



Department for
Communities and
Local Government

Business Rates Retention and Shale Oil and Gas

Technical consultation on draft regulations to allow the 100% local retention of business rates on shale gas and oil sites.

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October 2014

ISBN: 978-1-4098-4360-3

Consultation Procedure

The consultation process and how to respond

Topic of this Consultation:	The 100% retention by local government of business rates on shale oil and gas sites.
Scope of this consultation:	This consultation seeks views on the proposed arrangements to implement 100% local retention of business rates for shale oil and gas sites.
Geographical scope:	England.
Body responsible for the consultation:	Business Rates and Settlement Division Department for Communities and Local Government.
Duration:	This consultation lasts for 6 weeks until 5 December 2014.
Enquiries:	For enquiries, please contact: ndr@communities.gsi.gov.uk
How to respond:	Please respond by email to: ndr@communities.gsi.gov.uk Alternatively, please send postal responses to: Business Rates and Settlement Division Department for Communities and Local Government, SE Corner, 2 nd Floor, Fry Building, 2 Marsham St, London SW1P 4DF

Business Rates Retention and Shale Oil and Gas

Introduction

1. The Government is supportive of developing our own indigenous energy sources in a safe and sustainable manner. We believe shale oil and gas may hold potential for adding to the UK's energy sources, helping to improve energy security, create jobs and meet carbon targets. But the Government has been clear that shale development must be safe and environmentally sound. There are robust rules in place to ensure on-site safety, prevent water contamination and mitigate seismic activity and minimise air emissions and we have over 50 years of experience of regulating the onshore oil and gas industry.
2. The business rates retention scheme allows local government to retain 50% of new business rates providing a direct incentive for local authorities to go for growth and build a stonger and more competitive economy. In January 2014 the Prime Minister announced that local authorities will be able to keep 100% of business rates from shale gas sites (which will also include shale oil). This will ensure that local councils and people will share in the economic opportunities and benefits of shale oil and gas.
3. This consultation paper describes the proposed arrangements for the 100% retention of business rates on shale oil and gas and includes a draft of the proposed Regulations (attached at Annex A) for comment. Views are invited and responses should be sent to ndr@communities.gsi.gov.uk with the heading "Draft Shale gas and oil regulations.
4. The regulations will apply to England only.
5. This consultation is undertaken in accordance with the requirements of paragraph 40(8) of Schedule 7B to the Local Government Finance Act 1988.

Designating Shale Oil or Gas sites

6. The business rates retention scheme started on 1 April 2013 and allows local authorities to retain 50% of their business rates income. Additionally the Government may, under powers in Part 10 of Schedule 7B to the Local Government Finance Act 1988, allow local government to retain in full the business rates in an area or, as in this case, for a class of property. The mechanism allows the Government to "disregard" from the normal rates retention scheme the income from a class of property and then allow that income to be retained in full by local government. This is the same mechanism already used to allow local government to retain 100% of business rates collected from new renewable energy properties¹.

¹ See The Non-Domestic Rating (Renewable Energy Projects) Regulations 2013 Si 2013 No. 108.

7. Shale oil and gas is essentially oil or natural gas which is trapped in impermeable shale rock. Enlarging or creating fractures in the rock by hydraulic fracturing enables shale oil or gas to flow. Like other oil and gas exploration or production, a well is drilled and several stages of metal pipes (“casing”) are set in concrete within the well, to seal it and prevent contamination of surrounding groundwater. A well for shale gas will usually go down vertically to the shale layer and then run horizontally along it. Once the well has been drilled the rock is then fractured by injecting water at high pressure, an established technique for conventional oil and gas, but used more intensively for shale. We have put in place stringent regulations and safety regimes to ensure the development of shale gas is in line with our environmental objectives.
8. The Government proposes that 100% retention should apply to rating assessments which are used for these shale oil or gas operations. This should include sites during the time they are only being used for drilling for, but not yet fracturing for, shale oil or gas. The Government does not propose to distinguish between shale oil or gas sites during the exploration or production stage. The Government also proposes to designate sites which are used only partly for shale oil or gas and allow local government to retain 100% of the rates income on that part.
9. In Parts 2 and 3 of the attached draft regulations, class A properties (in rating called hereditaments) are those in relation to which local authorities will retain 100% of the business rates revenue. They are properties which are used for the boring or getting of shale oil or gas by hydraulic fracturing. Class B properties are those where only part of the property is used for the boring or getting of shale oil or gas by hydraulic fracturing. For Class B properties local authorities will retain 100% of the business rates revenue attributable to the part used for shale oil or gas (found by a certified split of the rateable value provided by the Valuation Officer).

Allocating the 100% local share

10. The business rates retention scheme covers:

- Unitary Authorities and Metropolitan Authorities which are not also Fire Authorities (which normally retain 49% of the business rates revenue they collect),
- Unitary Authorities which are also Fire Authorities (who normally retain 50%)
- County Councils which are also Fire Authorities (who normally retain 10%),
- County Councils which are not also Fire Authorities (who normally retain 9%),
- Fire Authorities (who normally retain 1%),
- Shire Districts (who normally retain 40%),
- London Boroughs (who normally retain 30%), and
- the Greater London Authority (who normally retain 20%).

11. The 100% retention for shale oil and gas will mean that an extra 50% of business rates revenue from sites falling within the classes designated by the Regulations will be available to share amongst those authorities. The Government considers that in 2 tier areas (Shire Counties) and London the extra 50% should go to the County Council and the London Boroughs. This is because for shale oil and gas those authorities have significant levers for promoting development and have responsibility for minerals planning decisions. For the same reason, in other areas the extra 50% should go to the Unitary or Metropolitan Authority.
12. Therefore, the local shares on shale oil and gas business rates will be:
- Unitary Authorities and Metropolitan Authorities which are not also Fire Authorities will retain 99%,
 - Unitary Authorities which are also Fire Authorities will retain 100%
 - County Councils which are also Fire Authorities will retain 60%,
 - County Councils which are not also Fire Authorities will retain 59%,
 - Fire Authorities will retain 1%,
 - Shire Districts will retain 40%,
 - London Boroughs will retain 80%, and
 - the Greater London Authority will retain 20%.
13. Local authorities will be allowed to retain these shares of the shale oil and gas business rates for the duration of the projects (i.e. they will be excluded from any future reset of the business rates retention system).
14. Part 4 of the Regulations provides for the proposed amendments to the Non-Domestic Rating (Rates Retention) Regulations 2013 setting out the arrangements for the authority which is responsible for collecting business rates (known as the billing authority) to pay the relevant proportion of revenue to the other relevant authorities in its area.
15. These arrangements will ensure that Shire Districts will continue to receive 40% of business rates on shale oil and gas sites meaning they will continue to see significant direct benefits from these developments. Parish Councils are not part of the rates retention scheme.

Implementation

16. Following consideration of responses to this consultation, the Government intends to lay before Parliament regulations designating shale oil and gas developments for the purposes of 100% business rates retention with a view to them having effect from 1 April 2015.

Draft Regulations laid before Parliament under section 143(9D)(f) of the Local Government Finance Act 1988, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Shale Oil and Gas) and Rates Retention (Amendment) Regulations 2015

Made - - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State for Communities and Local Government makes these Regulations in exercise of the powers conferred by section 97(2A) of, and paragraphs 40, 41 and 42 of Schedule 7B to, the Local Government Finance Act 1988⁽²⁾.

In accordance with section 143(9D)⁽³⁾ of that Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Before making these Regulations, the Secretary of State for Communities and Local Government has consulted such persons as the Secretary of State thinks fit in accordance with paragraph 40(8) of Schedule 7B to the 1988 Act.

These Regulations are made with the consent of the Treasury in accordance with paragraph 40(10) of Schedule 7B to the 1988 Act.

⁽²⁾ 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). Section 97 was substituted by paragraph 22 of Schedule 10 to the Local Government Finance Act 1992 (c.14) and subsection (2A) was inserted by paragraph 25(2) of Schedule 3 to the Local Government Finance Act 2012.

⁽³⁾ Section 143(9D) was inserted into the Local Government Finance Act 1988 by section 1 of the Local Government Finance Act 2012.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Shale Oil and Gas) and Rates Retention (Amendment) Regulations 2015 and come into force on the day after the day on which they are made.

(2) The designations made by regulations 5 and 6 take effect on 1st April 2015.

Interpretation

2. In these Regulations, unless the context otherwise requires,—

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

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

“designated class” means a class of hereditaments designated by regulation 5 or 6;

“non-domestic rating income” in relation to a hereditament has the meaning given by regulation 8;

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

“relevant year” means the year for which a calculation under Schedule 7B to the 1988 Act is being made.

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.

PART 2

Designation of classes of hereditaments

Designated classes of hereditaments

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

Class A: hereditaments used wholly or mainly for shale oil or gas extraction

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

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

- (a) the hereditament is used wholly or mainly for the boring for or getting of oil or natural gas from shale; and
- (b) the method of getting or intended method of getting of the oil or natural gas is hydraulic fracturing.

