

**2021 No. 206**

**PETROLEUM**

**The Oil and Gas Authority (Levy and Fees) Regulations 2021**

*Made* - - - - 24th February 2021

*Laid before Parliament* 2nd March 2021

*Coming into force* - - 1st April 2021

The Secretary of State, in exercise of the powers conferred by sections 12(1), (2), (5) and (6), 13(1) to (4) and 14(1) and (3) to (9) of the Energy Act 2016(a), section 67(2) and (3)(b) of the Marine and Coastal Access Act 2009(b) and section 82OA(2) of the Energy Act 2008(c) makes the following Regulations.

The Secretary of State has consulted the Oil and Gas Authority in accordance with sections 12(8) and 13(8) of the Energy Act 2016.

**PART 1**

**General**

**Citation and commencement**

1. These Regulations may be cited as the Oil and Gas Authority (Levy and Fees) Regulations 2021 and come into force on 1st April 2021.

**PART 2**

**The Oil and Gas Authority Levy**

**Interpretation**

2. In this Part—

“leviable costs” means the sum of the costs incurred by the OGA(d) and the Lord Chancellor in exercising the functions referred to in section 13(2)(a) of the Energy Act 2016, excluding any costs incurred in the exercise of functions referred to in section 13(2)(b) of that Act, in respect of the relevant charging period;

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(a) 2016 c.20.  
(b) 2009 c.23. The Secretary of State makes these Regulations as the appropriate licensing authority under section 113(2)(a), (4)(a), (6)(a) and (8) of the Marine and Coastal Access Act 2009.  
(c) 2008 c.32. Section 82OA is amended by the Energy Act 2016.  
(d) “OGA” is defined in section 1(4) of the Energy Act 2016 as the Oil and Gas Authority.

“licensee” means a person who holds a petroleum licence or, where a petroleum licence is held by more than one person, together the persons who hold that petroleum licence;

“non-production levy” means the levy which is payable in respect of the relevant charging period in accordance with regulation 4 and which is calculated in accordance with the formula at regulation 5(2);

“offshore exploration licence” means a petroleum licence of the sort referred to in regulation 2(2)(a) of the Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009(a), relating to an area any part of which lies within offshore waters;

“offshore production licence” means a petroleum licence relating to an area any part of which lies within offshore waters which is not an offshore exploration licence;

“offshore waters” means—

- (a) the waters comprising the territorial sea of the United Kingdom, and
- (b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(b);

“payment notice” means a notice given to a licensee in accordance with regulation 6 in respect of the relevant charging period;

“production levy” means the levy which is payable in respect of the relevant charging period in accordance with regulation 3 and which is calculated in accordance with the formula at regulation 5(1);

“petroleum licence” means a licence granted under—

- (a) section 2 of the Petroleum (Production) Act 1934(c) (licences to search for and get petroleum); or
- (b) section 3 of the Petroleum Act 1998(d) (licences to search for and bore for and get petroleum),

which is not an excluded licence(e) in relation to the relevant charging period;

“relevant charging period” means the period beginning on 1st April 2021 and ending on 31st March 2022;

“relevant time” means 12.01a.m. on 1st April 2021; and

“total amount of levy” means the total payable by licensees in accordance with regulations 3 and 4, being £30,223,000.

### **Liability to pay production levy**

**3.—**(1) A licensee is liable to pay the production levy in respect of each offshore production licence which is held by the licensee at the relevant time and in respect of which either of the criteria at paragraph (2) is satisfied.

(2) The criteria are that at the relevant time the licensee is, in accordance with that licence, entitled to—

- (a) erect or carry out any relevant works (within the meaning of the licence) either in the licensed area or elsewhere, for the purpose of getting petroleum from that area or for the purpose of conveying to a place on land petroleum got from that area; or
- (b) get petroleum from that area otherwise than in the course of searching for petroleum, drilling wells or testing wells.

