

Freeze of economic incentives for new renewable installations

Royal Decree-Law 1/2012, dated 27 January and which entered into force on 28 January 2012, temporarily suspends the remuneration pre-assignment procedure and the economic incentives for new electricity generation installations which use co-generation, renewable energy sources and waste ("RDL 1/2012").

The Statement of Purposes of RDL 1/2012 establishes that these temporary measures will remain in force until a solution to the tariff deficit has been reached.

RDL 1/2012 brings with it the following legislative changes, amongst others:

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I. Temporary freeze of economic incentives for new installations

1. RDL 1/2012 establishes a temporary freeze of the economic incentives –feed-in tariffs, premiums, upper and lower limits and other supplements for efficiency and reactive energy- envisaged in Royal Decree 661/2007, affecting the following installations:

- Special regime installations which have not been registered at the Remuneration Pre-assignment Registry by 28 January 2012 (with the exception of those which presented the application for registration at the Remuneration Pre-assignment Registry and where the corresponding term for the Administration to resolve said application has already expired).
- Ordinary regime installations using technologies equivalent to those included in the special regime, which have not obtained the corresponding administrative authorization from the Directorate General for Energy Policy and Mines by 28 January 2012.

2. However, the Government may establish specific economic regimes for certain special regime or co-generation installations, or installations using, as primary energy, non-consumable and non-hydraulic renewable energies, bio-mass, biofuels or agricultural, stockbreeding or service waste, even when these installations have an installed capacity of more than 50 MW.

II. Temporary suspension of remuneration pre-assignment procedures

1. RDL 1/2012 establishes the suspension of the Remuneration Pre-assignment Registry's procedures envisaged in Article 4.1 of Royal Decree 1578/2008, dated 26 September –for photovoltaic installations which applied for the 2012 calls, or which would have applied for the subsequent calls- and Article 4.1 of Royal Decree-Law 6/2009, dated 30 April –for the rest of the special regime technologies indicated in RD 661/2007-.

2. On the other hand, RD 1/2012 establishes that the owners of those installations whose application for registration at the Remuneration Pre-assignment Registry is not decided by 28 January 2012 may withdraw, within two months as from said date, their application for registration at said Registry and, if applicable, their application for access to the network, requesting the refund of the guarantees deposited pursuant to Articles 59 bis and 66 bis of Royal Decree 1955/2000, dated

1 December, Article 9 of Royal Decree 1578/2008, dated 26 September, as well as Article 4.3.i of Royal Decree-Law 6/2009, dated 30 April, as said guarantees will not be executed.

Furthermore, installations registered at the Remuneration Pre-assignment Registry which are not ultimately executed may, within two months as from 28 January 2012, and if the term for the registration and commencement of the sale of energy has not expired, withdraw their definitive registration at said Registry, without the above-mentioned guarantees being executed.

III. Abolition of section 4 of Article 4 and of Article 4.bis of Royal Decree 661/2007

RDL 1/2012 abolishes Articles 4.4 and 4.bis of Royal Decree 661/2007, which establish that, for the purpose of determining the economic regime applicable to an existing installation, any substantial modification of the latter will entail setting a new start-up date.

This provision will not affect installations which have already obtained authorization for a substantial modification prior to 28 January 2012.

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