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STATUTORY INSTRUMENTS

2009 No. 2813

GAS

**The Offshore Gas Storage and
Unloading (Licensing) Regulations 2009**

<i>Made</i>	- - - -	<i>20th October 2009</i>
<i>Laid before Parliament</i>		<i>22nd October 2009</i>
<i>Coming into force</i>	- -	<i>13th November 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 5, 7(1) and 104(2) of the Energy Act 2008(1), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Offshore Gas Storage and Unloading (Licensing) Regulations 2009, and come into force on 13th November 2009.

(2) In these Regulations, a reference to a numbered section is to that section of the Energy Act 2008.

Applications for licences under section 4

2.—(1) An application for a licence must be—

- (a) in writing, and
- (b) accompanied by a fee of £2,100.

(2) However, paragraph (1)(b) does not apply to an application for an exploration licence.

(3) For that purpose, “exploration licence” means a licence to—

- (a) explore any controlled place with a view to carrying on an activity within section 2(3)(a) to (d), and
- (b) establish or maintain an installation in a controlled place for the purpose of such exploration.

Model clauses for gas storage licences

3.—(1) For the purposes of section 7, the model clauses prescribed for licences in respect of the activities specified in paragraph (2) are those set out in the Schedule.

(2) The activities are—

- (a) activities within section 2(3)(b) to (d);
- (b) activities within section 2(3)(e), so far as relating to those activities; and
- (c) activities within section 2(3)(f), so far as relating to the activities mentioned in this paragraph.

20th October 2009

Lord Hunt of Kings Heath OBE
Minister of State
Department of Energy and Climate Change

SCHEDULE

Regulation 3(1)

Interpretation etc.

1.—(1) In this licence, the following expressions have the following meanings—

“consent” means consent in writing;

“Crown lease” means a lease of property forming part of the Crown Estate, or an authorisation to exercise rights forming part of that Estate (and includes a Crown lease which has or may be granted);

“Exploration Period” means (subject to clause 4(1)) the period, if any, which is—

(a) specified as such in Schedule 3; or

(b) determined in accordance with provisions of that Schedule;

“gas” means any combustible substance which is gaseous at a temperature of 15° C and a pressure of 101.325 kPa (1013.25 mb) and which consists wholly or mainly of methane, ethane, propane, or butane (or of a mixture of two or more of those substances);

“good storage practice” means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in an activity authorised by or under this licence;

“Lease” means a Crown lease specified in Schedule 2;

“Licence Period” means (subject to clause 3(2)) the period specified as such in Schedule 3;

“Licensed Area” means the area (or, as the case may be, volume) in which the Licensee may for the time being exercise rights granted by a Lease;

“the Licensee” means the person (or all the persons) specified in Schedule 1 as licence holder (or joint licence holders);

“the Minister” means the Secretary of State for Energy and Climate Change;

“Petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

“Start Date” means the date specified as such in Schedule 3;

“Well” includes borehole;

“Work Programme” means the programme (if any) set out in Schedule 4.

(2) Any reference in this licence to a clause or a Schedule is a reference to a clause of, or Schedule to, this licence; and any reference in a clause to a paragraph is to a paragraph of that clause.

(3) Any obligations which are to be observed and performed by the Licensee shall at any time at which the Licensee is more than one person be joint and several obligations.

Licensed Activities

2.—(1) This licence, which is granted on the terms and subject to the conditions set out below, authorises the Licensee to carry on within the Licensed Area the activities mentioned in paragraph (2).

(2) The licensed activities are—

(a) the storage of gas;

(b) the recovery of the gas stored;

(c) the conversion of a natural feature for the purpose of storing gas;

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- (d) exploration with a view to, or in connection with, the carrying on of activities within subparagraphs (a) to (c);
- (e) the establishment or maintenance of installations for the purposes of activities within subparagraphs (a) to (d).

Term of Licence

3.—(1) This licence shall commence with the Start Date, and (unless terminated or revoked in accordance with its provisions) shall continue until the end of the Licence Period.

(2) Where an application is made to the Minister not later than three months before the end of the Licence Period, the Minister may decide that the Licence Period is to be extended for such further period as the Minister and the Licensee may agree.

(3) The extension may be made subject to such modification of the terms and conditions of this licence as the Minister considers appropriate; and (subject to any such modification) this clause shall apply to the Licence Period as so extended.

