

**EXPLANATORY MEMORANDUM TO**  
**THE PETROLEUM AND OFFSHORE GAS STORAGE AND UNLOADING**  
**LICENSING (AMENDMENT) REGULATIONS 2017**

**2017 No. 855**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy (“BEIS”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The purpose of this instrument is to amend the Model Clauses to be incorporated in Seaward Production Licences so as to implement the Oil and Gas Authority’s (OGA’s) ‘Innovate’ model for licences issued in the 30th Seaward Licensing Round onwards. Seaward Production Licences provide an exclusive right to exploit the petroleum resources of a specified area in UK territorial waters or on the UK Continental Shelf. Minor amendments have also been made to other Regulations related to petroleum licensing.

**3. Matters of special interest to Parliament**

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

- 3.1 This instrument corrects an error previously reported by the JCSI regarding the Petroleum Licensing (Exploration and Production) (Landward Areas) (Amendment) (England and Wales) Regulations 2016 (S.I. 2016/1029). This correction is achieved by way of amendment to clause 22A(1) of Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014.
- 3.2 Please refer to the JCSI Report at:  
<https://www.publications.parliament.uk/pa/jt201617/jtselect/jtstatin/80/80.pdf>.
- 3.3 In accordance with our previous comments to the JCSI, BEIS considers that a definition of “well pad” is not necessary as the term is understood in the onshore oil and gas production industry. However, BEIS will continue to keep this under review.

*Other matters of interest to the House of Commons*

- 3.4 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 Pursuant to Part I of the Petroleum Act 1998, the Secretary of State must make regulations prescribing Model Clauses which shall, unless he thinks fit to modify or exclude them in any particular case, be incorporated in licences. The Model Clauses

for Seaward Production Licences, which are amended by these Regulations, are set out in the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008.

- 4.2 Amendments are also made to other Regulations in order to update and clarify them. These other Regulations are (1) the Offshore Gas Storage and Unloading (Licensing) Regulations 2009, which set out the Model Clauses for offshore gas storage licences, (2) the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014, which set out the Model Clauses for landward petroleum licences, and (3) the Petroleum Licensing (Applications) Regulations 2015, which set out licence application processes.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is the United Kingdom. However, clause 22A of Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014, which is amended by these Regulations, extends to England and Wales only.
- 5.2 The territorial application of this instrument is Great Britain and outside Great Britain in relevant waters. The relevant waters for the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008 are the territorial sea adjacent to the United Kingdom and any area designated by order under the Continental Shelf Act 1964. The relevant waters for the Offshore Gas Storage and Unloading (Licensing) Regulations 2009 are the UK territorial sea, and the area extending beyond the territorial sea that has been designated by order as a Gas Importation and Storage Zone.

## **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**

### *What is being done and why*

- 7.1 Section 3 of the Petroleum Act 1998 empowers the Oil and Gas Authority (OGA) to grant licences to search and bore for and get petroleum. Section 4 requires the Secretary of State to make regulations prescribing Model Clauses to be incorporated in any such licence.
- 7.2 Following discussions with industry, the OGA formulated the ‘Innovate model’ for Seaward Production Licences. This offers greater flexibility to applicants for Seaward Production Licences by not setting a fixed length for the Initial Term of the licence. This allows applicants to propose a Work Programme for the Initial Term with a timetable that suits them. They would then be required to carry out the Work Programme should they be awarded a licence. This should result in more efficient planning by licensees and encourage a wider range of applicants.
- 7.3 Previously OGA policy was for each Seaward Production Licence to have a fixed “Initial Term”. The Initial Term is a period during which the holder of a licence is to carry out an agreed Work Programme of exploration work. For the 29th Licensing Round in 2016, the OGA introduced a number of elements of the more flexible Innovate licence concept, including not specifying a fixed length for the Initial and Second Term of the licence to be applied for. However, as petroleum licences confer exclusive rights over valuable national assets, if longer Initial Terms are to be

permitted, safeguards are also required to ensure these rights can't be left unused for the longer Initial Term. These Regulations therefore amend the Model Clauses for Seaward Production Licences in order to introduce new provisions going forwards for termination during the Initial Term, as explained below.

