



Oil & Gas
Authority

Consultation on proposals to introduce new OGA fees and to amend the methodology to calculate the levy

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The consultation can be found on the OGAs website:
www.ogauthority.co.uk/news-publications/consultations/2016/

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General information

Purpose of this consultation

As required by the Energy Act 2016 the Department for Business Energy and Industrial Strategy (BEIS) has consulted with the Oil and Gas Authority (OGA) on a proposal to introduce regulations that will establish new fees that the OGA can charge for its services; and a new methodology to calculate the industry levy.

This document seeks the oil and gas industry's views on the proposal to introduce new Regulations and will inform the OGA's response to BEIS.

Part 1 seeks industry's views on proposed changes to the fees the OGA charges; Part 2 seeks industry's views on proposed changes to the methodology for calculating the levy on pre-production licences.

Issued: 7 November 2016

Respond by: by 17:00 5 December 2016

Territorial extent: United Kingdom

Responding to this Consultation

The OGA invites written views and comments on the proposals, to be made by 17:00, 5 December 2016. Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please submit your response by email or in writing to the addresses below.

The OGA has produced a coversheet for responses (see Annex A) and asks that you complete and include it with your response, which should speed up the processing of responses, and help to maintain confidentiality where appropriate.

Written responses to the consultation should be sent to:

Ricki Kiff
Oil and Gas Authority
21 Bloomsbury Street
London
WC1B 3HF

Email: oilandgaslicensing@ogauthority.co.uk

Representative groups are asked to give a summary of the persons or organisations they represent when they respond.

Additional copies

Other versions of the document in Braille, large print, audio or Welsh can be made available on request. Please contact us using the 'enquiries' details to request alternative versions.

Confidentiality and data protection

The OGA will aim to publish its response to this consultation within 12 weeks of the close of the consultation.

If you think any part of your response should be kept confidential, please place such part(s) in a separate annex to your response and include your reasons why this part of your response should not be published. For example, this may include information such as your personal background and experience. Therefore, if you want your personal details to remain confidential, please provide them in your coversheet only so that the OGA does not have to edit your response.

If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to the OGA to use for its regulatory remit.

Quality assurance

This consultation has been conducted in line with the government's consultation principles.

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

Matthew Garland
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Introduction

1. The OGA was formed in April 2015, initially as an executive agency of the Department of Energy and Climate Change (now BEIS). In October 2016 the OGA became a government company, limited by shares under the Companies Act 2006, with the Secretary of State for BEIS as the sole shareholder. The OGA's role is to regulate, influence and promote the UK oil and gas industry in order to maximise the economic recovery of the UK's oil and gas resources¹.
2. As set out in *Managing Public Money*², it is government policy to charge for many publicly provided goods and services. Charging for services relieves the general taxpayer of costs properly borne by users who benefit directly from a service. The OGA recovers its costs via direct fees for specific activities and a levy on all offshore exploration and petroleum licence holders designed to cover remaining net expenditure.
3. Pursuant to the requirements of the Energy Act 2016, BEIS has consulted with the OGA on a proposal to introduce regulations that will establish new fees that the OGA can charge for its services and a new methodology to calculate the industry levy. This document seeks views on these proposals and will inform the OGA's response to BEIS. Part 1 seeks views on proposed changes to the fees the OGA charges; Part 2 seeks views on proposed changes to the methodology for calculating the levy on pre-production licences.

¹ The OGA also regulates the UK's carbon storage, gas storage and offloading activities.

² http://www.hm-treasury.gov.uk/psr_mpm_index.htm

Part 1: New fees and charges

Background

4. The OGA provides a range of services to specific licence holders. These services include issuing licences to search and bore for and get petroleum, as well as issuing relevant consents and permits. In accordance with *Managing Public Money*, where possible the costs of these services are recovered via direct fees rather than via the levy to ensure that only those benefiting from a service will bear its costs.

