

2016 No. 1042

ENVIRONMENTAL PROTECTION

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) (No. 2) Regulations 2016

<i>Made</i>	- - - -	<i>31st October 2016</i>
<i>Laid before Parliament</i>		<i>3rd November 2016</i>
<i>Coming into force</i>	- -	<i>1st December 2016</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 82OA(1), 82OA(2) and 104(2) of the Energy Act 2008^(a), sections 110A(1), 110A(2) and 316(1) of the Marine and Coastal Access Act 2009^(b) and section 56(1) and (2) of the Finance Act 1973^(c), and with the consent of the Treasury^(d):

Citation and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) (No. 2) Regulations 2016 and come into force on 1st December 2016.

Amendment of the Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015

2. The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and other Provisions) Regulations 2015^(e) are amended as follows.

(1) After regulation 5, insert—

“Fees relating to consents to locate

5A.—(1) The Secretary of State may charge fees, calculated in accordance with regulation 7, in connection with—

- (a) giving, refusing, varying, renewing, transferring, surrendering or revoking a consent to locate;
- (b) monitoring compliance with—
 - (i) the requirements of Part 4A of the EA; and
 - (ii) a consent to locate;

(a) 2008 c. 32; Part 4A was inserted by section 314 of the Marine and Coastal Access Act 2009 (c. 23) and section 82OA was inserted by section 76 of the Energy Act 2016 (c. 20).
(b) 2009 c. 23; section 110A was inserted by section 76 of the Energy Act 2016.
(c) 1973 c. 51; section 56(1) was amended by article 6(1)(e) of the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043).
(d) The consent of the Treasury is needed to make regulations under section 56(1) of the Finance Act 1973.
(e) S.I. 2015/1431, amended by S.I. 2016/529.

- (c) serving an emergency safety notice under section 82F of the EA;
- (d) revoking the requirements of an emergency safety notice under section 82G(8) of the EA; and
- (e) providing advice with respect to—
 - (i) an application or potential application for a consent to locate;
 - (ii) the variation, renewal, transfer, surrender or revocation of a consent to locate;
 - (iii) the service of an emergency safety notice under section 82F of the EA; and
 - (iv) the revocation of the requirements of an emergency safety notice under section 82G(8) of the EA.
- (2) In this regulation—
 - (a) “the EA” means the Energy Act 2008; and
 - (b) “a consent to locate” means a consent under section 82A of the EA.”.
- (2) For regulation 6, substitute—

“Fees relating to certain marine licences

6.—(1) This regulation applies where the Secretary of State’s functions referred to in paragraph (2) relate to oil and gas activities^(a) for which a marine licence is needed under Part 4 of the MCAA.

(2) The Secretary of State may charge fees, calculated in accordance with regulation 7, in connection with—

- (a) granting, refusing, varying, transferring, surrendering, suspending or revoking a marine licence;
- (b) monitoring compliance with—
 - (i) the requirements of Part 4 of the MCAA; and
 - (ii) a marine licence;
- (c) issuing or renewing a stop notice under section 102 of the MCAA, and varying or revoking a stop notice under section 103 of the MCAA;
- (d) issuing an emergency safety notice under section 104 of the MCAA, and varying or revoking an emergency safety notice under section 105 of the MCAA; and
- (e) providing advice with respect to—
 - (i) an application or potential application for a marine licence;
 - (ii) the variation, transfer, surrender, suspension or revocation of a marine licence;
 - (iii) the issue or renewal of a stop notice under section 102 of the MCAA, and the variation or revocation of a stop notice under section 103 of the MCAA; and
 - (iv) the issue of an emergency safety notice under section 104 of the MCAA, and the variation or revocation of an emergency safety notice under section 105 of the MCAA.

(3) In this regulation “the MCAA” means the Marine and Coastal Access Act 2009.”.

Amendment of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001

3. In regulation 20A(1)(b) of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001^(b), after “for a”, insert “Petroleum Act licence,”.

^(a) See section 110A(5) and (6) of the MCAA for the definition of “oil and gas activities”.

^(b) S.I. 2001/1754, amended by S.I. 2007/77, S.I. 2007/1842, S.I. 2010/1513, S.I. 2015/1431, S.I. 2016/529 and S.I. 2016/912.

Amendment of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010

4. In article 3(5) of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010(a), for “5 and 7” substitute “5, 7 and 20A”.

26th October 2016
Neville-Rolfe
Minister of State
Department for Business, Energy and Industrial Strategy

We consent

31st October 2016
Stephen Barclay
David Evennett
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to charge fees regarding activities carried out by the Secretary of State relating to the environmental regulation of the offshore oil and gas industry.

Regulation 2 amends the Pollution Prevention and Control (Fees) (Miscellaneous Amendment and Other Provisions) Regulations 2015 (S.I. 2015/1431) (the “2015 Fees Regulations”), which were previously amended by the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/529) (the “2016 Fees Regulations”). Regulation 2 allows fees to be charged in relation to certain advice given and activities carried out as part of the Secretary of State’s functions under Part 4A of the Energy Act 2008 (c. 32) and Part 4 of the Marine and Coastal Access Act 2009 (c. 23).

Regulations 3 and 4 each allow fees to be charged in relation to making an appropriate assessment under regulation 5(1) of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754) (the “2001 Regulations”). The charging powers for the 2001 Regulations are set out at regulation 20A, which was originally inserted by the 2015 Fees Regulations, and was then amended by the 2016 Fees Regulations. Regulation 3 amends regulation 20A of the 2001 Regulations to allow fees to be charged where an appropriate assessment is made to support a decision on a specific application for a Petroleum Act licence. A Petroleum Act licence is a licence which is granted under the Petroleum Act 1998 (c. 17) (see the definition at regulation 2(1) of the 2001 Regulations). Similarly, regulation 4 amends article 3 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) (the “2010 Order”), in order to allow fees to be charged where an appropriate assessment is made to support a decision on a specific application for an Energy Act licence or for a consent that is pursuant to an Energy Act licence. An Energy Act licence is a licence granted under section 4 or section 18 of the Energy Act 2008 (see the definition at article 1(2)(b) of the 2010 Order).

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside these Regulations on www.legislation.gov.uk.

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(a) S.I. 2010/1513, to which there are amendments not relevant to these Regulations.

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