(4) This licence shall in any event terminate if, at any time—

- (a) a Lease that has been granted has expired, or been determined or revoked; and
- (b) no rights are then exercisable under any other Lease.

Extension of Exploration Period

4.—(1) Where an application is made to the Minister not later than two months before the end of the Exploration Period, the Minister may decide that the Exploration Period is to be extended for such further period as the Minister and the Licensee may agree.

(2) The extension may be made subject to such modification of the terms and conditions of this licence as the Minister considers appropriate; and (subject to any such modification) this clause shall apply to the Exploration Period as so extended.

Right of Licensee to terminate Licence

5.—(1) The Licensee may at any time by giving to the Minister not less than one month's notice in writing to that effect terminate this licence; but such termination does not affect any obligation imposed upon, or liability incurred by, the Licensee under the terms and conditions of this Licence.

(2) Where two or more persons are the Licensee, one of those persons may at any time by giving to the Minister not less than one month's notice in writing to that effect terminate this licence in so far as it applies to that person, and in that case—

- (a) the authorisation granted to the person under this licence ceases, but this does not affect any obligation imposed upon, or liability incurred by, that person under the terms and conditions of this Licence; and
- (b) the Licence continues to have effect in respect of the other person who constitutes, or persons who together constitute, the Licensee and in relation to whom it is not terminated.

Provision of contact details to Minister

6.—(1) A notice, direction or other document authorised or required (in whatever terms) to be given to the Licensee by virtue of this licence is treated as given to the Licensee if it is given to the person specified by the Licensee under paragraph (2) at the address so specified.

(2) The Licensee must supply the Minister with the name and address of a person to whom notices, directions and other documents are to be given.

(3) The Licensee must ensure that, where there is a change in the person to whom, or the address to which, information should be sent in accordance with paragraph (2), the Minister is notified of the change as soon as is reasonably practicable.

(4) If the Licensee fails to comply with paragraph (2) the Minister may give the Licensee a notice which—

- (a) requires the Licensee to comply with paragraph (2) within the period of 30 days beginning with the date of the notice; and
- (b) states that, if the Licensee fails to do so, the Licensee will be treated as having supplied under paragraph (2) the name and address specified by the Minister in the notice.

Working obligations

7.—(1) If a Work Programme is set out in Schedule 4, the Licensee shall before the expiry of the Exploration Period carry out the Work Programme.

(2) If at any time the Minister serves a notice in writing on the Licensee requiring the Licensee to submit to the Minister, before a date specified in the notice, an appropriate programme for exploring for places for gas storage in the Licensed Area during a period so specified, the Licensee shall comply with the notice.

(3) For the purposes of paragraph (2)—

- (a) an appropriate programme is one which any person who, if that person—
 - (i) were entitled to carry on the activities authorised by this licence; and
 - (ii) had the competence and resources needed to carry on those activities to the best commercial advantage; and
 - (iii) were seeking to carry on those activities to the best commercial advantage, could reasonably be expected to carry out during the period specified in the notice; and
- (b) the period so specified must be within the Licence Period.

(4) If a programme is submitted to the Minister in consequence of a notice served under paragraph (2), then—

- (a) the Minister shall not be entitled to revoke this licence on the ground that the programme does not satisfy the requirements of that paragraph (“the Relevant Requirements”); but
- (b) if the Minister is of the opinion that the programme does not satisfy the Relevant Requirements the Minister may serve a notice in writing on the Licensee stating that opinion and the reasons for it.

(5) Where notice in respect of a programme is served on the Licensee under paragraph (4) the Licensee shall either—

- (a) within 28 days beginning with the date of service of the notice refer to arbitration the question whether the programme satisfies the Relevant Requirements; or
- (b) within a reasonable period beginning with the date of service of such notice submit to the Minister a further programme which satisfies the Relevant Requirements,

and where it is determined in consequence of any reference to arbitration under sub-paragraph (a) of this paragraph that the programme in question does not satisfy the Relevant Requirements the Licensee shall submit to the Minister, as soon as possible after the date of the determination, a further programme which satisfies the Relevant Requirements.

(6) The Licensee shall carry out any programme submitted by him under this clause as to which either—

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- (a) the Minister serves notice in writing on the Licensee stating that the Minister approves the programme; or
- (b) it is determined in consequence of any reference to arbitration that the programme satisfies the Relevant Requirements,

and any programme approved by the Minister under this paragraph shall be deemed for the purposes of this licence to satisfy the Relevant Requirements.

