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STATUTORY INSTRUMENTS

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**1995 No. 1434**

**PETROLEUM**

**The Hydrocarbons Licensing Directive Regulations 1995**

*Made* - - - - 25th May 1995  
*Laid before Parliament* 6th June 1995  
*Coming into force* - - 30th June 1995

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purpose of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to matters relating to the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons, hereby makes the following Regulations.

**Modifications etc. (not altering text)**

- C1** Regulations modified (9.2.2018) by [The Scotland Act 2016 and Onshore Petroleum \(Consequential, Transitional and Saving Provisions and Model Clauses\) Regulations 2018 \(S.I. 2018/56\)](#), regs. 1(2), **8**
- C2** Regulations modified (temp.) (1.10.2018) by [The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum \(Consequential, Transitional and Saving Provisions and Model Clauses\) Regulations 2018 \(S.I. 2018/980\)](#), regs. 1(1), **13** (with [reg. 16](#))

**Commencement and citation**

**1.**—(1) These Regulations may be cited as the Hydrocarbons Licensing Directive Regulations and shall come into force on 30th June 1995.

(2) These Regulations do not extend to Northern Ireland.

**Commencement Information**

- II** [Reg. 1](#) in force at 30.6.1995, see [reg. 1\(1\)](#)

**[<sup>F1</sup>Application**

**1A.**—(1) Except for regulations 2, 4 and 5(2), these Regulations do not apply in relation to a licence in respect of an area within the Scottish onshore area [<sup>F2</sup>or the Welsh onshore area].

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(1) [S.I. 1994/1327](#).  
(2) [1972 c. 68](#).

(2) In this regulation, “Scottish onshore area” has the meaning given in section 8A(3) of the Petroleum Act 1998 [<sup>F3</sup> and “Welsh onshore area” has the meaning given in section 8A(5) of that Act].]

#### Textual Amendments

- F1** Reg. 1A inserted (9.2.2018) by The Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/56), regs. 1(2), 2(2) (with regs. 8, 11)
- F2** Words in reg. 1A(1) inserted (1.10.2018) by The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/980), regs. 1(1), 2(2) (with regs. 13, 16)
- F3** Words in reg. 1A(2) inserted (1.10.2018) by The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/980), regs. 1(1), 2(3) (with regs. 13, 16)

#### Interpretation

##### 2. In these Regulations—

“1934 Act Regulations” means any regulations made under section 6 of the Petroleum (Production) Act 1934(3) currently in force;

“applicant” means an entity which has lodged an application for a licence;

“application for a licence” means an application made under 1934 Act Regulations;

“E.C. Treaty” means the Treaty establishing the European Community, signed at Rome on the 25th March 1957;

“entity” means any natural or legal person or any group of such persons;

“licence” means a licence granted following an application for a licence.

[<sup>F4</sup>“the OGA” means the Oil and Gas Authority]

#### Textual Amendments

- F4** Words in reg. 2 inserted (1.10.2016) by The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912), regs. 1(1), 5(2)

#### Commencement Information

- I2** Reg. 2 in force at 30.6.1995, see reg. 1(1)

#### Determination of applications

3.—(1) Subject to paragraphs (2) to (4) below, every application for a licence shall be determined on the basis of criteria concerning—

- (a) the technical and financial capability of the applicant;
- (b) the way in which the applicant proposes to carry out the activities that would be permitted by the licence;

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(3) 1934 c. 36; section 1(2) was amended by section 19(1) of the Petroleum Act 1987 (c. 12); section 6 was extended by section 1(3) of the Continental Shelf Act 1964 (c. 29).

- (c) in a case where tenders are invited, the price the applicant is prepared to pay in order to obtain the licence; and
- (d) where the applicant holds, or has held a licence of any description under the Petroleum (Production) Act 1934, any lack of efficiency and responsibility displayed by the applicant in operations under that licence,

and the [F5OGA] may refuse an application for a licence.

(2) In a case where two or more applications for a licence have equal merit when assessed according to the criteria provided for in paragraph (1) above, other relevant criteria may be applied in order to determine which application should be granted.

