
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 170

**The Hydrocarbons Licensing Directive
Regulations (Northern Ireland) 2010**

Applications in relation to former licensed areas

14.—(1) Notwithstanding anything in the terms and conditions of the former licence, the Department shall disclose to each applicant (other than the former licensee) all information (whether of a general or specific nature) relating to the activities carried on by the former licensee in the former licensed area for the purpose only of enabling the applicant to revise its application for a licence or any report, work programme or other document required under the 1987 Regulations in connection with such application.

(2) The disclosure of information by the Department under paragraph (1) shall be subject to the following conditions—

- (a) subject to sub-paragraph (b)(ii), the applicant shall treat as confidential all information disclosed to it;
- (b) if it is granted a licence in respect of the whole or any part of the area applied for the applicant shall—
 - (i) within 21 days from the date of the grant of the licence pay to the former licensee such compensation for the disclosure of the information as may be agreed between the applicant and the former licensee or, in default of agreement, as may be determined by an independent person appointed for the purpose by the Department; and
 - (ii) be entitled to retain and make use of the information disclosed;
- (c) the applicant shall have agreed in writing to be bound by the conditions referred to in sub-paragraphs (a) and (b).

(3) If an applicant agrees in writing to be bound by the conditions referred to in paragraph (2), the Department shall—

- (a) disclose the information referred to in paragraph (1) to the applicant within 14 days from the date of its receipt of such written agreement;
- (b) subject to such terms and conditions as the Department may determine, appoint an independent person (“the assessor”) to determine the amount of compensation to be paid to the former licensee;
- (c) serve notice on the former licensee inviting it within 14 days from the date of the notice to—
 - (i) furnish to the Department for the attention of the assessor detailed written evidence of the costs incurred by it in acquiring the information disclosed; and
 - (ii) make to the Department for the attention of the assessor such written observations as it considers relevant to determining the amount of compensation which should be paid;
- (d) disclose the evidence and observations furnished to it by the former licensee under sub-paragraph (c) to the applicant, and serve notice on the applicant inviting it within 14 days

from the date of the notice to make to the Department for the attention of the assessor such written observations as it considers relevant to determining the amount of compensation which should be paid;

- (e) disclose the observations made to it by the applicant under sub-paragraph (d) to the former licensee and serve notice on the former licensee inviting it within 7 days from the date of the notice to make to the Department for the attention of the assessor any further observations;
- (f) disclose any further observations made to it by the former licensee under sub-paragraph (e) to the applicant and serve notice on the applicant inviting it within 7 days from the date of the notice to make to the Department for the attention of the assessor any final observations.

(4) But if an applicant does not agree in writing to be bound by the conditions referred to in paragraph (2), the Department shall proceed to determine the application of that applicant in accordance with regulation 4 and without regard to regulation 13(3).

(5) The assessor—

- (a) shall determine the amount of compensation to be paid to the former licensee for the disclosure of the information;
- (b) shall report such determination and the reasoning on which it is based in writing to the Department;
- (c) subject to paragraph (3), may regulate the procedure to be followed.

(6) In assessing compensation under this regulation, the assessor shall have regard to the costs reasonably incurred by the former licensee in acquiring the information disclosed by the Department to the applicant and to the value of that information to the applicant if it is granted a licence in respect of the whole or any part of the area applied for, and shall determine an amount of compensation which is fair.

(7) The Department shall provide the former licensee and the applicant with a copy of the assessor's determination.

(8) The applicant may make such revisions to its application for a licence or to any report, work programme or other document previously submitted to the Department in connection with such application as it thinks fit within a period of 60 days from the date on which it agreed with the former licensee the amount of compensation to be paid or, in default of such agreement, within a period of 60 days from the date on which the determination of the assessor is provided by the Department to the applicant under paragraph (7), but so that in either case the period for revising the application does not exceed a period of 90 days from the date of disclosure of the information.

(9) Any breach of the condition referred to in paragraph (2)(a) or (b)(i) shall be actionable by the former licensee which furnished to the Department the information disclosed as if the agreement in writing of the applicant pursuant to paragraph (2)(c) were a legally enforceable contract made between the applicant and the former licensee.

(10) The Late Payment of Commercial Debts (Interest) Act 1998(1) shall apply for the purposes of this regulation as if the amount of compensation for the disclosure of information to be paid by the applicant were a "qualifying debt" within the meaning of section 3 of that Act, and for the purposes of section 4 of that Act, the "relevant day" after which interest starts to run were the 21st day after the date the licence is granted.

(11) In this regulation "information" means records, returns, plans, maps, samples or other information of a geological, scientific or technical kind furnished to the Department under the provisions of a former licence, but excludes any such information which would not be treated as confidential under the provisions of the former licence.