(7) Where, in consequence of any breach or non-observance by the Licensee of any provision of paragraph (2), (5) or (6), the Minister has power by virtue of clause 24(1) to revoke this licence, he may if he thinks fit exercise that power in relation to such part only of the Licensed Area as he may specify; and where he does so the authorisation granted by this licence shall cease in respect of the specified part of that area (but that does not affect any obligation imposed upon, or liability incurred by, the Licensee under the terms of this licence).

(8) Where the Licensee has a duty by virtue of this clause to carry out a programme during a part of the Licence Period, the Minister may serve notice under paragraph (2) in respect of another part of that period.

Development plans

8.—(1) The Licensee shall not—

- (a) erect or carry out any Relevant Works, either in the Licensed Area or elsewhere, for the purpose of—
 - (i) the storage of gas in that area;
 - (ii) the recovery of stored gas;
 - (iii) the conversion of a natural feature in that area for the purpose of storing gas;
 - (iv) the conveyance to a place on land of gas recovered from that area; or
 - (v) the conveyance of gas from a place on land for storage in that area; or
- (b) carry out any Relevant Operations in that area,

except in accordance with a plan to which the Minister has given consent.

(2) The document in which that consent is given may specify—

- (a) any conditions to which the consent is subject; and
- (b) a period to which the consent is limited.

(3) The Minister may at any time, by written notice given to the Licensee, specify operations as Relevant Operations for the purposes of paragraph (4)(b).

(4) In this clause—

- (a) “Relevant Works” means any structures and other works (of any kind) which are intended by the Licensee to be permanent and are neither designed to be moved from place to place without major dismantling nor intended by the Licensee to be used only for exploration for places suitable for gas storage; and
- (b) “Relevant Operations” means—
 - (i) the injection of gas;
 - (ii) the recovery of gas; and
 - (iii) any other operations that are specified in accordance with paragraph (3).

Commencement and abandonment and plugging of Wells

9.—(1) The Licensee shall not commence or recommence the drilling of any Well without the consent of the Minister.

(2) Subject to paragraph (6), the Licensee shall not abandon any Well without the consent of the Minister.

(3) The Licensee shall ensure compliance with any conditions subject to which any consent under either of the foregoing paragraphs is given.

(4) If any such condition under paragraph (1) relates to the position, depth or direction of the Well, or to any casing of the Well or if any condition under either paragraph (1) or paragraph (2) relates to any plugging or abandoning of the Well, the Minister may from time to time direct that the Well and all records relating that Well shall be examined in such manner, upon such occasions or at such intervals and by such person as may be specified by the Minister's direction.

(5) The plugging of any Well shall be done in accordance with a specification approved by the Minister applicable to that Well or to Wells generally or to a class of Wells to which that Well belongs and shall be carried out in an efficient and workmanlike manner.

(6) The Minister may at any time give the Licensee a notice requiring a Well drilled pursuant to this licence to be plugged and abandoned in accordance with paragraph (5) within the period specified in the notice (but this paragraph is subject to paragraphs (8) and (9)).

(7) The Licensee shall comply with any notice under paragraph (6).

(8) A notice under paragraph (6) may not be given less than one month before the expiry or determination of the Licensee's authorisation under this licence in relation to the area in which the Well is drilled.

(9) A notice under paragraph (6) may be given only in relation to a Well which has not been used within the period of one year ending with the day on which the notice is given.

(10) Subject to paragraphs (6), (7), (11) and (12), any Well drilled by the Licensee pursuant to this licence shall be plugged and abandoned in accordance with paragraphs (2) to (5), not less than one month before the expiry or determination of the Licensee's authorisation in respect of the area in which the Well is drilled.

(11) A direction by the Minister may be given by notice in writing to the Licensee not less than one month before the Licensee's authorisation in respect of the area in which the Well is situated expires or determines so as to relieve the Licensee of the obligation imposed by paragraph (10) of this clause to plug and abandon the Well.

(12) Where the Minister revokes this licence, any Well drilled by the Licensee pursuant to this licence shall—

- (a) be plugged and abandoned in accordance with paragraphs (2) to (5), as soon as reasonably practicable; or
- (b) if the Minister so directs at the time of revocation, be left in good order and fit for further working together with all casings and any Well head fixtures the removal of which would cause damage to such Wells.