5. Since 2013, the OGA, and previously DECC, have charged, on a cost-recovery basis, fees for consents issued under petroleum licences (both onshore and offshore), offshore methane gas storage licences and carbon dioxide storage licences and for pipeline works authorisations issued under Part III of the Petroleum Act 1998³. The charges, introduced by the Gas and Petroleum (Consents) Charges Regulations 2013⁴ and now enshrined in The Oil and Gas Authority (Fees) Regulations 2016⁵, include:

- drilling consents
- production consents
- flaring or venting consents
- licence assignments
- field development or gas storage

development plan approvals

- carbon storage permits
- pipeline works authorisations
- approval of methodology proposed for the measurement of petroleum
- extended well tests.

The OGA intends to update the existing fees for the 2017/18 financial year to reflect current resource costs. The updated costs will be set out in regulations and are out of the scope this consultation.

6. Section 12 of the Energy Act 2016 provides a new power for the Secretary of State to make regulations for the OGA to charge fees for certain activities. In line with its statutory function, the OGA will not seek to make a profit from these charges but merely to recover costs in carrying out these functions. It is intended that any income from these fees will be deducted from the overall amount payable by industry through the levy, so the OGA recovers its costs from the companies benefiting from its services.

³ <http://www.legislation.gov.uk/ukpga/1998/17/part/III>

⁴ <http://www.legislation.gov.uk/uksi/2013/1138/contents/made>

⁵ <http://www.legislation.gov.uk/uksi/2016/904/contents/made>

7. The OGA proposes to seek the recovery of the costs of providing further direct services. The additional services and the associated proposed charging methodology are summarised in Table 1.
8. Further detail on each of the services for which the OGA proposes to introduce a charge, the proposed charging approach and some indicative rates are set out below in paragraphs 15 to 27.

Table 1: Proposed new charges and charging methodology

Service	Charging methodology	Indicative Charge*
Retention or development area plans approvals (onshore)**	Time sheeted	£500 per officer per day
Determination or re-determination of a field boundary	Time sheeted	£500 per officer per day
Onshore metering inspections	Fixed	£2,200
Offshore metering inspections	Fixed	£1,800
Inspector attendance at meter flow calibrations	Fixed	£2,200
Licence extensions and amendments	Fixed	£800
Operator approvals under the Offshore Safety Directive	Bespoke	HSE staff £266 per hour BEIS technical specialist staff £168 per hour BEIS administrative support staff £82 per hour

*These are indicative charges for 2017/18 and would be updated in line with the RPI

** England only

Proposed charging methodology

9. This part of the consultation sets out the rationale for the proposed charging methodology. There are three methodologies proposed – fixed fees, time-sheeted fees and a bespoke approach to one charge. For fixed and time-sheeted fees, the costs that the OGA has included in determining the level of the charge proposed for individual consents or services are the annual salary of those OGA staff directly involved (including Earnings-Related National Insurance Contributions and superannuation), subdivided into a daily and a half hourly rate, multiplied by the days or time devoted in assessing such cases. An OGA overhead will also be applied on a pro rata basis to that member of staff which is OGA's payments on building services, such as rent. The bespoke fee will reflect actual charges to the OGA from the Competent Authority bodies (the Health and Safety Executive and BEIS) and an OGA overhead.

Fixed fees

10. Following the approach taken with the charges introduced in 2013, and in line with Managing Public Money, for those services that, in a resource-input sense, are considered to be predictable and similar in all cases, the OGA proposes charging a fixed fee that licensees would pay as a standard charge. The charges for these services will be set out in regulations.

Time sheeted fees

11. Where the required resource input differs from case to case, the fixing of a single standard charge would result in cross-subsidisation of complex cases by simpler, straightforward cases. Therefore the OGA proposes adopting the approach of time sheeting for such services to ensure that fees are fully cost reflective. The number of days and half hours spent providing the services by each OGA officer involved will be recorded on time sheets and the charge calculated using the predetermined daily and hourly rate that represents staff costs. The predetermined daily and hourly rate will be set out in regulations. This approach will enable the OGA to issue an invoice that reflects accurately the resource used for assessing each case.
12. In line with current OGA practice for activities that are time sheeted, a working day will seven hours and units of time under a day would be recorded in half hour units. As is currently the case for current fees charged by the OGA, if work is commenced (and therefore time sheeted) and the application for the service or consent is subsequently withdrawn or abandoned by an applicant, an invoice will be issued to recover the OGA's costs from such applicant.

