (Amendment) Order 2011 (S.I. 2011/984).

(b) S.I. 2000/540.

## PART 2

### Designation of classes of hereditaments

#### Designated classes of hereditaments

4. The classes of hereditaments described in this Part are designated for the purposes of calculating an amount to be disregarded in accordance with Part 3.

#### Renewable power stations

5.—(1) In these Regulations, a hereditament is a renewable power station if—

- (a) the hereditament comprises land, plant or buildings used or available for use for the purpose of generating electricity (other than by means of the burning of waste, unless the waste is biomass), where such use is the sole or primary function of the hereditament; and
- (b) the generating plant in or on the hereditament uses as its primary source of energy—
  - (i) wind;
  - (ii) water (including wave or tidal);
  - (iii) solar;
  - (iv) the burning of biomass;
  - (v) the burning of gas from biomass; or
  - (vi) the burning of gas from a landfill site.

(2) In determining whether the primary function of a hereditament is for the purpose of generating electricity, no account shall be taken of so much of any heat produced in or on the hereditament as is produced other than for the purpose of the generation of electricity.

#### Class A: new renewable power stations

6.—(1) Class A consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

- (a) the hereditament is a renewable power station;
- (b) the hereditament is first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013; and
- (c) neither Schedule 1 or 2 applies.

#### Class B: existing renewable power stations

7.—(1) Class B consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

- (a) the hereditament is a renewable power station;
- (b) the hereditament was first entered onto a local non-domestic rating list for the area of a billing authority in England before 1st April 2013; and
- (c) the rateable value for the hereditament for a day is greater than the rateable value of that hereditament for 31st March 2013.

#### Class C: renewable power stations created from class B hereditaments

8.—(1) Class C consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

- (2) The conditions mentioned in paragraph (1) are that—
- (a) the hereditament is a renewable power station;
  - (b) the hereditament is first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013;
  - (c) the rateable value for the hereditament for a day is greater than the notional 31st March 2013 rateable value of that hereditament; and
  - (d) the hereditament is an altered hereditament or a new hereditament to which Schedule 1 or 2 applies.

**Class D: energy from waste plants**

9.—(1) Class D consists of any hereditament in relation to which the condition in paragraph (2) are fulfilled.

(2) The condition mentioned in paragraph (1) is that the hereditament comprises land, plant or buildings of which the sole or primary function is either—

- (a) generating electricity where the primary source of power for that purpose is the burning of waste; or
- (b) burning waste, where the hereditament is also used for generating electricity and the primary source of power for that purpose is the burning of waste.

**Class E: other hereditaments used for the purpose of generating electricity**

10.—(1) Class E consists of any hereditament not falling within class A to D in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

- (a) the hereditament includes separately identifiable rateable plant and machinery used or available for use for the purpose of generating electricity;
- (b) the generating plant in relation to that rateable plant and machinery uses as its primary source of energy—
  - (i) wind;
  - (ii) water (including wave or tidal);
  - (iii) solar;
  - (iv) the burning of biomass;
  - (v) the burning of gas from biomass; or
  - (vi) the burning of gas from a landfill site; and
- (c) the generating plant in relation to that rateable plant and machinery started to use one of the sources of energy listed in sub-paragraph (b) for the purpose of generating electricity on or after 1st April 2013.

**Class F: cables and sub-stations associated with offshore generating plants**

11.—(1) Class F consists of any hereditament in relation to which the conditions in paragraph (2) are fulfilled.

(2) The conditions mentioned in paragraph (1) are that—

- (a) the hereditament is first entered onto a local non-domestic rating list for the area of a billing authority in England on or after 1st April 2013;
- (b) that hereditament is used wholly or mainly for the purposes of the transformation or transmission of electrical power;
- (c) the generating plant for the hereditament is situated in offshore waters; and
- (d) that generating plant for the hereditament uses as its primary source of energy—

- (i) wind; or
  - (ii) water (including wave or tidal).
- (3) In this regulation, “offshore waters” means—
- (a) waters in or adjacent to the United Kingdom which are between the mean low water mark and the seaward limits of the territorial sea; and
  - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964<sup>(a)</sup>.

