

Non-domestic rates: Returning Prescribed Industries to Conventional Valuation - A consultation paper

Introduction

1. Certain industries have their rateable values, or a formula for calculating their rateable values, prescribed by Ministers rather than valued by independent Assessors.
2. This consultation paper seeks views on the proposal to return each of the following industries to conventional valuation:
 - Electricity generation
 - Electricity distribution
 - Electricity transmission
 - Gas
 - Scottish Water
 - Docks and Harbours (large)
 - Railways
 - Train Operating Companies
3. The specific questions on which views are invited are given at the end of the paper.
4. Ministers are keen to encourage full discussion of relevant issues and will give careful consideration to the responses received.

Sending us your views:

5. We invite responses by 12th March 2003. E-mail responses should be sent to: prescribed.consult@scotland.gsi.gov.uk and paper responses to: Billy McKenzie, Prescribed Industries Consultation, Area 3J (North), Victoria Quay, Edinburgh, EH6 6QQ.
6. **Please let us know if you wish your response to remain confidential.** The Scottish Executive may wish to publish responses to this consultation exercise in due course or deposit them in its libraries. If so, all responses received will be published or deposited, unless a respondent specifically asks the Executive to treat their response as confidential. Confidential responses will, nevertheless be included in any statistical summary of the numbers of comments received and views expressed.
7. Further copies of this consultation paper can be obtained from the Scottish Executive website; by post from Billy McKenzie, Prescribed Industries Consultation, Area 3J (North), Victoria Quay, Edinburgh, EH6 6QQ or by e-mail to prescribed.consult@scotland.gsi.gov.uk.

Prescribed Industries

- where we are now

8. Rates are a tax on the open market rental value of non-domestic property. They are levied on the basis of a rateable value multiplied by a national rate poundage¹ for each non-domestic subject on the valuation roll.

9. For most subjects the local authority Assessor, in setting the rateable value acts independently of both local and central government and any assessment made is subject to appeal to the local Valuation Appeal Committee, Lands Tribunal and ultimately to the Lands Valuation Appeal Court.

10. However for the prescribed industries rateable values are set (prescribed) by Scottish Ministers, following consultation. There is no right of appeal.

11. Prescribed assessment was introduced in the post-war years when conventional valuation became increasingly unreliable. This was because there were very few comparable properties to which the Assessors could turn for rental evidence and the newly nationalised industries did not, in general, operate with a view to profit.

12. Some prescribed industries (telecom and waterways) were returned to conventional valuation at the 1995 revaluation.

13. Rateable Values for the prescribed industries are given in the table below. This represents about 7 per cent of total rateable value in Scotland.

Rateable Value in Scotland for prescribed Industries (April 2001)	£ millions
Electricity Distribution ⁽¹⁾	73
Electricity Generation ⁽²⁾	73
Electricity Transmission ⁽³⁾	34
Water	31
Railtrack	18
Rail - train operating companies	1
BG Transco plc	59
Ports valued by formula	8
TOTAL	296

(1) Scottish Power Distribution Ltd, Scottish Power Systems Ltd, Scottish Hydro-Electric Power Distribution Ltd

(2) Scottish Power Generation Ltd, Scottish and Southern Energy Generation Ltd, British Energy Generation (UK) Ltd

(3) Scottish Power Transmission Ltd, Scottish Hydro-Electric Transmission Ltd

- why change

14. The Scottish Executive believes that there is a strong case for ending prescription at the next revaluation and that these industries should, where possible, be treated in the same way as other industries.

15. For most of the industries at least part of the original justification for prescription no longer applies in that most utilities have been privatised or are subject to competition.

¹ Poundage is 47.8p in 2002/03 and 2003/04

16. The Scottish Executive has a policy of harmonisation of rating practice north and south of the border and it is proposed that all the prescribed industries in England be returned to conventional valuation at the 2005 revaluation. Provisions to achieve this in respect of England are included in the Local Government Bill recently introduced in the Westminster Parliament.

17. Each industry is obviously different and we are asking for views for each industry, rather than for the prescribed industries as a whole. Scottish Water, for example, is still within the public sector, although it is subject to some competitive pressures for customers outwith the public network.

18. Although we believe there is a strong case for ending prescription, there are financial aspects that need to be considered for both the industries concerned and for other ratepayers.