Bespoke fees

13. The OGA proposes to introduce a bespoke invoicing approach to reflect accurately the costs of processing each operator approval under the Offshore Safety Directive. Applicants will be invoiced for the actual cost incurred

by the OGA; this will consist of the charge from the Competent Authority bodies (BEIS and the Health and Safety Executive) and an amount to cover the OGA's own IT and other administrative costs. More detail on bespoke fees can be found at paragraphs 26 and 27.

Timing for the introduction of new charges

14. Pending the conclusion of this consultation exercise, the OGA proposes that the new charges should come into effect at the start of the 2017/18 financial year and continue thereafter (subject to approval by the government and

Parliamentary process). Any consent request submitted on or after 1 April 2017 would therefore be subject to the payment of a fee under the new charging regime.

Information about the proposed the new charges

Retention or Development Area Plan approvals (onshore) England only

15. Certain landward licences provide for the creation of Retention Areas and Development Areas. These are specified parts of the licensed area with a defined programme of exploration or appraisal work and a specified timetable (together called a Retention Area Plan). The licensee may propose the creation or amendment of such areas at any time.

Proposed charging approach for Retention or Development Area Plan approvals: time sheeted

16. The calculation of a single time estimate for consenting to an application means that the fee payer of a complex case would be cross subsidised by the fee payer of a straight-forward case. Therefore the OGA proposes to introduce a time sheeted approach to determine the charge for this service, as described in paragraphs 11 and 12.
17. Based on daily charge of £500 per technical officer (see Table 1) with an average effort of two days the indicative fee for this service would be £1,000. This example is for illustration only as each approval would vary according to the complexity and issues involved. The charging regime would also apply to any subsequent revisions to plans or areas.

Q1. Do you have comments on the proposal to charge for Retention or Development Area Plan approvals set out above?

Q2. Do you have comments on the proposed methodology to determine the fee?

Determination or re-determination of a field

18. As required by the Oil Taxation Act 1975, the OGA will formally define boundaries of a petroleum field either as part of Field Development Plan (FDP) approval or separately when a boundary is being 'redrawn'. This process is included in the invoice sent by the OGA when it approves an FDP. However, a redetermination can occur after the FDP is granted, if new information emerges about the field. If the licence holder requests that a field boundary is redefined, the OGA meets with the licence holder and assesses the request. The OGA then considers the evidence submitted by the licensees and makes a decision whether to redraw the boundary of a field.

Proposed charging approach for determination or re-determination of a field: time sheeted

- 19. The calculation of a single time estimate for consenting to an application would mean the fee payer of a complex case would be cross subsidised by the fee payer of a straight-forward case. Therefore the OGA proposes to introduce a time sheeted approach to determine the charge for this service, as described in paragraphs 11 and 12. The OGA would invoice the applicant after the case has been completed.
- 20. Based on daily charge of £500 per technical officer (see Table 1) with an average effort of two days the indicative fee for this service would be £1,000. This example is for illustration only as each approval would vary according to the complexity and issues involved.

Q3. Do you have comments on the proposal to charge for determination or re-determination of a field set out above?

Q4. Do you have comments on the proposed methodology to determine the fee?

Onshore metering inspections (terminal factory acceptance tests); Offshore Metering inspections on installations; and inspector attendance at meter flow calibrations

- 21. The OGA undertakes metering inspections to check that equipment and allocation processes are as approved. This is to ensure that licensees comply with the regulatory requirement to account for all petroleum won and saved from the respective licensed areas. There may also be fiscal implications to the allocation to individual fields. Inspectors determine the need for inspection, engage with licence holders (by telephone and written communication), prepare relevant documents and arrange visits. The same inspectors witness flow calibrations when these events are particularly significant or incorporate novel design. Flow calibration inspections take place at a calibration facility, which is normally remote from an oil or gas installation.

Proposed charging approach for metering system approval and attendance at meter flow calibrations: fixed fee

- 22. The services described in paragraph 21 follow a standard process therefore the OGA proposes to introduce a fixed fee. The proposed approach for calculating the fee for these inspections is illustrated in Table 2.

