

**EXPLANATORY MEMORANDUM TO  
THE PETROLEUM LICENSING (PRODUCTION) (SEAWARD AREAS)  
REGULATIONS 2008**

**2008 No. 225**

**1.** This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations simplify and clarify the model clauses attached to Seaward Area Production Licences issued under the Petroleum Act 1998 (“the 1998 Act”), and make certain other technical amendments designed to improve the efficacy of the petroleum licensing system for such areas.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative background**

4.1 The exclusive right to search, bore for and get petroleum within Great Britain, or beneath the United Kingdom territorial sea and Continental Shelf, is vested in the Crown. By section 3 of the 1998 Act, a licence to carry out any of those activities may be granted by the Secretary of State. Section 4 of the 1998 Act requires the Secretary of State to make “regulations prescribing model clauses which shall, unless he thinks fit to modify or exclude them in any particular case, be incorporated in any such licence”. Different regulations may be made in respect of different kinds of licence.

4.2 The latest such regulations are the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004 (2004 No 352) (as amended). Those Regulations prescribe model clauses for non-exclusive Exploration Licences in areas below the low water line (Schedule 1); for Production Licences, which grant exclusive exploration and production rights in “seaward” areas, i.e. areas in the territorial sea and Continental Shelf (Schedules 2 to 5); and for Petroleum Exploration and Development Licences, which grant exclusive exploration and production rights in “landward areas”, i.e. areas landward of the baselines of the territorial sea (Schedule 6). The model clauses prescribed by this instrument replace only the clauses previously prescribed for Production Licences in the seaward areas.

**5. Extent**

5.1 These Regulations extend to the whole of the United Kingdom, but relate solely to offshore activities within the area of the United Kingdom’s territorial waters and Continental Shelf.

**6. European convention on human rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 It is essential for the UK's petroleum licensing system to reflect the commercial and technical realities of the oil and gas industry. These realities are subject to rapid change.

7.2 Long-term developments in the oil and gas industry, and the organic growth of the licensing system, have resulted in three types of Production Licence for seaward areas: the "Traditional", "Frontier" and "Promote" licences. The differences between them do not relate to substantive issues such as environmental protection or harmful ways of working. Instead they reflect relatively minor commercial issues. For example, the length of each period of the licence's lifecycle varies, whereby Frontier licences, issued for especially difficult areas of the UK Continental Shelf, allow six years for exploration instead of four and another six years for development instead of four.

7.3 Unfortunately, even though the differences between licence types are relatively minor, the way that the licensing system has grown organically over the years has resulted in quite different sets of model clauses. This obscures the similarities between licence types, and reduces transparency and clarity of the whole licensing system. It will also retard the Government's plans to introduce electronic government, which will require greater simplicity.

7.4 These new Regulations introduce a single set of model clauses that will be applicable to all Seaward Area Production Licences. The differences will be localised at a single Schedule to the licence where they can be quickly identified. This improves clarity and transparency. The simpler scheme will also be amenable to electronic government, enabling BERR to introduce the benefits of its pioneering Oil & Gas Portal to its licensing system; and it will enable BERR to adapt its licensing system more rapidly to the industry's changing requirements.

7.5 In addition, clauses are included in the model clauses prescribed that parallel amendments to existing model clauses contained in the Energy Bill currently before Parliament. In brief, these amendments:

- (a) provide that the Minister (defined as the Secretary of State for BERR) may partially revoke a licence where one, but not all, of the persons on the licence (i) becomes insolvent, (ii) ceases to direct and control activities under the licence from a fixed place in the UK, (iii) is acquired by a third party to whom the Minister objects and action is not taken to address the Minister's concerns;
- (b) provide that the Minister may require a licensee to plug and abandon a suspended well before the end of the licence term;
- (c) amend the definition of a change of control so that there is deemed to be a change of control whenever a person takes control over a licensee who has had rights assigned to him (the existing definition defined a change of control as occurring whenever a person took control of a licensee who did not have such control when the licence was originally granted); and
- (d) require licensees to provide contact details for the person to whom notices, directions and other documents issued pursuant to the licence are to be sent.

### **Commencement date**

7.6 The model clauses prescribed by this instrument will take effect on commencement of the instrument on 6<sup>th</sup> April 2008, and will apply to licences awarded after commencement as a

result of the next licensing round for seaward areas (which is expected to be launched in February 2008), and any subsequent licensing rounds for such areas.

### **Consultation**

7.7 BERR consulted industry about the simplification exercise in 2007, both directly and by seeking responses through its website. There was not much response, doubtless reflecting the fact that the effects will not be substantive and the benefits not immediate, but what was received was uniformly positive.

### **Guidance**

7.8 BERR produces full guidance for applicants in every Licensing Round, and the guidance for the next Round (the 25<sup>th</sup>) will cover these Regulations.

### **8. Impact**

8.1 An Impact Assessment has not been prepared for these Regulations. The Regulations have no impact on existing licences, applying only to licences not yet awarded; and for the most part the changes represent only a simplification of the existing model clauses, rather than a substantive change,. As regards the new clauses that correspond to those inserted into existing model clauses by the Energy Bill currently before Parliament, an Impact Assessment can be found at pp. 115-123 of the Impact Assessment for that Bill.

### **9. Contact**

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