(13) Any Well that, pursuant to a direction by the Minister under paragraph (11), has not been plugged and abandoned, shall be left in good order and fit for further working together with all casings and any Well head fixtures the removal of which would cause damage to such Wells.

Control of Development Wells

10.—(1) The Licensee shall not suspend work on the drilling of a Development Well, or having suspended it in accordance with this paragraph shall not begin it again, except with the consent of the Minister and in accordance with the conditions, if any, subject to which the consent is given.

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(2) When work on the drilling of a Development Well is suspended in accordance with paragraph (1), the Licensee shall forthwith furnish the Minister with such information relating to the Well as the Minister may specify.

(3) The Licensee—

- (a) shall not do any Completion Work in respect of a Well in the Licensed Area except in accordance with a programme of Completion Work approved by the Minister in respect of the Well;
- (b) shall furnish to the Minister, in accordance with the provisions of such a programme, particulars of any Completion Work done by him in respect of a Well in the Licensed Area; and
- (c) shall not remove or alter any casing or equipment installed by way of Completion Work in respect of a Well except with the consent of the Minister and in accordance with the conditions, if any, subject to which the consent is given.

(4) In this clause—

“Completion Work”, in relation to a Well, means work, by way of the installation of a casing or equipment or otherwise after the Well has been drilled, for the purpose of bringing the Well into use as a Development Well; and

“Development Well” means a Well which the Licensee uses or intends to use in connection with the storage of gas in the Licensed Area.

Provision of storage tanks, pipes, pipelines or other receptacles

11. The Licensee shall use methods and practice customarily used in good storage practice for confining the gas stored in or recovered from the Licensed Area in tanks, gasholders, pipes, pipelines or other receptacles constructed for that purpose.

Avoidance of harmful methods of working and ensuring security of supply

12.—(1) The Licensee shall maintain all apparatus and appliances and all Wells in the Licensed Area which have not been abandoned and plugged as provided by clause 9 in good repair and condition and shall execute all operations in or in connection with the Licensed Area in a proper and workmanlike manner in accordance with methods and practice customarily used in good storage practice and in particular the Licensee shall take all steps practicable in order—

- (a) to control the flow and to prevent the escape of gas from the Licensed Area;
- (b) to prevent damage to adjoining strata;
- (c) to prevent the escape of gas or any other fluid into any waters in or in the vicinity of the Licensed Area; and
- (d) to ensure (including by means of appropriate testing) that the apparatus and appliances are ready and in good working order at times of high national demand.

(2) The Licensee shall comply with any instructions from time to time given by the Minister in writing relating to any of the matters set out in the foregoing paragraph. If the Licensee objects to any such instruction on the ground that it is unreasonable he may, within fourteen days from the date upon which the instruction was given, refer the matter to arbitration.

Appointment of operators

13.—(1) The Licensee shall ensure that another person (including, in the case where the Licensee is two or more persons, any of those persons) does not exercise any function of organising or

supervising an activity authorised by this licence unless that other person is a person approved in writing by the Minister and the function in question is one to which that approval relates.

(2) The Minister shall not refuse to approve a person in pursuance of paragraph (1) if that person is competent to exercise the function in question, but where an approved person is no longer competent to exercise that function the Minister may, by notice in writing given to the Licensee, revoke the approval.

Fishing and navigation

14. The Licensee shall not carry out any operations in or about the Licensed Area in such manner as to interfere unjustifiably with navigation or fishing in the waters of the Licensed Area or with the conservation of the living resources of the sea.

Training

15.—(1) The Minister may from time to time (after consulting the Licensee) give to the Licensee instructions in writing as to the training of persons employed or to be employed, whether by the Licensee or by any other person, in any activity which is related to the exercise of the authorisation granted by this licence and the Licensee shall ensure that any instructions so given are complied with.

(2) The Licensee shall furnish the Minister with such information relating to the training of persons referred to in paragraph (1) of this clause as the Minister may from time to time request.

Licensee to keep records

16.—(1) The Licensee shall keep accurate records in a form from time to time approved by the Minister of the drilling, deepening, plugging or abandonment of all Wells and of any alterations in the casing of the Wells. Such records shall contain particulars of the following matters—

- (a) the site of and number assigned to every Well;
- (b) the subsoil and strata through which the Well was drilled;
- (c) the casing inserted in any Well and any alteration to such casing;
- (d) any Petroleum, water, mines or workable seams of coal encountered in the course of such activities; and
- (e) such other matters as the Minister may from time to time direct.