Table 2: Methodology for calculating onshore and offshore metering inspections, and inspector attendance at meter flow calibrations

Type of inspection	Indicative Charge*
Onshore (Terminals, Factory Acceptance Tests)	£2,200
Offshore platforms	£1,800
Flow Calibration	£2,200

*These are indicative charges for 2017/18 and would be updated in line with the RPI

Q5. Do you have comments on the proposal to charge for metering inspections and attendance at meter flow calibrations set out above?

Q6. Do you have comments on the proposed methodology to determine the fee?

Licence extensions and amendments

23. Oil and gas production licence provisions permit the OGA, following a request from the licence holder, both to extend initial and second licence terms beyond their original expiry dates (with a corresponding reduction in the second or third licence term) or to extend the third licence term. This allows for longer exploration periods if justified or to allow approved fields to finish their production. Licences may also be amended to reflect a change in the work programme. The OGA reviews applications for a licence extension and considers submitted evidence. It then makes and issues its decision.

Proposed charging approach for licence extensions and amendments: fixed fee

24. Licence extensions follow a standard process. The process for the OGA involves: recording the request; checking that the field is still producing; preparing a 'Plat Map' to show the area of the extension; preparing a one line summary in a Schedule; adding the Deed of Extension; issuing licence for signature; receiving the return; and then executing the licence. This involves a standard processing time. For licence amendments, the process is similar with the exception of checking the request against the OGA's policy. The amendment in this case will be effected by a standard Direction Letter.

25. The approach the OGA therefore proposes to take is to determine the administration cost for the extension or amendment alone, which requires the same amount of staff time in almost cases, and set a fixed fee of £800 that would be stipulated in the regulation.

Q7. Do you have comments on the proposal to charge for licence extensions and amendments set out above?

Q8. Do you have comments on the proposed methodology to determine the fee?

Recovery of the OGA's costs from HSE and BEIS charges in relation to operator approvals under the Offshore Safety Directive

26. The Offshore Safety Directive (Licensing) Regulations 2015 ('OSD') introduced entirely new types of operator: the 'well operator' and the 'installation operator'. The OSD requires licensees to notify the OGA before appointing any such operator, and the OGA to consult BEIS and the Health and Safety Executive (HSE) (both the 'Competent Authority'), where appropriate, before deciding whether or not to object to the appointment. The Competent Authority intends to charge the OGA for costs incurred during these considerations, and the OGA proposes to pass these costs onto the applicants⁶.

⁶ The original concept of operator (applied for through the Oil Portal) still exists and is now referred to as Licence Operator (or Exploration Operator or Production Operator in particular circumstances) to distinguish it from the new definitions. The existing charge made for the OGA's technical consideration of operator approvals will remain however the current charge will be reviewed. This charge is collected up-front by the Portal system at point of application.

Proposed charging approach for recovery of Offshore Safety Directive related costs

27. The predetermination of a single time estimate for OSD cases would mean the fee payer of a complex case would be cross subsidised by the fee payer of a straight-forward case. The OGA, therefore, proposes to invoice applicants for the actual cost it incurs. This will be made up of: (a) an amount equal to the amount charged by the Competent Authority bodies (which they will time sheet with current charges for 2016/17 being HSE £266 per hour, and BEIS £168 per hour for technical specialist

staff and £82 per hour for administrative support staff); and (b) an amount to cover the OGA's own costs (such as IT costs).

Q9. Do you have comments on the proposal for the OGA to introduce a charge for operator approvals under the Offshore Safety Directive set out above?

Q10. Do you have comments on the proposed methodology to determine the fee?

Additional information

Timing

28. Pending the conclusion of this consultation exercise, the OGA proposes that the new charges should come into effect at the start of the 2017/18 financial year and continue thereafter (subject to approval by government and the Parliamentary process). Any consent under the new charging regime submitted for approval on or after 1 April 2017 would therefore be subject to the payment of a fee.

Invoicing approach

29. The company that makes the application for the consent or service will be the company that is invoiced. This will be the case even where the applicant undertaking the consent request is doing so on the behalf of multiple companies holding the licence. It would be for the applicant company to make arrangements with other parties to collect any share of the charge owing to them.