(3) Subject to paragraph (4) below, the [F5OGA] shall not apply any of the criteria in paragraphs (1) and (2) above in a discriminatory manner.

(4) An application for a licence may be refused on grounds of national security F6....

(5) Where an application for a licence is refused, the reasons for the decision shall be notified to the applicant on request.

#### Textual Amendments

- F5** Words in [reg. 3](#) substituted (1.10.2016) by [The Energy \(Transfer of Functions, Consequential Amendments and Revocation\) Regulations 2016 \(S.I. 2016/912\)](#), [regs. 1\(1\)](#), [5\(3\)](#)
- F6** Words in [reg. 3\(4\)](#) omitted (31.12.2020) by virtue of [The Pipe-lines, Petroleum, Electricity Works and Oil Stocking \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1325\)](#), [regs. 1\(1\)](#), [2\(2\)](#); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I3** [Reg. 3](#) in force at 30.6.1995, see [reg. 1\(1\)](#)

### Scope and application of terms and conditions

4.—(1) No licence shall be granted upon terms and conditions other than such terms and conditions as are justified exclusively for the purpose of—

- (a) ensuring the proper performance of the activities permitted by the licence;
  - (b) providing for the payment of consideration for the grant of the licence;
  - (c) any of the considerations specified in paragraph (2) below.
- (2) The considerations referred to in paragraph (1)(c) above are—
- (a) national security;
  - (b) public safety;
  - (c) public health;
  - (d) security of transport;
  - (e) protection of the environment;
  - (f) protection of biological resources and of national treasures possessing artistic, historic or archaeological value;
  - (g) safety of installations and of workers;
  - (h) planned management of hydrocarbon resources, including in particular the rate at which hydrocarbons are depleted and the optimisation of their recovery;
  - (i) the need to secure tax revenues.

(3) The terms and conditions provided for in paragraphs (1) and (2) above shall be applied in a non-discriminatory manner.

#### Commencement Information

**I4** Reg. 4 in force at 30.6.1995, see **reg. 1(1)**

#### Advance notice of terms and conditions

5.—(1) Any notice which, in accordance with 1934 Act Regulations—

- (a) invites applications for licences; and
- (b) is published in the [<sup>F7</sup>relevant Gazette and on a public web site]

shall set out the criteria to be applied in determining those applications.

(2) In any case where [<sup>F8</sup>the OGA, the Scottish Ministers or the Welsh Ministers invite] applications for a licence in accordance with 1934 Act Regulations and it is intended that the licence should be granted upon terms or conditions which differ from or are additional to those prescribed in those Regulations for incorporation in licences of the relevant kind, a statement of such terms and conditions shall be made available to any interested person at any time on request.

(3) If any change to the terms and conditions included in the statement provided for in paragraph (1) above is decided upon after the statement is first made available and before the licence to which it relates is granted, the change shall be notified as soon as practicable to every person who has requested the statement.

[<sup>F9</sup>(4) In this regulation—

- (a) “landward area” has the meaning given in regulation 2 (interpretation) of the Petroleum Licensing (Applications) Regulations 2015;
- (b) “relevant Gazette” means—
  - (i) the London Gazette for any notice inviting applications for licences in a landward area;
  - (ii) the Belfast Gazette, Edinburgh Gazette and London Gazette for any notice inviting applications for licences in a seaward area;
- (c) “seaward area” has the meaning given in regulation 2 of the Petroleum Licensing (Applications) Regulations 2015.]

#### Textual Amendments

- F7** Words in **reg. 5(1)(b)** substituted (31.12.2020) by **The Pipe-lines, Petroleum, Electricity Works and Oil Stocking (Miscellaneous Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1325)**, **regs. 1(1), 2(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in **reg. 5(2)** substituted (1.10.2018) by **The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/980)**, **regs. 1(1), 2(4)** (with **reg. 16**)
- F9** **Reg. 5(4)** inserted (31.12.2020) by **The Pipe-lines, Petroleum, Electricity Works and Oil Stocking (Miscellaneous Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1325)**, **regs. 1(1), 2(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