- 7.4 These Regulations provide for the duration of the licence's Initial Term to be divided into as many as three Phases, each with its own work programme. Phase A and Phase B are optional, but a Phase C is always required. OGA's policy is that Phase A is for activities other than seismic surveys and drilling, Phase B to acquire new seismic surveys and Phase C to drill. For example, there might be only a Phase A and a Phase C if the applicant has already acquired enough seismic data that there is no need for a Phase B. The duration of the Initial Term and the Phases within it will be defined by agreement between the OGA and the successful applicant based on particular circumstances, rather than being fixed by the OGA.
- 7.5 These Regulations introduce additional safeguards to ensure licensees do not hold exclusive licences without completing the agreed Work Programme, in line with the OGA's principal objective of maximising economic recovery of UK petroleum (MER UK). Failure to complete the work applicable to a Phase, or to commit to the next Phase would mean the licence ceases unless the OGA decides otherwise. The OGA and the licensee may also agree intermediate deadlines within a Phase, and the licence would cease if the licensee has not taken the action required by that deadline, unless the OGA decides otherwise. This allows OGA to reoffer acreage where the existing licensee fails to make an agreed amount of progress towards production, thus contributing to MER UK. However, understanding that commercial and technological factors and the state of knowledge may change following initial agreement, these Regulations allow for the Phases and intermediate deadlines to be extended by agreement where the licensee has valid reasons for not being able to meet its commitments. These changes are to be made by a notice from the OGA in response to a request from the licensee. These Regulations also allow amendments to the Work Programme, such as changing the actions required to be taken, by notice from the OGA in response to a request from the licensee. Introducing this mechanism means that a deed of variation will no longer be required to amend a Work Programme, which will reduce the administrative burden on both the OGA and the licensee.
- 7.6 These Regulations also make minor amendments to the Petroleum Licensing (Applications) Regulations 2015 so that they reflect the new terminology for the Innovate model.
- 7.7 These Regulations also replace references to repealed tax legislation in the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008, the Offshore Gas Storage and Unloading (Licensing) Regulations 2009 and the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014, but these amendments do not make any substantive change.

### ***Consolidation***

- 7.8 There are no plans to consolidate the Regulations that are being amended at this time.

## **8. Consultation outcome**

- 8.1 The OGA conducted a consultation on the proposed policy changes regarding the Model Clauses for Seaward Production Licences between 21 November 2016 and 6 January 2017.

- 8.2 The OGA received responses from Oil and Gas UK and the Oil and Gas Independents' Association, which are two trade associations that had consulted their membership and sent aggregate responses. The two trade associations represent a large majority of offshore licensees. In addition, two individual companies replied separately.
- 8.3 Responses to the consultation were supportive or neutral with a number of comments being made on subjects unrelated to the consultation. No one opposed any of the proposed changes.
- 8.4 The OGA's proposals were considered and adopted by the Secretary of State, following consultation with the OGA.
- 8.5 A summary of the responses to the consultation and the OGA's response will be available on the OGA's website before this instrument comes into effect.

## **9. Guidance**

- 9.1 Guidance will be published on the OGA's website before any applications are invited for licences that will use these Model Clauses.

## **10. Impact**

- 10.1 There is no impact on charities or voluntary bodies.
- 10.2 The impact on the public sector is minimal.
- 10.3 The proposed Regulations are not expected to lead to any material increase in costs to business. With the aim of contributing towards the principle objective of MER UK, the policy intent is to support flexibility for all potential applicants for Seaward Production Licences, subject to sufficient safeguards being in place, clarify the Model Clauses and simplify their administration. The proposed amendments will have no effect on existing licenses.
- 10.4 As a low cost, fast-track measure, a validation Impact Assessment has been produced and will be published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 The Innovate model will not disadvantage small businesses; on the contrary, by allowing longer timetables small businesses will be better able to apply for licences.

## **12. Monitoring & review**

- 12.1 All of the Statutory Instruments that are being amended contain a review clause, which require review at intervals not exceeding five years.

## **13. Contact**

- 13.1 Jessica Mackenzie at BEIS Telephone: 0300 068 6935 or email: [jessica.mackenzie@beis.gsi.gov.uk](mailto:jessica.mackenzie@beis.gsi.gov.uk) can answer any queries regarding the instrument.