30. The timing of invoices would be proposed as follows:

- time sheeted charges would be invoiced prior to the issue of the consent or approval;

- payment of fixed fees would be requested at the time of application; and;
- bespoke invoices for OSD cases would be issued once the approval process is concluded.

31. Invoices to the applicant would be issued with a clear reference to the project to which they relate and a summary of the charge being made.

Value Added Tax

32. HM Treasury maintains details of goods and services which, if supplied by a government body, are deemed to be business activities and therefore Value Added Tax (VAT) is charged so as not to distort normal competition with a private sector supplier. As the provision of the consents or services by the OGA outlined in this consultation document does not fall within the scope of a business activity they are not within the scope of VAT. Therefore no VAT will be charged on any resulting fees from this consultation.

Part 2: OGA levy allocation methodology

Background

33. In October 2015, following a public consultation, an industry levy was introduced to fund the OGA. The legal power to do this is now enshrined in the Energy Act 2016. This is in line with the established principle across regulation and service delivery of ‘user pays’ and means that the OGA recovers its costs from the companies benefiting from its services.
34. The *Managing Public Money* principles allow the OGA to charge different levies to different types of licensees to reflect the different costs of service provision. This means that the annual levy is apportioned between pre-production⁷ (11%) and in-production⁸ (89%) licence holders to reflect the different resource input by the OGA in overseeing each group.
35. Since the introduction of the levy there have been representations arguing that the levy burdens Promote licence holders disproportionately, creating a barrier that deters new entrants seeking to carry out exploration on the UK Continental Shelf (UKCS).
36. The OGA is therefore consulting on the introduction of new regulations that would set out a new methodology for the calculation of the industry levy for pre-production licences and align the treatment of the levy with that of the

licence type. Pending the conclusion of this consultation exercise and subject to government approval and the Parliamentary process, these new regulations would be introduced at the earliest opportunity.

The Promote licence

37. The Promote licence was introduced in 2002 to encourage small and start-up prospectors, often microbusiness with limited budgets, to evaluate under-explored acreage. It is offered at one-tenth of the cost of a traditional licence for the first two years.

The Innovate licence

38. Promote licences are being replaced by phases A and B of the Innovate licence in the 29th Licensing Round. For more detail on the Innovate licence please see: www.ogauthority.co.uk/licensing-consents/offshore-licences/

⁷ Promote licences; Seaward Exploration Licences; Traditional licences in 1st or 2nd term and from the 29th Round Innovate licences in phase A or B of the Initial Term

⁸ All licences in 3rd term

Proposed change to methodology to calculate the levy for pre-production licences

39. This consultation seeks views on a new methodology to calculate the industry levy for pre-production licences⁹ by aligning the treatment of the licence fees and levy. The split of the levy between in-production and pre-production would remain as currently apportioned to reflect the on-going resource input of the OGA to each group, with pre-production licences paying 11% of the levy, but it is proposed that the pre-production levy will have varying levels.
40. The OGA proposes that licensees that are micro businesses¹⁰ (enterprises with fewer than 10 employees and whose annual turnover and/or annual balance sheet total does not exceed €2 million) which pay a reduced rental on a pre-production licence should qualify for an equivalent percentage reduction¹¹ of the pre-production levy. This would remove the conflict between the discounts that Promote and Innovate licence holders in Phases A and B of the Initial Term receive on their licence fees.
41. The proposed methodology means that the standard pre-production levy rate for other pre-production licence holders would need to be raised to cover the deficit of costs no longer covered by those paying a lower rate.
42. Illustratively, applying the proposed methodology to the 2016/17 levy¹² would mean that the twenty nine Promote licensees that are also micro businesses would have paid £738 instead of £6,808 and other pre-production licensees would have paid £7,380 instead of £6,808. This is illustrated in Table 3 on the next page.
43. If a micro business and another larger business jointly hold a relevant licence, the licensees would be liable to the full levy amount as both licensees do not meet the criteria for a discount. If two licensees that are both micro businesses jointly hold a relevant licence, they qualify for the reduced levy amount.