## PART 3

### Rules for the calculation of an amount to be disregarded

#### **Amount to be disregarded for the purpose of certain calculations**

**12.** The amount calculated in accordance with this Part in relation to an authority for a relevant year in respect of a hereditament falling within a designated class is to be disregarded for the purposes of the calculations under the following provisions of Schedule 7B to the 1988 Act as those provisions apply to the authority for the year—

- (a) paragraph 6 (payments in respect of the central share);
- (b) regulations under paragraph 7 (administrative arrangements for payments in respect of the central share);
- (c) regulations under paragraph 9 (payments by billing authorities to major precepting authorities);
- (d) regulations under paragraph 10 (administrative arrangements for payments by billing authorities to major precepting authorities);
- (e) paragraph 13 (calculations following local government finance report);
- (f) paragraph 16 (calculations following amending report);
- (g) paragraph 23 (calculations of levy payments);
- (h) paragraph 26 (calculations of safety net payments);
- (i) regulations under paragraph 28 (calculations of payments on account);
- (j) paragraph 30 (calculations relating to distribution of remaining balance).

#### **Non-domestic rating income**

**13.—(1)** An authority’s non-domestic rating income in respect of a hereditament within a designated class for a day is the amount calculated in accordance with the formula—

$$(A - B) + (C - D)$$

where—

A is the total of the amounts credited to the authority’s collection fund income and expenditure account on a day in accordance with proper practices<sup>(b)</sup> in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act in respect of that hereditament;

B is the total of the amounts charged to the authority’s collection fund income and expenditure account on a day in accordance with proper practices in respect of non-

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(a) 1964 c.29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c.23); section 103 of the Energy Act 2011 (c.16).

(b) The meaning of proper practices is given in section 21 of the Local Government Act 2003 (c.26), which applies to these Regulations by virtue of subsection (4)(e) of that section.

domestic rates payable under sections 43 and 45 of the 1988 Act in respect of that hereditament;

C is the amount of any transitional protection payments under paragraph 33(1) of Schedule 7B to the 1988 Act made to the authority on a day in respect of that hereditament;

D is the amount of any transitional protection payments under paragraph 33(1) of Schedule 7B to the 1988 Act made by the authority on a day in respect of that hereditament;

(2) In this paragraph, references to an authority's collection fund income and expenditure account is a reference to a revenue account to which, in accordance with proper practices, are credited or charged amounts in respect of the authority's income or expenditure relating to sums paid or to be paid into or payments met or to be met from the authority's collection fund.

**Calculation of the amount to be disregarded: classes A and F**

14. For the purposes of regulation 12, the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class A or F is the total non-domestic rating income in respect of that hereditament for each day of the year.

**Calculation of the amount to be disregarded: class B**

15. For the purposes of regulation 12, the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class B is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (F - G) \times \left( \frac{H - J}{H} \right)$$

where—

E is the non-domestic rating income in respect of that hereditament;

F is the amounts credited to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the rateable value shown for 31st March 2013;

G is the amounts charged to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the rateable value shown for 31st March 2013;

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day; and

J is the rateable value shown for the hereditament in a local non-domestic rating list for 31st March 2013.

**Calculation of the amount to be disregarded: class C**

16. For the purposes of regulation 12, the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class C is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (K - L) \times \left( \frac{H - M}{H} \right)$$

where—

E is the non-domestic rating income in respect of that hereditament;

K is the amounts credited to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the notional 31st March 2013 rateable value determined in accordance with Schedule 1 or 2 (as the case may be);

L is the amounts charged to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which the rateable value shown for the hereditament in a local non-domestic rating list was the same or less than the notional 31st March 2013 rateable value determined in accordance with Schedule 1 or 2 (as the case may be);

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day; and

M is the notional 31st March 2013 rateable value in respect of the hereditament determined in accordance with Schedule 1 or 2 (as the case may be).