(2) The Licensee shall keep within the United Kingdom accurate geological plans and maps relating to the Licensed Area and such other records relating to that area as may be necessary to preserve all information which the Licensee has about the geology of the Licensed Area.

(3) The Licensee shall deliver copies of the said records, plans and maps referred to in the two foregoing paragraphs to the Minister when requested to do so either—

- (a) within any time limit specified in the request; or
- (b) if there is no time limit specified, within four weeks of the request.

Returns

17.—(1) The Licensee shall furnish the Minister with such information as the Minister may from time to time request about any of the activities authorised by this licence.

(2) The Licensee shall comply with any such request either—

- (a) within any time limit specified in the request; or
- (b) if there is no time limit specified, within four weeks of the request.

Licensee to keep samples

18.—(1) As far as reasonably practicable the Licensee shall correctly label and preserve for reference for a period of five years samples of the sea bed and of the strata encountered in any Well and samples of any Petroleum or water discovered in any Well in the Licensed Area.

(2) The Licensee shall not dispose of any sample after the expiry of that period of five years unless—

- (a) the Licensee has at least six months before the date of the disposal given notice in writing to the Minister of his intention to dispose of the sample; and
- (b) the Minister or any person authorised by him has not within that period of six months informed the Licensee in writing that he wishes the sample to be delivered to him.

(3) The Minister or any person authorised by him shall be entitled at any time—

- (a) to inform the Licensee in writing that he wishes the whole or any part of any sample preserved by the Licensee to be delivered to him; or
- (b) to inspect and analyse any sample preserved by the Licensee.

(4) The Licensee shall forthwith comply with any request for the delivery of the whole or any part of any sample which is made in accordance with the preceding provisions of this clause.

Reports to be treated as confidential

19. All records, returns, plans, maps, samples, accounts and information (in this clause referred to as “the specified data”) which the Licensee is or may from time to time be required to furnish under the provisions of this licence shall be supplied at the expense of the Licensee and shall not (except with the consent of the Licensee which shall not be unreasonably withheld) be disclosed to any person not in the service or employment of the Crown—

Provided that—

- (a) the Minister shall be entitled at any time to make use of any of the specified data for the purpose of preparing and publishing such returns and reports as may be required of the Minister by law;
- (b) the Minister shall be entitled at any time to furnish any of the specified data to the Natural Environment Research Council and to any other body of a like nature as may from time to time be carrying on activities of a substantially similar kind to the geological activities at present carried on by the said Council;
- (c) the Minister, the said Council and any such other body shall be entitled at any time to prepare and publish reports and surveys of a general nature using information derived from any of the specified data;
- (d) the Minister, the said Council and any other such body shall be entitled to publish any of the specified data of a geological, scientific or technical kind either—
 - (i) after the expiry of the period of three years beginning with the date when the data were due to be supplied to the Minister in accordance with clause 16 or 17, or if earlier, the date when the Minister received those data;
 - (ii) after the licence ceases to have effect, whether because of its termination or revocation or the expiry of the Licence Period; or
 - (iii) after the expiry of such longer period as the Minister may determine after considering any representations made to him by the Licensee about the publication of data in pursuance of this sub-paragraph.

Inspection of records etc.

20. The Licensee shall—

- (a) permit any person in the service or employment of the Crown who is appointed by the Minister for the purpose to inspect, and to take copies of and make notes from, all books, papers, maps and other records of any kind kept by the Licensee in pursuance of this licence or in connection with activities about which the Minister is entitled to obtain information in pursuance of clauses 15(2) and 17(1); and
- (b) furnish that person at reasonable times with such information and provide him at reasonable times with such reasonable assistance as he may request in connection with or arising out of an inspection in pursuance of this clause.

Power to execute works

21. If the Licensee fails at any time to perform the obligations arising under any of clauses 9, 11 or 12, the Minister shall be entitled, after giving to the Licensee reasonable notice in writing, to execute any works and to provide and install any equipment which in the opinion of the Minister may be necessary to secure the performance of all or any of those obligations.