- Prescription brings with it more financial certainty than conventional valuation. The prescribed industries have not been assessed conventionally for over 50 years so it is hard to predict what the rateable values or potential adjustment at appeal will be.
- Ending prescription will not affect the total yield from non-domestic rates but may result in a redistribution of the rates burden between these industries and others. This will become part of the redistribution of the rates burden which is the purpose of a revaluation.
- In the past, in setting the poundage immediately following a revaluation the Executive has made an assumption about the reduction in rateable value due to successful appeals. This is to ensure that, once appeals have been taken into account, income from non-domestic rates remains constant over a revaluation.
- If some or all prescribed industries are returned to conventional valuation there will be a greater degree of uncertainty around the appeals assumption. At the 2005 revaluation, if the appeals assumption is set too low then the rates income will be lower than expected. If the poundage were not increased by more than the rate of inflation in a future year the rates income would be permanently reduced. Similarly, if the appeals assumption is set too high, the rates income would remain higher than expected unless the poundage were increased by less than the rate of inflation in a future year. It may be several years after the revaluation before appeal losses are finally known
- The Scottish Executive's current policy is to limit rate increases to the rate of inflation provided there are no dramatic changes in economic circumstances. It is possible however that, once the true reduction in rateable value due to appeals following the 2005 revaluation is known, the rate poundage may need to increase by more or less than inflation in a given year. If needed, this would simply be an adjustment to ensure that any errors made at the revaluation in estimating losses in yield would not have a permanent effect on the total amount of rates paid. This will not increase rates income over the revaluation period.

Legislation

- where we are now

19. The Scottish Ministers use the Order-making powers available to them under the Local Government (Scotland) Act 1975 to prescribe the rateable values of the lands and heritages occupied by the prescribed industries.

20. The current Orders are listed in Annexe A.

- changes

21. Primary legislation would be required to repeal this power, although repeal is not strictly necessary. Ministers could simply make no Order in respect of any industry returned to conventional valuation.

22. However, these are complex industries made up of many subjects and spread over Scotland. Legislation is required to enable conventional valuation to be carried out effectively and efficiently.

23. To assist the Scottish Assessors in being able to conventionally value these industries in an efficient and effective manner, we consider that these industries should be valued for Scotland as a whole. This will generally reflect the basis on which the industries themselves operate.

24. Executive amendments that provide Scottish Ministers with the necessary enabling powers to make Orders were introduced at Stage 2 of the Local Government in Scotland Bill. It is expected that the third and final stage of the parliamentary process will be concluded in early January.

25. The new powers will only be used for those industries which are confirmed as returning to conventional valuation at the 2005 revaluation and any resulting orders will be subject to Parliamentary scrutiny in the usual way. Taking these powers does not commit the Executive to any one course of action. A brief outline of the new powers is given below.

- Scottish Ministers may provide by Order that a single Assessor can be appointed to value an industry as a whole. This designated Assessor would have the same powers of entry and right to request information throughout Scotland as the Assessor currently has within his own valuation authority area.
- Scottish Ministers may also provide by Order that the Valuation Appeal Committee within the "designated" Assessor's own valuation authority area can hear and determine appeals and complaints under the Valuation Acts in relation to the valuation of these industries.
- Scottish Ministers may provide by Order that the valuation figure for each industry can be entered in one valuation roll or apportioned amongst valuation rolls.

26. Appointing a single Assessor to deal with the valuation process will provide consistency of approach, and any appeal could be dealt with through a single Valuation Appeal Committee. We believe that this is the most straightforward way of proceeding for all concerned

- Next Steps

27. A broad outline of the next steps is given below.

- Scottish Ministers will give careful consideration to the responses received and will determine which industries will return to conventional valuation at the 2005 Revaluation and any further action necessary.
- For any industry returning to conventional valuation at the 2005 revaluation the new powers being introduced in the current Local Government in Scotland Bill will be used. Ministers will consult appropriately, before making any Order. The Orders will be used as set out in paragraph 25 above and will include defining the lands and heritages to be included in the valuation.
- For any industry remaining in prescription at the 2005 revaluation, the rateable value or formula for calculating the rateable value will be prescribed by Scottish Ministers, after consultation, as before.

Questions on which views are sought

Views for each industry - returning to Conventional Valuation

1. For each industry please tell us whether you:

- agree
- disagree
- have no opinion

that the industry should be returned to conventional valuation at the 2005 revaluation. The industries are:

- Electricity generation
- Electricity distribution
- Electricity transmission
- Gas
- Scottish Water
- Docks and Harbours (large)
- Railways
- Train Operating Companies

An explanation for your views would be very helpful in understanding your response.

Other issues

2. We welcome any other comments you have on returning the prescribed industries to conventional valuation. This may cover legislative, financial or any other aspect you wish us to be aware of.