#### **Calculation of the amount to be disregarded: class D**

17.—(1) For the purposes of regulation 12, the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class D is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (N - P) \times \left( \frac{Q}{H} \right)$$

where—

E is the non-domestic rating income in respect of that hereditament;

N is the amounts credited to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect;

P is the amounts charged to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect

Q is the proportion of rateable value shown for the hereditament in a local non-domestic rating list that is certified by the relevant valuation officer in accordance with paragraph (2); and

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day.

(2) The relevant valuation officer must, on request by the authority, certify the proportion of rateable value shown for the hereditament in a local non-domestic rating list which appears to that officer to be attributable to any part of the hereditament which—

- (a) is used or is intended to be used wholly or mainly in connection with the generation of electricity; and
- (b) has been in such use or intended for such use since on or after 1st April 2013.

### Calculation of the amount to be disregarded: class E

18.—(1) For the purposes of regulation 12, the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class E is the total of the amounts calculated for each day of the year in accordance with the formula—

$$E - (N - P) \times \left( \frac{Q}{H} \right)$$

where—

E is the non-domestic rating income in respect of that hereditament;

N is the amounts credited to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect;

P is the amounts charged to the authority's collection fund income and expenditure account on the day in accordance with proper practices in respect of non-domestic rates payable in respect of that hereditament under sections 43 and 45 of the 1988 Act in respect of a day on which no certificate under paragraph (2) has effect;

Q is the proportion of rateable value shown for the hereditament in a local non-domestic rating list that is certified by the relevant valuation officer in accordance with paragraph (2); and

H is the rateable value shown for the hereditament in a local non-domestic rating list for the day.

(2) The relevant valuation officer must, on request by the authority, certify the proportion of rateable value shown for the hereditament in a local non-domestic rating list which appears to that officer to be the separately identifiable impact on the rateable value attributable to—

- (a) the rateable plant and machinery that meets the conditions in regulation 10(2); and
- (b) any associated land and buildings.

We consent to the making of these Regulations

*Desmond Swayne*  
*David Evennett*

16th January 2013

Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Communities and Local Government

*Brandon Lewis*

Parliamentary Under Secretary of State

22nd January 2013

Department for Communities and Local Government

## SCHEDULE 1

Regulations 6, 8 and 16

### Altered hereditaments

1.—(1) In this Schedule—

“altered hereditament” means a hereditament comprising, wholly or mainly, any property which was the whole or part of—

- (a) a hereditament shown in a local non-domestic rating list at any time; and
- (b) a hereditament which was at any time previously capable of falling within class B; and

“original hereditament” means the hereditament of which the altered hereditament is so comprised.



(2) For the purposes of paragraph 1(1)(b) a hereditament is to be treated as capable of falling within class B whether or not the condition in regulation 7(2)(c) is met.

2. This Schedule applies to an altered hereditament if—

- (a) the original hereditament was deleted from a local non-domestic rating list with effect from any day as a result of a structural alteration to that hereditament or the removal of rateable plant or machinery; and
- (b) for a day on or after 1st April 2013 the altered hereditament is shown for the first time in a local non-domestic rating list following the alteration.

3. Where this Schedule applies, the notional 31st March 2013 rateable value for the altered hereditament—

- (a) where the original hereditament was shown on a local non-domestic rating list on 31st March 2013, is the rateable value shown for the original hereditament for 31st March 2013;
- (b) where the original hereditament was itself an altered hereditament or a new hereditament, is the notional 31st March 2013 rateable value for that original hereditament; or
- (c) where neither sub-paragraph (a) or (b) apply, is the rateable value shown in a local non-domestic rating list for the original hereditament for the last day that hereditament appeared in the list.

## SCHEDULE 2

Regulations 6, 8 and 16

### Splits, mergers and reorganisations

1.—(1) This Schedule applies where—

- (a) on a day (“the creation day”) falling on or after 1st April 2013, a hereditament (“new hereditament”) comes into existence because—
  - (i) property previously rated as a single hereditament becomes liable to be rated in parts;
  - (ii) property previously rated in parts becomes liable to be rated as a single hereditament; or
  - (iii) a hereditament or any part of a hereditament becomes part of a different hereditament; and
- (b) immediately before the creation day a hereditament from which the new hereditament was formed in whole or in part (“old hereditament”) was capable of falling within class B.

(2) For the purposes of paragraph 1(1)(b), a hereditament is to be treated as capable of falling within class B whether or not the condition in regulation 7(2)(c) is met.

2. Where this Schedule applies, the notional 31st March 2013 rateable value is the amount calculated in accordance with the formula—

$$(R + S + T - U) \times \left( \frac{V}{W} \right)$$

where—

R is the total rateable value shown in a local non-domestic rating list for 31st March 2013 of any old hereditament which was capable of falling within class B on the day immediately preceding the creation day;

S is the total notional 31st March 2013 rateable value of any old hereditament which was capable of falling within class C on the day immediately preceding the creation day;

T is the total rateable value shown in a local non-domestic rating list for the day immediately preceding the creation day of any old hereditament which was—

- (a) capable of falling within class D or E; or
- (b) not capable of falling within a designated class;  
on the day immediately preceding the creation day;

U is the amount certified by a relevant valuation officer under these Regulations in respect of any old hereditament for the day immediately preceding the creation day;

V is the rateable value shown in a local non-domestic rating list for the creation day of the new hereditament which falls within class C;

W is the total rateable value shown for the creation day of all new hereditaments created from the old hereditament.

### **EXPLANATORY NOTE**

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

These Regulations designate classes of hereditaments in relation to which a billing authority may disregard an amount of non-domestic rating income for the purpose of certain calculations under Schedule 7B to the Local Government Act 1988 (local retention of non-domestic rates).

Part 1 provides for preliminary matters including, in regulation 3, general provisions applicable to certificates by valuation officers under these Regulations.

Part 2 sets out the designated classes of hereditaments in relation to which a proportion of non-domestic rating income is to be disregarded. Regulation 4 gives effect to the designations as of 1st April 2013. Regulation 5 defines a renewable power station for the purposes of this Part. Regulations 6, 7 and 8 define the circumstances in which a hereditament which is a renewable power station falls within a designated class. Splits, mergers, reorganisations and altered hereditaments (within the meaning of Schedules 1 and 2) formed from existing renewable power stations will fall within the definition of existing renewable power stations. Regulation 9 designates post 1st April 2013 energy from waste plants. Regulation 10 designates hereditaments which generate electricity, but are primarily used for other purposes, and therefore will not fall within the definition of renewable power station. Regulation 11 designates cables and sub-stations associated with offshore generating plants.

Part 3 makes provision for the calculation of the amounts to be disregarded for the purpose of calculations under the rates retention scheme. Calculations are to be made on a daily basis and added together to produce the non-domestic rates income or a proportion of it in respect of a hereditament within a designated class for a year in which calculations under the rates retention scheme are made. Regulation 12 sets out the calculations under Schedule 7B to the Local Government Finance Act 1988, in respect of which the amounts are to be disregarded.

Regulation 13 defines non-domestic rating income. Regulation 14 provides that the amount to be disregarded in respect of new renewable power stations and cables and sub-stations associated with offshore generating plants is the total amount of non-domestic rating income for the year in respect of such a hereditament.

Regulation 15 provides for the calculation of a proportion of non-domestic rating income attributable to the increase in income for an existing renewable power station.

Regulation 16 provides for the calculation of a proportion of non-domestic rating income in respect of a renewable power station created from a split, merger, reorganisation or alteration of an existing renewable power station. The increase in income is calculated on the basis of a notional 31st March 2013 rateable value as calculated in accordance with Schedule 1 or 2.

Regulation 17 provides for the calculation of the proportion of non-domestic rating income to be disregarded in respect of energy from waste plants.

Regulation 18 provides for the calculation of the proportion of non-domestic rating income to be disregarded in respect of hereditaments used primarily for other purposes, but which include rateable plant and machinery used or available for the generation of electricity.

No separate impact assessment has been prepared for these Regulations, but the impact assessment prepared for the Local Government Finance Act 2012 is relevant:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8470/2054063.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8470/2054063.pdf).

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STATUTORY INSTRUMENTS

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