Class B: other hereditaments used for shale oil or gas extraction

6.—(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 does not fall within class A;
- (b) the hereditament includes land used wholly or mainly for the boring for or getting of oil or natural gas from shale; and
- (c) the method of getting or intended method of getting of oil or natural gas is hydraulic fracturing.

PART 3

Rules for the calculation of an amount to be disregarded

Amount to be disregarded for the purpose of certain calculations

7. 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 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

8. 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 in respect of non-domestic rates payable under sections 43 and 45 of the 1988 Act (occupied and unoccupied hereditaments: liability) 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-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 regulations made under paragraph 33(1) of Schedule 7B to the 1988 Act (regulations about transitional protection payments) made to the authority on a day in respect of that hereditament; and

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

Calculation of the amount to be disregarded: class A

9. For the purposes of regulation 7 (amount to be disregarded for the purpose of certain calculations), the amount to be disregarded in relation to an authority for a relevant year in respect of a hereditament within class A is the total of the non-domestic rating income in respect of that hereditament for each day of the year.

Calculation of the amount to be disregarded: class B

10.—(1) For the purposes of regulation 7 (amount to be disregarded for the purpose of certain calculations), 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—

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

where—

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

F 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

G 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 is used wholly or mainly in connection with the boring for or getting of oil or natural gas from shale by hydraulic fracturing.

PART 4

Payments to relevant precepting authorities

Amendment of the Non-Domestic Rating (Rates Retention) Regulations 2013

11.—(1) The Non-Domestic Rating (Rates Retention) Regulations 2013⁽⁴⁾ are amended as follows.

(2) In regulation 3(1) (calculation of non-domestic rating income) after sub-paragraph (e) insert—

“(f) the amount (if any) specified by regulation 7A(1);

(g) the amount of each relevant precepting authority’s share of any amount specified by regulation 7A.

(3) After regulation 7 (payments with respect to county matters) insert—

“Payments with respect to shale oil or gas hereditaments

7A.—(1) The amount specified by this regulation is the amount to be disregarded in respect of a hereditament for the relevant year calculated in accordance with the Non-Domestic Rating (Shale Oil or Gas) and Rates Retention (Amendment) Regulations 2015 where the hereditament falls within a class designated by regulation 5 or 6 of those Regulations.

⁽⁴⁾ S.I. 2013/452. Amended by S.I. 2014/96.

(2) The billing authority must make a payment for the year to each relevant precepting authority equal to that authority's share of the amount estimated (if any), in accordance with regulation 3, as the amount specified by this regulation.

(3) The relevant precepting authority shares are—

- (a) 60% where the relevant precepting authority is a county council which is a fire and rescue authority;
- (b) 59% where the relevant precepting authority is a county council which is not a fire and rescue authority;
- (c) 20% where the relevant precepting authority is the Greater London Authority; and
- (d) 1% where the relevant precepting authority is a fire and rescue authority not falling within subparagraph (a).

(4) The payment must be made in the course of the relevant year in accordance with the schedule of instalments.”

(4) In regulation 9(1)(c) (end of year calculations) after “regulation 7(2)” insert “or 7A(1)”.

(5) In regulation 10 (reconciliation of disregarded amounts) after paragraph (a) insert—

“(aa) where the difference relates to a hereditament within the description in regulation 7A(1) (shale oil or gas hereditament)—

- (i) if the certified amount is less than the amount paid to the relevant precepting authority, the precepting authority must pay an amount equal to the difference to the billing authority; or
- (ii) if the certified amount is more than the amount paid to the relevant precepting authority, the billing authority must pay an amount equal to the difference to the relevant precepting authority;”.

(6) In Schedule 3 for the definition of “T” substitute—

“T is the amount of any payments made to—

- (a) a county council in accordance with regulation 7 (payments with respect to county matters); or
- (b) a relevant precepting authority in accordance with regulation 7A (payments with respect to shale oil or gas hereditaments);”.

We consent to the making of these Regulations

Name

Name

Two of the Lords Commissioners of Her Majesty's Treasury

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

Name

Parliamentary Under Secretary of State

Date

Department for Communities and Local Government

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 provisions applicable to certificates by valuation officers under regulation 10.

Part 2 sets out the designated classes of hereditaments in relation to which a proportion of non-domestic rating income is to be disregarded.

Part 3 makes provision for the calculation of the amounts to be disregarded for the purpose of calculations under the rates retention scheme.

Part 4 amends the Non-Domestic Rating (Rates Retention) Regulations 2013 to provide for payments to relevant precepting authorities of a proportion of the amount to be disregarded.

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.