

Residential Prosumers in the European Energy Union

EAHC/2013/CP/04

Mapping the legal and regulatory framework in the 28 Member States, Iceland and Norway

The Netherlands



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This study presents the legal and regulatory framework for residential prosumers in the Netherlands. It has been prepared by Alexandra Schneiders as the author and reviewed by the managers of the project Marta Ballesteros (Marta.Ballesteros@milieu.be) and Marta Santos Silva (Marta.Santos.Silva@milieu.be). The study has been completed in June 2017.

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Residential Prosumers in the European Energy Union The Netherlands

General Description of the national legal and regulatory framework

General

The Netherlands is a constitutional monarchy with a civil law legal system¹. In the field of energy, European and national laws form the legal basis of detailed rules set out in general Orders in Council (*algemene maatregel van bestuur*) and ministerial regulations (*ministeriële regeling*)². The Netherlands' energy legislation, particularly as regards renewables, is very much based on EU legislation, such as the 2020 energy & climate package. To this end, in 2013 the Agreement for Sustainable Growth (*Energieakkord*) was agreed in 2013 between governmental, industry and NGO stakeholders, the core of which is to speed up the transition of the Dutch energy sector towards a more renewables-friendly one. It stipulates that by 2020 the proportion of energy generated by renewables in the Netherlands will be 14%, and increase to 16% in 2023³.

The legal and regulatory framework for residential prosumers in the Netherlands is clear on what their rights are as regards their access to the grid and the feeding of energy into it. Legislation such as the *Electricity Act*, *Decree on the stimulation of sustainable energy production*, *Regulation designating sustainable energy production for the second half of 2016*, *Income Tax Act* and *Act on Environmental Taxes* sets out prosumers' rights such as access to the grid, compensation for energy fed into the grid, subsidy grants and fiscal advantages.

However, this legislation also contains legal gaps, which need to be addressed. These include the lack of a concrete definition of a prosumer and the absence of clear rights in the situation where prosumers co-own a larger renewable energy installation (e.g. a wind turbine), for example as part of a community, which will be explained more in detail below.

Furthermore, the government's focus on energy as an investment vehicle is evident in how it provides financial help mainly to companies investing in renewable energy, whereas residential prosumers have limited access to financial aid. Nevertheless, cooperatives, which are a popular phenomenon in the Netherlands, have been provided with substantial financial help to foster the development of renewable energy projects⁴.

1. What types of residential prosumers are there in your country on the basis of type of RES used and size of the installation?

Answer:

The types of renewable energy sources recognised by Dutch energy legislation, such as the *Electricity Act* are wind, solar, ambient air, surface/ocean water bodies, geothermal, hydropower, biomass, landfill gas, sewage treatment and biogas (Article 1 (1)(t) *Electricity Act*).

The most used types of RES in the Netherlands in 2015 were solar panels, wind turbines, heat pumps, sun boilers and biomass⁵. The only legislation that explicitly classifies prosumers according to the type of renewable energy they produce is that which regulates subsidy programmes, such as the [*Decree on the stimulation of sustainable energy production*](#).

¹ <http://libguides.bodleian.ox.ac.uk/c.php?g=423114&p=2889158>

² https://e-justice.europa.eu/content_member_state_law-6-nl-en.do?member=1

³ <https://www.iea.org/publications/freepublications/publication/Netherlands2014.pdf>

⁴ <http://www.vvewiki.nl/owning-apartment-netherlands/>

⁵ *Hernieuwbare energie in Nederland 2015* (Centraal Bureau voor de Statistiek, 2015)

While the main energy sources in the Netherlands are still fossil fuels such as natural gas, oil and coal⁶, recent polls have shown that the Dutch are becoming increasingly open to renewable energy sources⁷. Up to this day, about 1 million homes are estimated to have invested in clean-energy installations as replacements for conventional gas and electricity⁸.

2. What is the institutional framework & division of competences regarding residential prosumers in your country?

Answer:

The Ministry of Economic Affairs is the dominant governmental actor regulating the Dutch energy sector. The fact that it is this particular Ministry that is in charge of energy policy is indicative of how energy policy in the Netherlands is centred on energy security and competitiveness. The focus on renewables is minimal, as evidenced by the Netherlands' modest 14% RES target for 2020. The Ministry works alongside the Dutch provinces and municipalities, which have freedom to plan and implement their own strategies around renewable energy. For instance, some provinces actively subsidise local renewable energy projects, such as the province of Gelderland.

The Ministry also works closely with the state-based Netherlands Enterprise Agency (*Rijksdienst voor Ondernemend Nederland*), the Environmental Assessment Agency (*Planbureau voor de Leefomgeving*) and the Social and Economic Council (*Sociaal Economische Raad*) when planning and implementing its renewable energy strategies⁹.

Furthermore, the **Netherlands Authority for Consumers and Markets (ACM)** is an independent regulator that champions the rights of consumers. One of its main tasks is to enforce consumer protection laws. It runs the online consumer information portal www.consuwijzer.nl (consumerpointer.nl), which enables consumers to report problems and provides them with solutions to enforce their rights¹⁰.

Specific Questions on the regulatory framework for residential prosumers

3. What is the regulatory framework for residential prosumers in your country?

General

The main legal Act regulating prosumers' rights is the **Electricity Act**. It sets out conditions for access to and use of the electricity grid, in light of the feeding of renewable energy thereto (Articles 31c in conjunction with 95a (1) Electricity Act).

The **Income Tax Act** and **Act on Environmental Taxes** regulate the tax benefits applicable to renewable energy projects and the tax exemptions granted to prosumers feeding energy into the grid, respectively. The Income Tax Act sets out the **Energy Investment Allowance** scheme (*Energie Investeringsaftrek*), which is only applicable to entrepreneurs investing in renewable energy projects (Article 3 (42)). In addition, the Act on Environmental Taxes stipulates that the prosumer will be exempted from paying energy taxes for the renewable energy he produces (Article 50 (2)).

The **Decree on the stimulation of sustainable energy production** and **Regulation designating**

⁶ <https://www.essent.nl/content/particulier/energie-besparen/blog/energiebronnen.html>

⁷ <http://energiereports.info/wp-content/uploads/2016/09/EnergieTrends2016.pdf>

⁸ <http://energiereports.info/wp-content/uploads/2016/09/EnergieTrends2016.pdf>

⁹ <https://energysustainsoc.springeropen.com/articles/10.1186/2192-0567-4-11>

¹⁰ <https://www.acm.nl/en/about-acm/our-organization/the-netherlands-authority-for-consumers-and-markets/>

sustainable energy production for the second half of 2016 both form the backbone of the SDE+ scheme (Incentive Scheme for Sustainable Energy Production). This is a financial instrument subsidising renewable energy projects by, amongst others, groups of residential prosumers (e.g. cooperatives).

The *Decree on environmental management activities*, *Act on general provisions on the environment*, *Decree on Environmental law* and *Decree on environmental impact assessments* regulate the extending of permits, which some renewable energy installations are subject to (e.g. wind turbines).

The Dutch Civil Code's (*Burgerlijk Wetboek*) Books 2 and 5 provide details on the different legal forms that local renewable energy initiatives can take (e.g. cooperatives).

As to the administrative complaint and judicial redress procedures available to prosumers, the *General Administrative Law Act* is applicable.

3.1. What is the existing legislative framework regulating Renewable Energy Projects in your country?

Answer:

Renewable energy projects rely on the following Acts and regulations:

- [Electricity Act](#) (Act of 2 July 1998 on rules regarding the production, transport and delivery of electricity; *Elektriciteitswet 1998*)
- [Income Tax Act](#) (Act of 11 May 2000 establishing the Act on Income Tax 2001; *Wet inkomstenbelasting 2001*)
- [Act on Environmental Taxes](#) (Act of 23 December 1994 regarding the establishing of the Act on environmental taxes; *Wet Belastingen op Milieugrondslag*)
- [Regulation on guarantees of the origin of energy from renewable energy sources and HR-CHP-electricity](#) (Regulation of the Minister of Economic Affairs of 9 December 2014 regarding rules regarding the guarantees of origin of energy from renewable sources and HR-WKK (note: cogeneration) electricity; *Regeling garanties van oorsprong voor energie uit hernieuwbare energiebronnen en HR-WKK-elektriciteit*)
- [Decree on the stimulation of sustainable energy production](#) (Decree of 16 October 2007 on rules regarding the providing of subsidies for the purpose of renewable electricity, renewable gas and electricity produced by means of cogeneration; *Besluit stimulering duurzame energieproductie*)
- [Regulation designating sustainable energy production for the second half of 2016](#) (Regulation of the Minister of Economic Affairs of 7 July 2016 regarding the designation of categories of product installations for the stimulation of sustainable energy production in the second half of 2016; *Regeling aanwijzing categorieën duurzame energieproductie najaar 2016*)
- [Decree on environmental management activities](#) (Decree of 19 October 2007 on general rules for the environmental management of establishments; *Activiteitenbesluit milieubeheer*)
- [Decree on environmental law](#) (Decree of 25 March 2010 on rules implementing the Act on general provisions on the environment; *Besluit omgevingsrecht (Bor)*)
- [Act on general provisions on the environment](#) (Act of 6 November 2008 on rules regarding a permitting system related to the activities that influence environment the physical environment and regarding enforcement of regulations in the area of the physical environment; *Wet algemene bepalingen omgevingsrecht (Wabo)*)
- [General Administrative Law Act](#) (Act of 4 June 1992 on general rules of administrative law; *Algemene wet bestuursrecht (Awb)*)
- [Dutch Civil Code](#) (*Burgerlijk Wetboek; BW*)

- [Decree on geothermal energy systems](#) (Decree of 25 March 2013 amending several general orders in council relating to rules regarding geothermal energy systems and technical improvements; *Wijzigingsbesluit Bodemenergiesystemen*)
- [Environmental Management Act](#) (Act of 13 June 1979 on rules related to a number of general issues in the field of environmental health; *Wet Milieubeheer*)
- [Decree on environmental impact assessments](#) (Decree of 4 July 1994, implementing the chapter on Environmental Impact Assessment of the Act on Environmental Management; *Besluit milieueffectrapportage*)
- [Nature protection act 1998](#) (Act of 25 May 1998, laying down new rules for the protection of nature and landscape; *Natuurbeschermingswet*)
- [Act on the protection of nature](#) (Act of 16 December 2015, laying down rules to protect nature; *Wet natuurbescherming*)
- [Decree on permits for the supplying of electricity to small-scale users](#) (Decree of 8 May 2003, laying down rules for the permits for supplying electricity to small-scale users; *Besluit vergunning levering elektriciteit aan kleinverbruikers*)
- [Decree on the mandate, proxy and authorisation of the Authority for Consumers & Markets](#) (Decree of the Minister of Economic Affairs from 2 April 2013, nr. WJZ/13052618, laying down rules regarding the granting of mandate, proxy and authorisation to the ACM; *Besluit mandaat, volmacht en machtiging Autoriteit Consument en Markt*)

3.2. Does the Renewables National Action Plan include any objectives for residential prosumers (if so, please specify)

Answer:

The Netherlands' [National Action Plan](#) describes existing goals for residential prosumers (although they are not named as such in the document). It focuses on 'small installations' rather than prosumers, meaning that this could also include entrepreneurs investing in renewables. For instance, it lists the *Act on general provisions on the environment* (Wabo) as an Act that will strive to speed up environmental permitting procedures for small energy installations (p. 15). Furthermore, under the heading *Specific measures to fulfil the requirements under Articles 13, 14, 16 and 17 to 21, of Directive 2009/28/EC*, the National Action Plan describes the current situation regarding notification procedures for small-scale/decentralised installations (e.g. solar panels) (p. 40). As regards compliance to Article 16(11) of Directive 2009/28/EC, the Plan states that there is an increase in the amounts of 'small networks' whereby clusters of homes share a collective heat pump or solar boiler (p. 55). The Plan also describes the SDE+ programme, which applies to citizens (p. 58).

The only direct reference to residential prosumers is made when the Plan mentions the *Climate agreement between the municipal authorities and government* from November 2007 (p. 32) as an example of a covenant that 'offers incentives for and facilitates renewable energy in housing'.¹¹

3.3. Is there a definition (legal or regulatory) of residential prosumers (or self-consumption) in your country? If so, state it and describe the elements of this definition?

Answer:

There is no concrete definition of a prosumer in Dutch legislation. However, self-consumption of electricity is recognised in Article 31c in conjunction with Article 95a (1) of the Electricity Act.

The general rule applying to all residential consumers and their energy suppliers, stipulated in

¹¹ <https://ec.europa.eu/energy/en/topics/renewable-energy/national-action-plans>

Article 95a (1), is that it is forbidden for an entity to supply electricity to consumers having a connection (*aansluiting*) to the grid with a total maximum transmission value of 3*80 Ampere, without having a permit to do so.

Article 31c (1) and (3) add further conditions to Article 95a, which are directly aimed at prosumers. Paragraph 1 states that those users meant in Article 95a (1) that feed renewable energy into the net are subject to different billing conditions by the energy supplier. Paragraph 3 (in conjunction with Article 95c (2)) stipulates that the energy supplier must compensate the consumer for any surplus energy fed into the net (described further in section 4.2 of this report).

4. What are the permitting requirements for each type of residential prosumer?

General

Only certain types of residential prosumers are considered as needing to apply for an environmental permit (*omgevingsvergunning*) under the Dutch legislative framework.

The building and rendering of operational wind turbines is subject to environmental permitting by local competent authorities, as stipulated in Paragraph 3.2.3 of the *Decree on environmental management activities*. However, the abolishing of this permit requirement has been under discussion¹¹.

Also, the installation of a heat pump under or next to someone's home requires permitting on the grounds of Article 2.2a (6) of the *Decree on environmental law* (Bor), following publication of the Amending Decree on geothermal energy systems (*Wijzigingsbesluit Bodemenergiesystemen*) in July 2013¹².

The placing of a solar water heater and solar panels on one's home can usually be done without a permit, unless the building in question is registered as a historical or protected building/monument, as stipulated in Annex II Article 2(6) of the *Decree on environmental law* (Bor) and Article 2.1(1)(f) and (g) of the *Act on general provisions on the environment* (Wabo). The same logic is applicable to other small renewable energy installations, since according to Article 2.1 Wabo it is forbidden to operate a project that partly or fully consists of building or destroying a monument or building that goes against the aims of a land-use plan, without an environmental permit¹³.

In practice, solar panel projects have at times been subjected to local land-planning decisions, and these projects were rejected since they clashed with the envisioned aims for the area concerned. This has been criticised as constituting an obstacle for the approval of such projects. However, whether such projects will be blocked depends on the local authority making the land planning decisions¹⁴.

Large-scale renewable energy projects are usually subjected to environmental impact assessments (EIA), in light of their potential effects on natural surroundings. Wind turbine parks and hydro-electric energy installations are singled out as the categories of energy projects for which it is compulsory to consider an EIA under the *Decree on environmental impact assessments*. According to Annex D (category 22.2) of the Decree, in conjunction with Articles 7.16-7.20 of the *Environmental Management Act* (Wm), wind parks with 10 wind turbines or more or with a collective power of 15 MW or more, must be considered for an EIA. As for hydro-electric energy installations, category 31 in Annex D of the Decree stipulates that projects with a power of 2.5 MW should be considered for an EIA.

¹² <http://www.platformwarmtepompen.nl/Home/Nieuws/Nieuws/3512.wlid>

¹³ <https://www.energievergelijk.nl/energiewijzer/hoek-kan-ik-zelf-energie-opwekken>

¹⁴ http://www.beuc.eu/publications/beuc-x-2016-003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf

If any planned large-scale project is to be located in a protected natural reserve (*natuurmonument*), then an EIA may be carried out following an ‘appropriate assessment’ (*passende beoordeling*) by the competent authority of whether this is necessary, in accordance with Article 7a (2) of the *Environmental Management Act* in conjunction with Article 19j (2) of the *Environmental Protection Act* (NB: as of 1/1/17 the latter Article will be replaced by Article 2.8 of the *Act on natural protection*)¹⁵.

4.1. Does your country recognize certain forms of self-consumption and subject prosumers to certain

- requirements,
- application fees and
- one-off costs

in order to give them a **permit or licence to generate energy**?

As stated above, in order to install/operate a wind turbine or heat pump, an environmental permit is required.

This is granted by the local authority at municipal level. The request of an environmental permit involves costs, the amount of which depends on the local municipality the request is sent to. The Ministry of Infrastructure and Environment has provided an online ‘environmental permit checker’ (www.omgevingsloket.nl), where after the answering of several simple questions the prosumer is able to know whether a permit is required for the type of renewable energy installation he wishes to install¹⁶.

In order for a prosumer or group of prosumers to sell renewable energy directly to other residential consumers (with an electricity connection of maximum 3x80 Ampere) on the grid, they must have a license to do so (Article 95a (1) Electricity Act). The license is granted by the ACM (Article 2 (1) Decree on permits for the supplying of electricity to small-scale users), upon the condition that the energy supplier is technically and financially sound (Article 95d Electricity Act) and stipulates fair conditions (Article 95b (1) Electricity Act in conjunction with Article 3 (2) Decree on permits for the supplying of electricity to small-scale users).

By ‘fair conditions’ it is meant that the energy supplier is clear in its communication on the fees and how these are set¹⁷, it provides a clear and fair payment arrangement¹⁸, and provides a transparent and reasonable system for dissolving or ending a contract¹⁹. However, as made clear by the ACM’s *consuwijzer* website, this is a burdensome option for consumers since once they have the license they have the legal obligation to supply energy to every consumer in the Netherlands requesting this (principle of non-discrimination in Article 23 of the Electricity Act). Therefore, the more common option in order to sell one’s energy to another consumer is to do it indirectly via an energy supplier (the supplier reimburses the prosumer for extra energy produced, this is explained further below)²⁰.

¹⁵ <http://www.infomil.nl/onderwerpen/integrale/mer/procedurehandleiding/wanneer-beoordeling/passende-beoordeling/>

¹⁶ <https://www.rijksoverheid.nl/onderwerpen/bouwregelgeving/inhoud/checken-of-vergunning-nodig-is-voor-ver-bouwen/vergunning-aanvragen-voor-ver-bouwen>

¹⁷ Article 3 (2)(a) Decree on permits for the supplying of electricity to small-scale users

¹⁸ Ibid, Article 3(2)(b)

¹⁹ Ibid, Article 3(2)(c)

²⁰ <https://www.consuwijzer.nl/energie/duurzame-energie/teruglevering/mag-ik-door-mij-opgewekte-energie-leveren-aan-buren>

- 4.2. Does the national legal/regulatory framework determine the contractual conditions under which prosumers are allowed to feed or sell their surplus back into the grid or to other consumers?

The Electricity Act sets out prosumers' rights as regards conditions on their access to and use of the electricity grid, in light of their feeding of renewable energy therein. These rights include the ability to feed self-produced energy into the grid (Article 23), to participate in the net metering scheme (Article 31c (1)), and to receive compensation from energy suppliers for the extra energy they produce (Article 31c (3) in conjunction with Article 95c (2)).

Grid operators are obliged by law to enter into a **contract** with producers wanting to feed energy into the grid, no matter if it is derived from renewable or conventional energy sources (Article 23 Electricity Act). The grid operator has to make an offer (for a contract), which takes into account costs such as those related to transport, to the energy provider before the latter is able to feed energy into the grid (Article 24 Electricity Act).

The law contains no clarifications on the contents of the contract between a renewable energy producer and grid operator. However, the Electricity Act contains several provisions ensuring that consumers are protected in their contracts with energy suppliers. Article 95m of the Electricity Act stipulates that contract conditions should be **transparent, fair and the consumer should be informed in advance of these conditions**. They should be formulated in **clear and understandable** language (paragraph 1). Consumers should also be able to obtain at all times further information on fees and conditions for the supply and transport of electricity (paragraph 2). An energy supplier may not approach the customer with doubts about the validity, duration and conditions of the contract (paragraph 3). Under Article 95a, the **ACM is under the obligation to draft a model contract** (paragraph 2), which the energy supplier must extend to the customer as an option (aside from the energy supplier's own contract template) (paragraph 1).

5. What are the rules applicable to the access to the grid?

General

The Electricity Act is the central legislative Act ensuring access to the grid for all energy producers. Grid operators enter into contracts with energy providers on a **non-discriminatory basis**, meaning that renewable energy producers do not get priority access. Article 24 (1) & (3) Electricity Act states that 'the grid operator shall withhold itself of any form of discrimination'.

Aside from the grid operators, the Authority for Consumers and Markets (ACM) plays a crucial role in grid management and maintenance, as mandated by the *Decree on mandate, power of attorney and authorization of the Authority for Consumers and Markets* ([Decree on the mandate, proxy and authorisation of the Authority for Consumers & Markets](#))²¹. Through its website consuwijzer.nl, the ACM provides guidance on how prosumers can sell their electricity on the grid²².

Another crucial piece of legislation for grid use and access is the *Act on Environmental Taxes*, which stipulates that prosumers do not need to pay taxes for the energy delivered to them which they do not consume (Article 50 (2)).

- 5.1. What is the inter-connection configuration used for each type of residential prosumer?

Answer:

²¹ <http://wetten.overheid.nl/BWBR0033132/2015-10-28#Artikel1>

²² <https://www.consuwijzer.nl/energie/duurzame-energie/teruglevering/teruglevering-van-elektriciteit>

The Electricity Act stipulates that the grid operator has the task of ensuring the grid is functioning and well-maintained (Article 16 (1) under a).

Under Article 4a, the Minister of Economic Affairs collects, analyses and updates intelligence and information regarding the quality and state of maintenance of the electricity grid (under d).

The Netherlands has electricity grid connections with several neighbouring (and non-neighbouring) Member States, such as Germany (3 AC (alternating current) connections), Belgium (2 AC connections), the UK (1 AC connection) and Norway (1 AC connection)²³. There are ongoing projects to extend existing connections, such as with Belgium by 2022²⁴. However, Dutch legislation does not refer to the need to develop interconnections with other countries in order to facilitate residential prosumers' active involvement.

5.2. Does the competence to determine the inter-connection configuration lie at State level or at a regional/lander level?

Answer:

The division of grid operators is regional, as can be seen in the map below. However, the body that is in charge of managing the grid is at State level, namely the Authority for Consumers and Markets (ACM). This is stipulated in Article 5 of the Electricity Act, and in the *Decree on mandate, power of attorney and authorization of the Authority for Consumers and Markets*.



Source: [Energievergelijken.nl](http://www.energievergelijken.nl)²⁵

²³ <https://www.acm.nl/nl/onderwerpen/energie/elektriciteit/groothandelsmarkt/interconnecties/>

²⁴ http://www.infrasite.nl/news/news_articles.php?ID_nieuwsberichten=20442

²⁵ <https://www.energievergelijken.nl/nl/netbeheerders>

5.3. Are there any rules to ensure that prosumers are inter-connected to the distribution network/the grid?

Answer:

Prosumers should register their renewable energy installation with the grid operator (via the website www.energieleveren.nl). Registration is not compulsory, but only when the installation is registered can the prosumer benefit from prosumer-associated advantages, such as feeding energy back into the grid and receiving compensation for this. This is because once the installation is registered, the prosumer gets a separate EAN code that qualifies him as an energy producer and allows him to feed renewable energy back into the grid. Registration is also important for the grid operator to continue proper maintenance of the electricity grid by being aware of new installations²⁶.

5.4. What are the grid access and grid use principles and rules for the energy generated by each type of residential prosumer?

Answer:

According to Article 24 (1) & (3) of the Electricity Act, the grid operator cannot discriminate between energy providers. This means that no priority access is given to renewable energy sources in the grid.

5.5. What are the network costs and charges for each type of residential prosumer?

Answer:

Network costs to be paid by the prosumer are costs charged by the grid operator and energy supplier. Those charged by the grid operator (*netbeheerderskosten*) are maintenance-related and set every three years by the ACM²⁷.

As for the supply costs (*vastrecht*) charged by the energy supplier, they are fixed by suppliers on a yearly basis. These differ between suppliers, and prosumers are advised to choose a supplier with low costs, since these cannot be avoided²⁸. Consumers can choose between 33 energy suppliers, and are able to compare prices through the website www.energievergelijken.nl (comparingenergy.nl)²⁹.

6. What are the incentives (e.g through taxes or tariffs) for each type of residential prosumers?

Financial

The SDE+, established by the *Decree on the stimulation of sustainable energy production* (SDE Decree), is a financial instrument providing **feed-in tariff subsidies** for all types of renewable energy projects. Residential prosumers are also eligible for help, if they apply for it as a group or community (e.g. as a cooperative)³⁰. However, more advanced and cheaper technologies are more likely to benefit from the funding provided by this scheme, due to the four-year time window for projects to be rendered operational and the scheme's 'first-come first-serve basis' (as explained further below)³¹.

²⁶ <http://www.energieleveren.nl/PIR-public/pages/faq.faces>

²⁷ <https://www.energievergelijken.nl/en/about-energy-in-the-netherlands/annual-energy-bill>

²⁸ <https://opdezon.nl/zonne-energie/zonnepanelen-en-uw-elektriciteitsrekening/>

²⁹ <https://www.energievergelijken.nl/nl/energieleveranciers>

³⁰ <http://english.rvo.nl/subsidies-programmes/sde>

³¹ http://www.beuc.eu/publications/beuc-x-2016-003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf

Furthermore, thanks to the *Energieakkoord* of 2013 an Investment subsidy for sustainable energy (*Investeringssubsidie duurzaam energie; ISDE*) has been made available from 2016 to 2020, which subsidises the purchase of solar panels, water heaters, heat pumps, biomass boilers and pellet stoves³².

Fiscal

Thanks to the **net metering system** (not mandatory) stipulated in Article 31c (1) of the *Electricity Act*, prosumers only pay for the energy they consume. This means that they also only pay tax on the energy they consume, as stated in Article 50 (2) of the *Act on Environmental Taxes*. Those provisions act as incentives to reduce consumption.

Another tax incentive is the fact that prosumers purchasing and installing solar panels can get the **VAT of their purchases refunded**, following the CJEU *Fuchs* ruling (C-219/12). In this ruling, the European Court of Justice concluded that the operation of a photovoltaic installation (i.e. solar panel), which implies the feeding of energy into the grid and obtaining ‘income’ (i.e. compensation) for this activity on a continuing basis from the energy supplier, constitutes an ‘economic activity.’ The term ‘income’ in this context refers to the remuneration which the prosumer receives from the supplier as ‘consideration for the activity’ he is carrying out (i.e. feeding energy into the grid)³³. Due to this status of ‘economic activity’, the VAT of solar panel purchases is refunded.

It is important to note that provinces and municipalities are free to set up their own financial incentive programmes for renewable energy projects. For instance, the province of Gelderland provides the *Energiebespaarlening* (energy saving loan) to its residents. Thanks to this scheme, residents investing in clean-energy technologies in their homes, such as solar panels, can borrow money for a favourable interest rate. The loan amount is maximum 25,000 euros and 75% of the amount can be invested on one technology (the remaining 25% should be invested on other types of installations)³⁴.

6.1. Does your country apply specific tariffs to prosumers

- to charge them for the electricity they draw from the grid for consumption?
- or to compensate them for the electricity they feed back into the grid?

Answer:

The Incentive Scheme for Sustainable Energy Production (SDE+), established by the *Decree on the stimulation of sustainable energy production* (SDE Decree), is a **feed-in tariff subsidy** covering the difference between the wholesale market price of electricity and the cost price of electricity originating from renewable sources (for electricity, gas and heating purposes; Article 2 (1) SDE Decree)³⁵. The idea behind the subsidy is that the production of renewable energy is not always profitable and can cost more than fossil energy. The scheme compensates recipients for the difference in price between fossil and renewable energy produced by an installation over a time lapse of 8, 12 or 15 years (depending on the type of technology)³⁶.

Only companies and not-for-profit organisations (e.g. residents’ cooperatives) are eligible for the SDE+ tariff. Individual prosumers used to be eligible for the predecessor of the SDE+ programme, the SDE, but cannot benefit from the SDE+ (art. 8 (1) SDE Decree). The programme’s focus switched from small-scale to industrial-scale renewable energy production in order to speed up

³² <http://www.rvo.nl/subsidies-regelingen/investeringssubsidie-duurzame-energie>

³³ <http://curia.europa.eu/juris/document/document.jsf?docid=138693&doclang=EN>

³⁴ <http://www.gelderlander.nl/algemeen/economie/lenen-voor-energiebesparing-1.4794266>

³⁵ <http://www.res-legal.eu/search-by-country/netherlands/>

³⁶ http://english.rvo.nl/sites/default/files/2016/04/Brochure-SDE-plus-2016_spring.pdf

technological development as well as the adoption of 2020 renewables targets³⁷. Also, residential energy producers are more prone to enduring costs that surpass the financial benefits provided by such subsidy schemes³⁸.

In order to benefit from the scheme, companies and organisations must apply for it, keeping in mind the application deadlines set two times a year. The budget available is adjusted halfway through the year (in order to reflect price developments in the energy sector), and is made available to all categories of renewable energy technologies. The bi-yearly rounds of applications are each made up of four phases, with the amount of subsidy increasing per phase. Applicants apply for a particular phase depending on the amount of subsidy they need. If they are successful in their application, they will be granted this particular amount of subsidy for the entire length of time that they are eligible to receive it (Article 13 SDE Decree). The subsidy amount that is granted per kWh produced by an installation differs according to the type of technology. It should not exceed the average cost per kWh for the producing of energy by a particular type of installation (Art. 11(1) & (2) SDE Decree).

The scheme is applicable to all types of installations, whether operational or not yet in operation, as long as they become operational within the next four years (Article 59 (1)(b) SDE Decree), or by any other timeframe set by ministerial order (Art. 61 (1)). These requirements, along with the fact that subsidies are allocated on a 'first-come first-serve' basis (i.e. the applications are processed in order of entry, with applications for lower subsidy being favoured in times where the amount of applications exceeds the available budget in a particular round³⁹), has led to criticism that affordable projects (i.e. more developed technologies) with immediate results are more likely to receive the funding⁴⁰.

Another subsidy scheme for renewable energy production is the **Investment subsidy** for sustainable energy (*Investeringssubsidie duurzaam energie; ISDE*), which was set up by the *Energieakkoord* of 2013 and has been made available from 2016 to 2020. It subsidises the purchase by individuals and entrepreneurs of solar water heaters, heat pumps, biomass boilers and pellet stoves⁴¹.

6.2. Does your country

- tax prosumers in a specific way?
- allocate to them a certain part of the cost to upgrade the grid to accommodate the extra generation they feed into the grid?

The prosumer only has to pay **energy taxes** for the electricity consumed from an energy supplier. Therefore, **no taxes are paid for the renewable energy produced** (Article 50 (2) Act on Environmental Taxes). This is applicable to many types of renewable energy generation technologies, as stipulated in Art. 47 (1)(i) of the *Act on Environmental Taxes*. The calculation of how much energy the prosumer will be taxed for is part of the 'netting' (*salderen*) procedure described below in Section 4.2.

Legal uncertainty exists as regards the energy tax to be paid for renewable energy generated by a large installation outside of one's home (e.g. a wind turbine). The law does not provide solutions to the situation where two different energy suppliers would supply energy to a consumer (i.e. the official energy supplier and a cooperative owning a wind turbine). The only option being used today is that the cooperative sells the energy produced by the wind turbine to an energy supplier, who then sells it back to the members of the cooperative.

³⁷ <https://zoek.officielebekendmakingen.nl/dossier/31763/kst-31239-103.html>

³⁸ <http://english.rvo.nl/subsidies-programmes/sde>

³⁹ http://english.rvo.nl/sites/default/files/2016/09/Brochure_SDE2016-UK.pdf

⁴⁰ [http://www.beuc.eu/publications/beuc-x-2016-](http://www.beuc.eu/publications/beuc-x-2016-003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf)

⁴¹ [003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf](http://www.rvo.nl/subsidies-regelingen/investeringssubsidie-duurzame-energie)

<http://www.rvo.nl/subsidies-regelingen/investeringssubsidie-duurzame-energie>

A common practice in the Netherlands is for wind cooperative members to own ‘wind shares’ (*winddelen*), meaning that they own a part of the wind turbine and are entitled to a share of the energy it produces. Due to this legal gap, owners of wind shares are required to pay energy tax on the energy produced by the wind turbine they co-own, since it is delivered to them by the energy supplier⁴². This has been criticised as an obstacle to the further adoption of wind energy, although recently these types of prosumers have become eligible to tax deductions (more information provided below). Furthermore, the owning of a share in a wind turbine is also perceived as constituting ‘property’ by the tax services, the value of which needs to be declared to the tax services on a yearly basis⁴³.

As regards tax benefits, individuals purchasing and placing **solar panels** on their homes are currently able to get the **VAT of their purchases refunded** (following the CJEU *Fuchs* ruling⁴⁴), since they are considered as being entrepreneurs. Thus there is a distinction in relation to other type of prosumers. As described above, the Court of Justice of the European Union ruled in *Fuchs* that the operation of a photovoltaic installation and being compensated by an energy supplier for feeding energy into the grid counts as ‘economic activity.’

In principle, residential prosumers are not provided with tax benefits. Companies and entrepreneurs investing in renewable energy projects are entitled to a tax regulation mechanism called the Energy Investment Allowance (Article 3.42 in conjunction with Article 3.43 Income Tax Act), which is not made available to residential prosumers⁴⁵.

Some municipalities and provinces choose to provide subsidies to individuals investing in particular renewable technologies, although this is not compulsory⁴⁶.

7. A. What are the conditions that may encourage the take up of residential prosumers (to entry into activity or during functioning)?

General

The fact that self-consumption is recognised in the Electricity Act (Article 31c in conjunction with Article 95a) provides many advantages to prosumers. These include the ability to feed self-produced energy into the grid (Article 23) and participate in the net metering scheme (Article 31c (1)), as well as to receive compensation from energy suppliers in case the prosumer produces more energy than he consumes (Article 95c (2)). The requirements for prosumers to feed electricity into the grid are simple: the installation must be registered with the grid operator (free of charge) and sign a contract. This leads to lower energy bills for the prosumer and the ability to sell his energy to other consumers on the grid directly or indirectly.

Furthermore, the Netherlands has a long tradition of cooperatives in the agricultural sector⁴⁷. The ease with which one can set up a cooperative (or any other type of initiative focusing on renewable energy) has led to thousands of prosumers becoming members of cooperatives. By being members of cooperatives owning large installations, prosumers can benefit from tax deductions which they usually are not eligible due to the legal gap identified in the answer to the previous question.

⁴²

https://www.energieleveranciers.nl/upload/File/Zonnestroom%20en%20de%20Nederlandse%20wetgeving_AgentschapNL.pdf

⁴³

https://www.energieleveranciers.nl/upload/File/Zonnestroom%20en%20de%20Nederlandse%20wetgeving_AgentschapNL.pdf

⁴⁴ <http://curia.europa.eu/jcms/upload/docs/application/pdf/2013-06/cp130075en.pdf>

⁴⁵ <http://www.rvo.nl/subsidies-regelingen/energie-investeringsaftrek-eia/kom-ik-in-aanmerking>

⁴⁶ <https://www.zonnepanelen.net/subsidie-zonnepanelen-2016/>

⁴⁷ <http://www.wur.nl/en/Expertise-Services/Chair-groups/Social-Sciences/Rural-and-Environmental-History-Group/Research/Rural19/Rise-of-rural-cooperatives-in-the-Netherlands.htm>

B. What are the conditions that may act as barriers for residential prosumers (to entry into activity or during functioning)?

General

However, the fact that members of wind turbine cooperatives owning shares in those projects (*winddelen*⁴⁸) have to declare the value of their shares as property to the Tax Services, constitutes a barrier to more prosumers joining such cooperatives.

7.1. What are the metering systems for each type of residential prosumer? Do these systems provide adequate conditions for prosumers integration in the market?

In order for a prosumer to be able to benefit from the favourable conditions enabled by the Electricity Act, such as participating in the **net metering scheme** and being reimbursed by the energy supplier for the extra energy produced, he needs to install a meter that registers ‘energy returns’ from the energy supplier, i.e. that takes account of when the prosumer produces more renewable energy than what is delivered by the energy supplier. These can be either analog or smart meters⁴⁹.

Once the prosumer has installed such a meter, he can be fully integrated into the grid as a producer and consumer of renewable energy. The meter is provided free of charge by the grid operator⁵⁰. The consumer wishing to become a prosumer can change his old meter for a smart meter free of charge⁵¹.

7.2. What are the billing conditions for each type of residential prosumer?

The Electricity Act sets out a net metering scheme for prosumers. Those who participate in the scheme (after registering their installation with the grid operator online, as described above) reduce their electricity bills by the amount of kilowatt-hours of renewable energy they produce. This is termed as ‘netting’ (*salderen*) and is stipulated in Article 31c (1) of the Electricity Act. Prosumers in fact ‘return’ the energy delivered to them back to the supplier that they do not use. On the energy bill there will be an indication of how much energy the prosumer has produced and how much energy the supplier has delivered. The difference between the two is what can be ‘**netted**’ and the supplier will only invoice net consumption.

A condition to take part in the net metering scheme is that the energy must be supplied and fed into the same connection, which poses a problem for cooperatives getting their energy from for example a wind turbine and wanting to transfer it to its different members directly (as described above)⁵². Furthermore, one must qualify as a ‘small user’ (*kleinverbruiker*) according to the Electricity Act (Article 95a (1)), meaning that one needs to have a connection of maximum 3 x 80 Ampere in order to benefit from this arrangement.

The net metering scheme has been praised as being an **accessible and understandable remuneration** scheme for private house-owners, as well as granting them a clear legal status. This scheme will run until at least 2020⁵³.

⁴⁸ <https://www.windcentrale.nl/faq/moet-ik-vermogensbelasting-betalen-over-winddelen/#faq-1106>

⁴⁹ <https://www.energieleveranciers.nl/zonnepanelen/terugleververgoeding-zonnepanelen>

⁵⁰ <http://www.slimmemeters.nl/van-wie-krijg-ik-een-slimme-meter/>

⁵¹ <https://www.consumentenbond.nl/energie-vergelijken/slimme-meter>

⁵² <https://www.energiewereld.nl/nieuws/nieuwe-regels-voor-salderen-per-1-januari-2014>

⁵³ http://www.beuc.eu/publications/beuc-x-2016-003_jmu_current_practices_in_consumer_driven_renewable_electricity_markets.pdf

If the prosumer produces more renewable energy than that which he consumes, the energy supplier will compensate the prosumer with a **feed-in tariff** (*terugleververgoeding*) for this excess energy fed into the grid (Article 31c (3) in conjunction with Article 95c (2) Electricity Act). The amount paid back to the prosumer by kWh produced can differ according to the energy supplier⁵⁴.

As of 1 January 2014 the ministerial act establishes a limit to how much energy the prosumer can 'return' to the energy supplier, which is termed the 'netting limit' (*salderingsgrens*). This limit is equal to the amount of kWh the energy supplier delivers to the prosumer⁵⁵.

7.3. Are there measures to encourage the creation of energy communities at municipal level, or other schemes to encourage inclusive development of the market?

There are several initiatives benefiting entities such as cooperatives and Owners' Associations (*Vereniging van Eigenaren*; *VVEs*- associations of apartment owners located in the same building), as well as local public initiatives supporting prosumers. Most of these are eligible for the **SDE+ scheme setting the feed in tariff system** described above, since it is applicable to enterprises and not-for-profit organisations⁵⁶.

Furthermore, as of 1 January 2014 cooperatives and VVEs specialising in all kinds of renewable energy sources are eligible for **energy tax deductions** through the scheme Lowered Fees in **collective energy generation** (*Verlaagd Tarief voor collectieve opwek*), described in Article 3.42 of the *Income Tax Act*⁵⁷. This applies to prosumers co-owning a large-scale production installation (e.g. wind turbine) and living in the so-called 'postcode area' (*postcoderoos*) of the installation. The 'postcode area' consists of the postal code area where the installation is located, as well as all neighbouring postal code areas (with similar numbering). Individuals living in the areas can all become members of the cooperation running the installation and obtain a share of the energy produced. This tax deduction system has been criticised for being hardly applicable to wind energy, since the turbines are most efficient at the coast or in water areas, where there are not many inhabitants⁵⁸.

Cooperatives and VVEs as an entity are **not eligible for the tax deduction, but rather their members, who benefit from energy tax reductions for up to 10,000 kWh/year of energy produced for own use**⁵⁹. The cooperation/VVE in question must be designated by the Chamber of Commerce as being eligible for this scheme, and there must be a members' declaration stating that a particular member is entitled to a certain amount of the generated energy⁶⁰. The scheme is valid for 15 years once the tax services designate the cooperation/VVE as eligible for the regulation⁶¹.

Another programme that stimulates cooperatives and VVEs is the **Experiments Electricity Act** scheme (*Experimenten elektriciteitswet*), running from 2015 to 2018. It selects large and small-scale renewable energy experimental projects for which it will provide 10-year long exemptions on having to abide to certain provisions of the Electricity Act⁶².

⁵⁴ <https://www.energievergelijk.nl/energiewijzer/hoe-kan-ik-zelf-energie-opwekken>

⁵⁵ <https://www.energiwereld.nl/nieuws/nieuwe-regels-voor-salderen-per-1-januari-2014>

⁵⁶ <https://www.zonnepanelen.net/zonnepanelen-cooperatie-oprichten/>

⁵⁷ <http://www.rvo.nl/onderwerpen/duurzaam-ondernemen/duurzame-energie-opwekken/duurzame-energie/saldering-en-zelflevering/collectieven>

⁵⁸ <https://www.zonnepanelen.net/postcoderoos/>

⁵⁹ <http://www.rvo.nl/onderwerpen/duurzaam-ondernemen/duurzame-energie-opwekken/duurzame-energie/saldering-en-zelflevering/collectieven>

⁶⁰ <http://www.hieropgewekt.nl/kennis/verlaagd-tarief/de-regeling-juridische-aspecten>

⁶¹ <http://www.hieropgewekt.nl/kennis/verlaagd-tarief/de-regeling-het-kort>

⁶² <http://www.rvo.nl/subsidies-regelingen/experimenten-elektriciteitswet>

7.4. Are there rules facilitating the creation of energy cooperatives to provide a legal entity to energy communities? Are there measures facilitating other type of schemes and if so which ones?

Answer:

By 2015, 500 local public initiatives focusing on renewables had been set up, 220 of which were legal entities (mostly in the form of cooperatives). The cooperatives had up to 40,000 members⁶³.

The law is clear on how cooperatives can be created, as stipulated in Articles 2:53 to 2:63j of the Dutch Civil Code (*Burgerlijk Wetboek; BW*). Article 2:53(1) BW defines a cooperative as being ‘an association set up as a cooperative by notarial act’ which ‘must have the purpose (objective) to provide for certain material needs of its members.’

The legal form of a cooperative is considered as beneficial, since they are **not regarded as being companies**, meaning that they do not need to pay **taxes** normally charged to companies (*vennootschapsbelasting*)⁶⁴. There is a choice as regards the type of cooperative that can be set up. The most popular legal form is that of ‘Cooperation excluding liability’ (*Coöperatie Uitgesloten Aansprakelijkheid*), since it allows for cooperative members to **avoid legal liability**⁶⁵.

Public initiatives focusing on renewable energy can choose which legal form they wish to have, depending on the type of relationship they want participants to have between each other and with the heads of the initiative. They can either become **a company** (NV/BV), **cooperative** (*coöperatie*), **foundation** (*stichting*) **or association** (*vereniging*)⁶⁶. Book 2 of the Dutch Civil Code (titles 2-6) is the legal basis for each of these legal forms.

Owners’ Associations (VVEs) are a separate legal form and the legal basis for their establishment can be found in Book 5 of the Dutch Civil Code (title 9) as well as Book 2 (titles 1 and 2). The difference between **VVEs and cooperatives** is that in the case of VVEs there is an association of apartment owners (which act as separate property owners), whereas a cooperative is the owner of a movable or immovable property (e.g. a wind turbine) and its members can benefit from the property by purchasing shares for this purpose⁶⁷.

7.5. What are the procedures/provisions for establishing cooperatives for prosumers? Are they more simple/less costly than those for other schemes?

Answer:

Any group of individuals can start a renewable energy cooperative in the Netherlands. Two or more natural persons or legal entities can start a cooperative by means of a **notarial act**. There is no official limit on the amount of members a cooperative should have. However, since it is set up by means of a ‘multilateral legal act’ (*meerzijdige rechtshandeling*) according to Article 2:54(1) BW, at least two people should sign the notarial act⁶⁸. Once this first step has been completed, registration of the cooperative at the Chamber of Commerce takes place. The cooperative is then established and should have yearly members’ meetings (*algemene vergaderingen*), as well as send its financial figures to the Chamber of Commerce every year (Article 2:58 BW). Energy cooperatives also provide their members with notarial certificates proving the extent of their share in the project⁶⁹. Costs are bound to the notarial and Chamber of Commerce procedures.

⁶³ https://www.hieropgewekt.nl/sites/default/files/u20232/lokale_energie_monitor_2015_-_uitgave_januari_2016.pdf

⁶⁴ <https://www.zonnepanelen.net/zonnepanelen-cooperatie-oprichten/>

⁶⁵ <https://www.energieactie.net/een-energiecooperatie-waarom/>

⁶⁶ <http://www.hieropgewekt.nl/kennis/juridische-aspecten/juridische-aspecten>

⁶⁷ <https://www.langswater.com/cooperatie-vs-vve>

⁶⁸ http://www.boekel.com/media/683295/de_cooperatie_in_vogelvlucht.pdf

⁶⁹ <https://www.energieactie.net/een-energiecooperatie-waarom/>

The procedure cannot be described as being more or less costly than the other legal form procedures, i.e. for those local energy initiatives choosing to become an enterprise or foundation/association. Similar administrative and cost burdens are attached to these procedures, since they also take place with notarial acts and the Chamber of Commerce.

8. Other questions on the regulatory framework

8.1. What are the complaint handling procedures for each type of residential prosumer?

Answer:

In case of **disagreement** with the decision or action of an energy supplier, the prosumer must settle the dispute with the company itself. He should send a '**letter of objection**' (*bezwaar*) to the company stating his complaint and by when he expects an answer. If the consumer does not agree with the decision of the company after the letter of objection, he can then go to the **Adjudication Committee on energy** (*geschillencommissie energie*), which consists of an independent group of three persons that act as arbitrators, upon payment of a 25 euro fee (refundable if one wins the dispute). Most energy suppliers are members of this committee. The decision of the committee on the dispute is final. Another alternative is to take the energy supplier to the local **District Court** (*Rechtbank*)⁷⁰.

As regards **complaints against grid operators**, a similar trajectory can be followed. The prosumer must first complain to the grid operator directly by sending an objection letter. In case of disagreement with the operator's response to his objection letter, he can go to the Adjudication Committee on energy. Another alternative is for the consumer to complain to the **ACM**, since it is in charge of operating the grid, by filling in and sending a 'request form for energy dispute resolution' (*aanvraagformulier voor geschillenbeslechting energie*). The ACM takes a decision on the complaint within four months of receipt⁷¹.

In case of disagreement with the decision ('*besluit*') of a public body such as the ACM or a municipal/provincial authority, the prosumer/interested party ('*belanghebbende*') must first go through the **regular administrative review procedure** before it can lodge a **judicial review** procedure against the public body ('*besluit*') (7:1 *General Administrative Law Act*; Awb). Only a party whose interests have been directly affected by a public authority's decision has the right to initiate the administrative and judicial reviews of a public decision (1:2 Awb/8:1 Awb). Legal entities can qualify as 'interested parties' under Article 1:2(3) Awb, provided that the general or collective interests they represent (found in their notarial statuses) are affected by the decision⁷².

During the administrative review phase, the party sends a notice of objection (*bezwaarschrift*) to the public authority within 6 weeks of the decision's publication date. The authority then has at least 6 weeks to decide whether or not to amend its decision, with a possibility to extend this time by an additional 6 weeks (7:10-7:11 Awb). Before the public authority takes a final decision, the interested party is given the chance to orally explain its objections at an oral hearing (7:2 Awb).

In cases of appealing tax decisions, if the prosumer misses the 6-week window in which he can send a notice of objection, he can send after six weeks a letter of request (*verzoekschrift*) to the Tax Services asking for them to reconsider their decision. This is possible during the 5 years following the date of the decision. However, no judicial redress is available in case the prosumer disagrees with the Tax Services' response to his request⁷³.

⁷⁰ <https://www.consuwijzer.nl/energie/energiemarkt/toezicht/klacht-energiebedrijf-netbeheerder-indienen-bij-acm>

⁷¹ <https://www.acm.nl/nl/onderwerpen/energie/elektriciteit/regulering-regionale-netbeheerders/geschillenbeslechting/>

⁷² <https://www.utrechtlawreview.org/articles/abstract/10.18352/ulr.285/>

⁷³

http://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/belastingdienst/zakelijk/aangifte_betalen_en_toezicht/aangifte

An exception to this main administrative review procedure is found in Section 3.4 of the General Administrative Law Act, which is applicable to most types of environmental licensing decisions regarding large installations⁷⁴. Due to circumstances of public interest surrounding these licensing decisions, the public authority first makes its draft decision available to the public and *anyone* can submit their objections and views on the draft orally/in writing within 6 weeks (3:15-3:16 Awb). Once the public authority makes a final decision based on the public's feedback, any interested party having submitted views on the draft can directly launch a judicial review procedure (6:13 Awb).

Since 2008, environmental not-for-profit organisations with a total income below 10,000 euros can benefit from subsidised legal representation (*toevoeging*) by an environmental lawyer⁷⁵. The NGO must be an association or foundation whose statutes state that its goal is to represent environmental interests⁷⁶.

8.2. Are there any specific redress procedures available only to residential prosumers?

Answer:

No. As made clear above, the procedure applicable to all individuals and entities disagreeing with a public authority's decision is also applicable to prosumers.

[doen/aangifte doen belastingen en premies betalen/bezwaar beroep en verzoek/verzoekschrift](#)

⁷⁴ Chris Backes, 'The implementation of Article 9.3 of the Aarhus Convention on access to justice in the Netherlands' (2013)

⁷⁵ <https://zoek.officielebekendmakingen.nl/kst-31200-VI-10-b1>

⁷⁶ <http://www.milieurechtsbijstand.nl/page/321/betaalbaar>

Country fiche (Summary and ranking)

The **country fiche** below summarises the information from the report and ranks the **level of favourable impact** of measures in relation to its favourable impact to the take up of residential prosumers.

Country fiche	Ranking Low/Medium/High
General Description of the national regulatory framework	
• Types of residential prosumers • Institutional framework • Applicable legislation, plans and objectives • Definition of residential prosumers	Medium
Rules on different legal forms for environmental collectives are clear (Dutch Civil Code)	High
Institutional framework is clear enough (Ministry of Economic Affairs/state agencies at the top level and provinces/municipalities below)	Medium
Electricity Act Art. 1(1)(t) sets out the overall RES types it recognises	Medium
Focus on energy as investment vehicle rather than on stimulating renewable energy development at residential level	Low
No definition of residential prosumers	Low
Legal gap on feeding of electricity by cooperatives	Low
Specific Questions on the regulatory framework for residential prosumers	
Permitting requirements for each type of residential prosumer	High
No permit required for small installations, except if on historical buildings/monuments	High
Permits required for wind turbines/heat pumps (large installations- can involve EIA)	Low
Solar panel projects sometimes subjected to land planning decisions	Low
Rules applicable to the access to the grid	Medium
Clear legal framework on procedure of net metering scheme and refund for excess renewable energy fed into the grid	High
Non-discrimination provision (no priority access for RES)	Low
Legal gap on how cooperatives can feed energy into the grid	Low
Consumer protection in dealings with energy supplier (and online advice for consumers available through consuwijzer.nl)	Medium
Incentives (e.g. taxes and tariffs) for each type of residential prosumers	Medium

SDE+ and ISDE subsidy schemes available to (groups of) residential prosumers	High
No tax paid on energy not consumed	High
Solar panel purchases subject to VAT refund	Medium
SDE+ is comprised of feed-in tariff subsidies and a set budget, meaning money can run out and more advanced (cheaper) projects are more likely to be selected. Furthermore, it is not available for individual prosumers.	Low
Tax benefit scheme no longer available to prosumers (only companies)	Low
Conditions encouraging or acting as barriers for residential prosumers - What are the metering systems for each type of residential prosumer? - What are the billing conditions for each type of residential prosumer? - What are the measures to encourage the creation of energy communities at municipal level? - What are the rules facilitating the creation of energy cooperatives? Are they more simple/less costly than those for other schemes? Are cooperatives the most common legal status for energy communities?	
Billing conditions are clear and based on a legal framework (net metering)	High
Cooperatives can easily be established and they are eligible to several financial schemes (e.g. SDE+, Lowered fees in collective energy generation, Experiments Electricity)	High
Local renewable energy collectives can choose whatever legal form they wish to be recognised as (enterprise/association/foundation/cooperation) and the conditions on how to set these up are clearly stated in the Civil Code	High
Smart meters provided by grid operator	Medium
Other questions on the regulatory framework - Complaint handling procedures for residential prosumer - Redress procedures available only to residential prosumers	
The complaint/judicial redress procedure against public authorities is applicable, and clearly set out in the law (Awb)	Medium
The complaint handling and judicial redress procedure against companies is clear and provides several options for resolving conflicts	High

Executive Summary

The recognition of prosumers in Dutch legislation is slow. There is **no legal definition of prosumers**, and the government chooses to focus on energy as an investment vehicle rather than stimulating renewable energy development at residential level. There is a clear legal framework on the net metering scheme and refund for excess renewable energy fed into the grid. However, there is a legal gap on how (residents') cooperatives can feed energy into the grid and there is no priority access for RES. Nevertheless, the **permitting requirements** are not burdensome for prosumers, with permits only being required for large installations (wind turbines/heat pumps). Furthermore, consumer protection when dealing with energy suppliers is high, and **tax incentives** exist such as solar panel purchases being subject to VAT refund. Lastly, (residential) cooperatives can easily be established and are eligible to several financial schemes.