Rights of access

22. Any person or persons authorised by the Minister shall be entitled at all reasonable times to enter into and upon any of the Licensee's installations or equipment used or to be used in connection with an activity authorised by this licence—

- (a) to examine the installations, Wells, plant, appliances and works made or executed by the Licensee in pursuance of this licence and the state of repair and condition thereof; and
- (b) to execute any works or to provide and install any equipment which the Minister may be entitled to execute or provide and install in accordance with the provisions of this licence.

Transfer of licence etc.

23. The Licensee may, with the prior consent of the Minister—

- (a) transfer this licence to one or more other persons;
- (b) include one or more other persons as joint licence holders,

and in either case Schedule 1 shall be amended accordingly.

Revocation of licence

24.—(1) If any of the events specified in paragraph (3) occurs, or the conditions specified in paragraph (4) are satisfied, then the Minister may (by giving the Licensee notice in writing to that effect) revoke the licence with effect from the date specified in the notice.

(2) If the Minister exercises the power in paragraph (1), the authorisation granted to the Licensee under this licence ceases; but this does not affect any obligation imposed upon, or liability incurred by, the Licensee under the terms and conditions of this Licence.

(3) The events specified by this paragraph are—

- (a) any breach or non-observance by the Licensee of any of the terms and conditions of this licence;
- (b) in Great Britain, the bankruptcy or sequestration of the Licensee;
- (c) in Great Britain, the making by the Licensee of any arrangement or composition with his creditors;

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- (d) in Great Britain, if the Licensee is a company, the appointment of a receiver or administrator or any liquidation whether compulsory or voluntary;
- (e) in a jurisdiction other than Great Britain, the commencement of any procedure or the making of any arrangement or appointment substantially corresponding to any of those mentioned in sub-paragraphs (b) to (d) of this paragraph;

and where two or more persons are the Licensee any reference to the Licensee in sub-paragraphs (b) to (d) of this paragraph is a reference to any of those persons.

(4) The conditions specified by this paragraph are—

- (a) the Licensee is a company; and
- (b) there is a change in the control of the Licensee; and
- (c) the Minister serves notice in writing on the Licensee stating that the Minister proposes to revoke this licence in pursuance of this paragraph unless such a further change in the control of the Licensee as is specified in the notice takes place within the period of three months beginning with the date of service of the notice; and
- (d) that further change does not take place within that period.

(5) There is a change in the control of the Licensee for the purposes of paragraph (4)(b) whenever a person has control of the Licensee who did not have control of the Licensee when this licence was granted (or, if there has been a transfer of this licence under clause 23, when that transfer took place); and subsections (2) and (4) to (6) of section 416 of the Income and Corporation Taxes Act 1988⁽²⁾ (“the ICTA”) shall apply, for the purpose of determining whether for the purposes of this paragraph a person has or had control of the Licensee, with the modifications specified in paragraph (7).

(6) Where two or more persons are the Licensee and any of them is a company, paragraphs (4) and (5) of this clause shall have effect as if—

- (a) sub-paragraph (a) of paragraph (4) were omitted;
- (b) in sub-paragraph (b) of that paragraph, after the word “of” there were inserted the words “any company included among the persons who together constitute”; and
- (c) for the word “Licensee” in any other provision of those paragraphs there were substituted the word “company”.

(7) The modifications of section 416 of the ICTA referred to in paragraph (5) are—

- (a) for the words “the greater part”, wherever they occur in subsection (2) of that section, substitute “one-third or more”; and
- (b) in subsection (6) of that section—
 - (i) for the word “may” substitute “shall”;
 - (ii) omit the words “and such attributions” onwards; and
 - (iii) in the other provisions of that subsection, any reference to an associate of a person is to be construed as including only a relative of that person (as defined by section 417(4) of the ICTA⁽³⁾), a partner of that person, and a trustee of a settlement of which that person is a beneficiary.

Power of partial revocation

25.—(1) This clause applies in a case where two or more persons are the Licensee and—

- (a) an event mentioned in clause 24(3)(b) to (e) occurs in relation to one of those persons; or
- (b) the conditions specified in clause 24(4) are satisfied in relation to one of those persons.

⁽²⁾ 1988 c. 1.

⁽³⁾ Section 417(4) was amended by SI 2005/3229.

(2) Where this clause applies, the Minister may exercise the power of revocation in clause 24 to revoke the licence in so far as it applies to the person mentioned in paragraph (1)(a) or (b).

(3) If the Minister exercises the power in paragraph (2), the authorisation granted to the person under this licence ceases, but this does not affect any obligation imposed upon, or liability incurred by, that person under the terms and conditions of this licence.

(4) Where this licence is terminated in relation to one person under this clause, it continues to have effect in respect of the other person who constitutes, or persons who together constitute, the Licensee and in relation to whom it is not terminated.

Arbitration

26.—(1) If at any time any dispute, difference or question shall arise between the Minister and the Licensee as to any matter arising under or by virtue of this licence or as to their respective rights and liabilities in respect thereof then the same shall, except where it is expressly provided by this licence that the matter or thing to which the same relates is to be determined, decided, directed, approved or consented to by the Minister, be referred to arbitration as provided by the following paragraphs.

(2) The arbitration referred to in the foregoing paragraph shall be by a single arbitrator who, in default of agreement between the Minister and the Licensee as to his appointment, shall be appointed by the Lord Chief Justice of England for the time being.

(3) To the extent that this clause applies to any part of the Licensed Area situated within the Scottish area, as defined in article 1(2) of the Civil Jurisdiction (Offshore Activities) Order 1987(4), this clause shall have effect as if—

- (a) for the word “arbitrator”, wherever it occurs in paragraphs (2) and (4) of this clause there were substituted the word “arbiter”; and
- (b) for the words “the Lord Chief Justice of England”, in paragraph (2) there were substituted the words “the Lord President of the Court of Session”.

(4) To the extent that this clause applies to any part of the Licensed Area situated within the Northern Irish area, as defined in article 1(2) of the Civil Jurisdiction (Offshore Activities) Order 1987, this clause shall have effect as if for the words “the Lord Chief Justice of England”, in paragraph (2), there were substituted the words “the Lord Chief Justice of Northern Ireland”.

(5) This clause does not affect the power of the Minister to institute (or authorise the institution) of criminal proceedings, to apply for an injunction, or to give any direction or notice, under any provision contained in Chapter 2 of Part 1 of the Energy Act 2008(5).

Ministry of Defence

27.—(1) The Licensee shall give the Ministry of Defence six months’ prior notice of any installation movements within the Licensed Area

(2) The Licensee shall give the Ministry of Defence six weeks’ prior notice of any seismic survey within the Licensed Area.

(3) The Licensee shall at the Licensee’s own expense, install and maintain underwater sonar beacons to Ministry of Defence specifications on any structures that may be temporarily within the Licensed Area provided that there shall be no requirement to fit such beacons to fixed and charted installations.

(4) SI 1987/2197.

(5) 2008 c. 32.

Relationship with fishing industry

28.—(1) The Licensee shall appoint a fisheries liaison officer who shall agree suitable arrangements with the seismic survey and supply vessel owners employed by the Licensee, their masters and the organisations or individuals which represent the local fishing industry in order to promote good working relationships between the various parties. The setting up of the arrangements shall be the responsibility of the Licensee. In particular the Licensee shall—

- (a) consult the organisations which represent the local fishing industry about the sea routes to be used by supply vessels;
- (b) after informing the Minister of the result of such consultations, agree with him which routes shall be used to minimise interference with fishing activities without thereby unreasonably increasing transit times;
- (c) ensure that the agreed routes are used unless safety of navigation or security of cargo considerations dictate otherwise; and
- (d) take all reasonable steps to ensure that a responsible person who is fluent in English is a member of the crew of the supply vessel.

(2) The Licensee shall make every effort to locate and remove, without unreasonable delay, any debris resulting from the licensed activities. The Licensee shall consult the relevant fishing organisations on the method of clearance and inform the Minister of the result of such consultation. If as a result of such consultation the Minister determines that the method of clearance of debris should be modified, such modifications shall be observed by the Licensee.

(3) Claims for damage to or loss of gear or loss of fishing time arising from reported debris shall be dealt with promptly by the Licensee.

Discovery of Petroleum

29.—(1) This paragraph applies if paragraph (4) does not apply, and the Licensee—

- (a) becomes aware, whether by means of a geological survey or otherwise, of the presence of any amount of Petroleum at a place within the Licensed Area;
- (b) is not the holder of a Petroleum Licence entitling the holder to bore for and get Petroleum in that place; and
- (c) has not entered into any agreement with the holder of such a licence, and in accordance with its provisions, entitling the Licensee to the Petroleum got in that place.

(2) Where paragraph (1) applies the Licensee shall, as soon as is reasonably practicable—

- (a) notify the Minister of that fact in writing; and
- (b) comply with any directions given by the Minister (which may, in particular, require the Licensee to avoid carrying on any activities under this licence in such part of the Licensed Area, and for such period, as may be specified in the direction).

(3) For the purposes of paragraph (1), “Petroleum Licence” means a licence under section 3 of the Petroleum Act 1998⁽⁶⁾ or section 2 of the Petroleum (Production) Act 1934⁽⁷⁾.

(4) This paragraph applies if the Licensee—

- (a) has commenced operations to recover gas from an excluded feature (within the meaning of paragraph (6)); and
- (b) becomes aware of any increase in the amount of Petroleum in that feature.

⁽⁶⁾ 1998 c. 17.

⁽⁷⁾ 1934 c. 36 (24 & 25 Geo. 5).

(5) Where paragraph (4) applies the Licensee shall, as soon as is reasonably practicable, notify the Minister of that fact in writing and supply such further information as the Minister may request.

(6) An excluded feature is a place, or a part of a place, in respect of which a direction under section 15 of the Energy Act 2008 is in effect.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Part 1, Chapter 2, of the Energy Act 2008 (“the 2008 Act”), which establishes a new licensing regime for the offshore storage and unloading of combustible gas. Except in relation to the unloading of gas to a pipeline, the provisions of that Chapter are commenced by the Energy Act 2008 (Commencement No. 4 and Transitional Provisions) Order 2009 (SI 2009/2809 (C. 123)). The offshore area to which the regime applies comprises both the United Kingdom territorial sea, and the Gas Importation and Storage Zone designated under section 1(5) of the 2008 Act (see S.I. 2009/223). These Regulations lay down, in particular, model clauses for a category of licence granted under section 4 of the 2008 Act. Model clauses are deemed to be incorporated into the licences for which they are prescribed, unless the Secretary of State decides to exclude or modify them in any particular case. Model clauses for a category of licence granted under section 4 are also prescribed by the Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009 (SI 2009/2814) (“the Exploration Licence Regulations”).

Regulation 2 lays down requirements for making an application for a licence granted under section 4, and in particular specifies an application fee of £2,100. There is, however, no fee in the case of an application for an exploration licence. Such licences, which authorise the exploration of the offshore area generally, by means of such relatively non-intrusive methods as seismic surveys and shallow drilling, will be issued in conjunction with the corresponding licence granted under section 3 of the Petroleum Act 1998 (for which the application fee is currently £500). Model clauses for exploration licences under the 2008 Act (as well as under the Petroleum Act 1998) are prescribed by the Exploration Licence Regulations.

Regulation 3 and the *Schedule* prescribe model clauses for gas storage licences. The licensed activities are: the storage and recovery of gas; the conversion of a natural feature for the purpose of storage; exploration with a view to, or in connection with, the carrying on of such activities; and the establishment or maintenance of installations for those purposes. In contrast to the clauses prescribed for exploration licences, the exploration authorised by these clauses is limited to specific places within the offshore area, and can include such more intrusive methods as drilling in the seabed below 350 metres.

In order to carry on such activities, the developer will also have to obtain rights from The Crown Estate enabling use of the relevant places within the offshore area. The authorisation granted by a gas storage licence is limited to the area or volume covered by a Crown lease specified in a Schedule to the licence, and the licence will terminate in circumstances where rights are no longer exercisable under any lease that is so specified. For those purposes, “Crown lease” means a lease of property forming part of the Crown Estate, or an authorisation to exercise rights forming part of that Estate.

An Impact Assessment has not been prepared for these Regulations. However, the assessment for the proposed offshore licensing regime contained in the Impact Assessment for the Energy Bill 2007-08, is relevant. That assessment can be found at Annex C to the Government’s *Consultation on the*

Status: This is the original version (as it was originally made).

Proposed Offshore Gas Storage and Gas Unloading Licensing Scheme: Implementing the Energy Act 2008, and is updated in section 8 of that document. The document is available at:

<http://www.decc.gov.uk/en/content/cms/consultations/open/gsuls/gsuls.aspx>

Alternatively copies can be obtained from: Ricki Kiff, Energy Development Unit, Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW. Tel: 0300 068 6042; email: ricki.kiff@decc.gsi.gov.uk.