⁹ Promote licences; Seaward Exploration Licences; Traditional licences in 1st or 2nd term and from the 29th

Round Innovate licences in phase A or B of the Initial Term

¹⁰ As defined by EU recommendation 2003/361

¹¹ Promote licence 90% reduction; Innovate phase A 90% and Innovate phase B 80%.

¹² The 2016/17 levy was split between 296 production and 337 pre-production licences. This included 39 Promote licences and 29 of these were held solely by micro businesses.

Q11. Do you agree with the proposed change to the levy methodology for pre-production licences? Yes or No

Q12. If you answered No to Q11 please can you specify your reasons.

Q13. Is a micro business (as defined above) an appropriate delineating factor for determining who should attract a lower level of pre-production levy?

Q14. Are you a Promote licence holder? Yes or No

Q15. What size is your business? Micro (<10), Small (10 – 49), or Medium or larger (50+)

Table 3: Comparison of existing and proposed levy methodologies for pre-production licences based on 2016/17 data

Licence type	Current methodology	Proposed methodology	Difference
Pre-production Promote and micro business¹³	£6,808	£738	- £6,070
Other pre-production	£6,808	£7380	+ £572

¹³ NB Innovate not available till 29th round

Part 3: Regulatory Impact Assessment and Equality Impact Assessment

44. Neither the proposal to introduce new direct fees nor the proposal to change the levy methodology impose new costs on industry. The overall amount recovered from the levy would remain the same as a result of a reallocation of charges levied on licensees and any additional charges introduced will be deducted from the overall amount payable by industry through the levy.
45. The OGA has a general duty under the Equality Act 2010 in carrying out its functions to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups; and,
 - foster good relations between different groups.

Further details can be found at:

www.equalityhumanrights.com/en/equality-act/equality-act-2010

Part 4: Consultation Questions

List of Questions raised in the Consultation

1. Do you have comments on the proposal to charge for Retention or Development Area plan approvals set out above?
2. Do you have comments on the proposed methodology to determine the fee?
3. Do you have comments on the proposal to charge for determination or re-determination of a field set out above?
4. Do you have comments on the proposed methodology to determine the fee?
5. Do you have comments on the proposal to charge for metering inspections and attendance at meter flow calibrations set out above?
6. Do you have comments on the proposed methodology to determine the fee?
7. Do you have comments on the proposal to charge for Licence extensions and amendments set out above?
8. Do you have comments on the proposed methodology to determine the fee?
9. Do you have comments on the proposal for the OGA to introduce a charge for operator approvals under the Offshore Safety Directive set out above?
10. Do you have comments on the proposed methodology to determine the fee?
11. Do you agree with the proposed change to the levy methodology for pre-production licences? **Yes or No**
12. If you answered **No** to Q11 please can you specify your reasons.
13. Is a micro business (as defined above) an appropriate delineating factor for determining who should attract a lower level of pre-production levy?
14. Are you a Promote licence holder? **Yes or No**
15. What size is your business? Micro (<10), Small (10 – 49), or Medium or larger (50+)



Annex A: Response coversheet

To: Ricki Kiff, Oil and Gas Authority, 21 Bloomsbury Street, London, WC1B 3HF
Tel: 0300 067 1637 | Email: oilandgaslicensing@ogauthority.co.uk

Your Details

Name:
Company/Organisation:
Position:
E-mail address:
Address:
Representing:

Confidentiality

Please tick below if you consider any part of your response is confidential, giving your reasons why:

Nothing [] Name/contact details/position []
Whole response [] Company/organisation []
Part of the response []
If there is no separate annex, which parts? []

If you want any part of your response, your name or your organisation to be kept confidential, can the OGA still publish a reference to the contents of your response including (for any confidential parts) a general summary that does not disclose the specific information or enable you to be identified? YES / NO

Declaration

I confirm that the correspondence supplied with this coversheet is a formal consultation response that the OGA can publish, except as indicated above.

However, in supplying this response, I understand that the OGA may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations.

If I have sent my response by email, the OGA can disregard any standard e-mail text about not disclosing email contents and attachments.

The OGA may wish to publish responses on receipt. If your response is non-confidential (in whole or in part), but you would prefer us to publish your response only once the consultation has ended, tick here. []

Name:

Signed: