
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide relief from stamp duty land tax on the first acquisition of a dwelling which is a zero-carbon home in accordance with sections 58B and 58C of the Finance Act 2003 (c. 14) (“the Act”).

Regulation 1 provides for citation, commencement and effect. The Regulations shall have effect in relation to acquisitions made on or after 1st October 2007, but before 1st October 2012. Authority for the retrospective effect is given by section 58C(7) of the Act, which provides that the relief may be granted in respect of acquisitions occurring before the date these Regulations come into force.

Regulation 2 provides for interpretation. It refers to the methodology for determining energy performance approved by the Secretary State for the Department of Communities and Local Government under regulation 17A of the Building Regulations 2000 (S.I. 2000/2531 as amended by S.I. 2006/652 and S.I. 2007/991) and to any further methodology approved by the Secretary of State for the purposes of these Regulations. It also defines accredited assessors and in that context, for England and Wales, refers to the Government’s Standard Assessment Procedure for Energy Rating of Dwellings which is published by BRE and can be found at www.bre.co.uk/sap2005.

Regulation 3 sets out the scope of the Regulations.

Regulation 4 provides for relief on a land transaction which is the first acquisition of a zero-carbon home. Where the chargeable consideration does not include rent and is no more than £500,000, the transaction is exempt from stamp duty land tax. Where the chargeable consideration includes both rent and other consideration and the consideration other than rent is no more than £500,000, no stamp duty land tax is chargeable in respect of the consideration other than rent. Where the chargeable consideration other than rent is more than £500,000, the stamp duty land tax shall be reduced by £15,000. HM Revenue and Customs may refuse relief where they have reasonable grounds for thinking that the dwelling is not a zero-carbon home, notwithstanding that a zero-carbon home certificate has been issued in respect of that dwelling.

Regulation 5 defines zero-carbon home as a dwelling which satisfies the three aspects of energy efficiency set out in column 1 of the table. These aspects are heat loss parameter, the dwelling CO₂ emission rate and net CO₂ emissions. The evidence to be adduced to show that the dwelling is energy efficient in these areas is shown in column 2. Whether these requirements are met is to be determined by an accredited assessor using the approved methodology.

Regulation 6 provides for the issue of certificates by accredited assessors confirming where a dwelling satisfies the definition of a zero-carbon home and makes provision as to the content of those certificates. The vendor shall obtain a zero-carbon home certificate and shall pass it to the purchaser on or before the acquisition of the zero-carbon home or as soon as practicable if the acquisition predates the coming into force of these Regulations.

Regulation 7 provides that the Secretary of State may approve a methodology for the calculation of the energy performance of a dwelling for the purposes of these regulations. Section 58C(2)(c) of the Act provides that the Regulations may provide for the approval of a scheme or process for certifying energy efficiency.

Regulation 8 provides that relief shall be claimed in a land transaction return or an amendment of such a return.

Regulation 9 provides that where the first acquisition of one or more zero-carbon homes is included in a number of linked transactions section 55(4) of the Act shall not have effect for the

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purposes of these Regulations. Section 58C(4) of the Act provides that the Regulations may modify provisions of the Act about linked transactions in relation to a set of transactions of which at least one is the first acquisition of a dwelling which is a zero-carbon home.

A full regulatory impact assessment in respect of sections 58B and 58C of the Finance Act 2003 and subordinate legislation under those sections was published by HM Revenue and Customs on 19 March 2007. It is available at <http://www.hmrc.gov.uk/ria/9-zero-carbon-homes.pdf> and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.