- **WATER UNDERTAKINGS**

The Water Undertakings (Rateable Values) (Scotland) Order 2000 (2000 No. 90). This Order makes provision for the valuation for financial years 2000-01 to 2004-05 of certain lands and heritages occupied by water authorities and wholly or mainly used for the purposes of water undertakings carried on by them.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000090.htm>

The Electricity Lands and Water Undertakings (Rateable Values) (Scotland) Amendment Order 2000 (2000 No. 284). This order corrects an error in the Water Undertakings (Rateable Values) (Scotland) Order 2000.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000284.htm>

The Water Undertakings (Rateable Values) (Scotland) Variation Order 2002 (2002 No. 159). This order corrects an error in the Water Undertakings (Rateable Values) (Scotland) Order 2000.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2002/20020159.htm>

- **BRITISH GAS**

The BG Transco plc (Rateable Values) (Scotland) Order 2000 (2000 No. 85). This Order makes provision for the valuation for each of the financial years 2000-01 to 2004-05 of certain lands and heritages occupied by BG Transco plc.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000085.htm>

- **RAILWAYS**

The Railtrack plc (Rateable Values) (Scotland) Order 2000 (2000 No. 91). This Order makes provision for the valuation for financial year 2000-01 and for any subsequent financial year of certain lands and heritages occupied by Railtrack plc.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000091.htm>

- **TRAIN OPERATING COMPANIES**

The Train Operating Companies (Rateable Values) (Scotland) (No. 2) Order 2000 (2000 No. 424). This Order makes provision for the valuation for each of the financial years 2000-2001 to 2004-2005 of certain railway lands and heritages occupied by ScotRail Railways Ltd., Great North Eastern Railway Ltd., the British Railways Board, West Coast Trains Ltd. and West Coast Traincare Ltd.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000424.htm>

- **DOCKS AND HARBOURS**

The Docks and Harbours (Rateable Values) (Scotland) Order 2000 (2000 No. 285). This Order makes provision for the valuation for the financial year 2000-01 and any subsequent

financial year of certain lands and heritages occupied by a person carrying on a dock or harbour undertaking under statutory powers.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000285.htm>

- **ELECTRICITY INDUSTRY**

The Electricity Generators (Rateable Values) (Scotland) Order 2000 (2000 No. 86). This order makes provision for the valuation for each of the financial years 2000/01 to 2004/05 of certain lands and heritages occupied by a person for the purposes of generating electricity. This is where generation is the sole or primary use and wind, wave or tidal power is used as the primary source of energy.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000086.htm>

The Electricity Generators (Aluminium) (Rateable Values) (Scotland) Order 2000 (2000 No. 87). This Order makes provision for the valuation for the financial years 2000-01 to 2004-05 of certain lands and heritages occupied by Alcan Aluminium UK Ltd. or the Lochaber Power Company.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000087.htm>

The Electricity Lands (Rateable Values) (Scotland) Order 2000 (2000 No. 88). This Order makes provision for the valuation for financial years 2000-01 to 2004-05 of certain lands and heritages occupied by Scottish Power UK plc and Scottish and Southern Energy plc (trading as Scottish Hydro-Electric) and used for the purposes of the distribution and transmission of electricity; and by Scottish Power UK plc, Scottish and Southern Energy plc and British Energy Generation (UK) Limited (formerly Scottish Nuclear Limited) and used for the purposes of the generation of electricity.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000088.htm>

The Electricity Lands and Water Undertakings (Rateable Values) (Scotland) Amendment Order 2000 (2000 No. 284). This order makes minor amendment to the Electricity Lands (Rateable Values) (Scotland) Order 2000.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2000/20000284.htm>

The Electricity Lands and Generators (Rateable Values) (Scotland) Variation Order 2002 (2002 No. 158). This Order varies the Electricity Lands (Rateable Values) (Scotland) Order 2000 and the Electricity Generators (Rateable Values) (Scotland) Order 2000 following upon changes in the electricity industry consequential on the Utilities Act 2000 (c.27). The variations take account of the fact that during the course of the financial year 2001-2002, Scottish Power UK plc and Scottish and Southern Energy plc were required to transfer their generation, distribution and transmission activities to successor companies. In the case of Scottish Power UK plc the successor companies are Scottish Power Generation Limited, SP Distribution Limited, SP Power Systems Limited and SP Transmission Limited. In the case of Scottish and Southern Energy plc the successor companies are SSE Generation Limited, Scottish Hydro-Electric Power Distribution Limited and Scottish Hydro-Electric Transmission Limited. Articles 18 and 19 make a consequential amendment to the Local Government (Scotland) Act 1975.

<http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2002/20020158.htm>