**I5** Reg. 5 in force at 30.6.1995, see **reg. 1(1)**

## Duration of the licence

- 6.—(1) Subject to paragraph (2) below, the [F10OGA] shall ensure that—
- (a) a licence only grants an entity exclusive rights for the period which is necessary for the proper performance of the activities authorised by the licence; and
  - (b) the duration of the licence does not exceed the period necessary to carry out the activities authorised by the licence.
- (2) The [F10OGA] may extend the term of a licence if—
- (a) the terms and conditions of the licence permit an extension of the term;
  - (b) the licensee has performed its obligations in accordance with the terms and conditions of the licence; and
  - (c) the term of the licence has proved, or is likely to prove, insufficient for the licensee to complete the activities authorised by the licence.

### Textual Amendments

**F10** Word in [reg. 6](#) substituted (1.10.2016) by [The Energy \(Transfer of Functions, Consequential Amendments and Revocation\) Regulations 2016 \(S.I. 2016/912\)](#), [regs. 1\(1\)](#), [5\(5\)](#)

### Commencement Information

**I6** [Reg. 6](#) in force at 30.6.1995, see [reg. 1\(1\)](#)

## Information

7.—(1) The [F11OGA] may only require an entity which has been granted a licence to provide information on its intended or actual sources of procurement of supplies, works or services if that request is made exclusively with a view to the objectives set out in Article 36 of the E.C. Treaty.

(2) The [F11OGA] may only request information from an entity which has been granted a licence to monitor the activities of that entity if that monitoring is justified by any of the considerations specified in paragraph (1) and (2) of regulation 4 above.

### Textual Amendments

**F11** Words in [reg. 7](#) substituted (1.10.2016) by [The Energy \(Transfer of Functions, Consequential Amendments and Revocation\) Regulations 2016 \(S.I. 2016/912\)](#), [regs. 1\(1\)](#), [5\(6\)](#)

### Commencement Information

**I7** [Reg. 7](#) in force at 30.6.1995, see [reg. 1\(1\)](#)

*Tim Eggar*  
Minister for Industry and Energy  
Department of Trade and Industry

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations which come into force on 30th June 1995 are supplemental to regulations made under section 6 of the Petroleum (Production) Act 1934 (“the 1934 Act”). These Regulations give effect to Articles 2 (other than paragraph 1), 3 (other than paragraphs 1 to 5), 4 (other than paragraph (a)), 5 and 6 of Council Directive (94/22/EEC) on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (“the Directive”) (O.J. L164, 30.6.94, p.3). The Directive is further implemented by the Petroleum (Production) (Landward Areas) Regulations 1995 (S.I. 1995/1436) and the Petroleum (Production) (Seaward Areas) (Amendment) Regulations 1995 (S.I. 1995/1435).

The Regulations restrict the criteria which the Secretary of State may take into account when considering an application for a licence made in accordance with regulations made under the 1934 Act (“a licence”). The Regulations provide that the criteria upon which applications are to be determined are to be published, together with the notice inviting applications, in the Official Journal. The Regulations provide that an application may be refused on the grounds of national security if the applicant is effectively controlled by nationals of a state which is not a member State but otherwise the criteria may not be applied in a discriminatory manner. When an application is unsuccessful, the applicant is to be notified on request of the reasons for the decision. The Regulations limit the terms and conditions which may be imposed on the grant of a licence and provide that such terms and conditions shall be applied in a non-discriminatory manner.

The Regulations provide that where the Secretary of State has invited applications for a licence he shall make available to interested parties the terms and conditions upon which the licence will be granted. If a change is made in those terms and conditions prior to the grant of the licence, the Secretary of State is to issue details of that change to any person who has requested a statement of terms and conditions.

The Regulations require the Secretary of State to limit the term of any licence granted to the period necessary for the proper performance of the activities authorised by the licence and restrict the circumstances in which the Secretary of State may extend a licence. The Regulations also limit the Secretary of State’s powers to request information from a licensee and to monitor the activities of the licensee.

**Changes to legislation:**

There are currently no known outstanding effects for the The Hydrocarbons Licensing Directive Regulations 1995.