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(a) S.I. 2009/2814; this instrument is amended by S.I. 2016/912 and S.I. 2016/992.

(b) 1964 c.29; section 1(7) is amended by the Oil and Gas (Enterprise) Act 1982 (c.23) section 37, schedule 3, paragraph 1 and by the Energy Act 2011 (c.29) section 103.

(c) 1934 c.36; this Act is repealed by the Petroleum Act 1998 (c.17), section 51 and Schedule 5, subject to the savings provisions set out in Schedule 3.

(d) 1998 c.17; section 3 is amended by the Scotland Act 2016 (c.11) section 48(1) to (4) and by S.I. 2016/898.

(e) “Excluded licence” is defined by section 13(10) of the Energy Act 2016.

(3) Where the licensee is more than one person, the liability under paragraph (1) is joint and several.

#### **Liability to pay non-production levy**

**4.**—(1) Subject to paragraphs (2) and (3), a licensee is liable to pay the non-production levy in respect of each of the following kinds of licence held by the licensee at the relevant time—

- (a) an offshore exploration licence;
- (b) an offshore production licence in respect of which the criterion at regulation 3(2) is not satisfied.

(2) A licensee which at the relevant time—

- (a) is a micro-enterprise; and
- (b) holds an innovate licence in phase B of its initial term,

is liable to pay the non-production levy discounted by 80% in respect of that licence.

(3) A licensee which at the relevant time—

- (a) is a micro-enterprise; and
- (b) holds either—
  - (i) a promote licence in its promote period; or
  - (ii) an innovate licence in phase A of its initial term,

is liable to pay the non-production levy discounted by 90% in respect of that licence.

(4) Where the licensee is more than one person—

- (a) the liability under this regulation is joint and several; and
- (b) the licensee is only a micro-enterprise for the purposes of paragraphs (2) and (3) if every person who is the licensee is a micro-enterprise.

(5) In this regulation—

“financial year” is determined in accordance with section 390 of the Companies Act 2006(a);

“innovate licence” means an offshore production licence in which, in accordance with the model clauses, the initial term of the licence (within the meaning of the licence) is divided into phases;

“micro-enterprise” means an undertaking which has fewer than 10 employees and meets one or both of the following requirements —

- (a) its turnover does not exceed £1,778,000;
- (b) the aggregate of the amounts shown as assets in its balance sheet does not exceed £1,778,000,

in the financial year immediately preceding that in which the licensee is liable to pay the non-production levy;

“model clauses” means model clauses prescribed by the Petroleum Licensing (Production) (Seawards Areas) Regulations 2008(b);

“promote licence” means an offshore production licence in which, in accordance with the terms of the licence—

- (a) a “promote period” is specified, and
- (b) a clause is included concerning the effect of the expiry of the promote period in relation to the continuation of that licence beyond that period;

“turnover” has the meaning given in section 474 of the Companies Act 2006.

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(a) 2006 c.46.

(b) S.I. 2008/225, amended by S.I. 2009/3283, S.I. 2016/912, S.I. 2017/426 and S.I. 2017/855.

## Calculation of production levy and non-production levy

5.—(1) The OGA must calculate the production levy in accordance with the formula—

$$\frac{C \times 0.89}{P}$$

(2) The OGA must calculate the non-production levy in accordance with the formula—

$$\frac{C \times 0.11}{N100 + (N90 \times 0.1) + (N80 \times 0.2)}$$

(3) In this regulation—

“C” is £30,223,000; (being the total amount of levy);

“N100” is the total number of licences in respect of which a licensee is liable to pay the non-production levy under regulation 4(1) and in respect of which neither the criterion at regulation 4(2) nor the criterion at regulation 4(3) is satisfied;

“N90” is the total number of licences in respect of which a licensee is liable to pay the non-production levy discounted by 90 per cent under regulation 4(3);

“N80” is the total number of licences in respect of which a licensee is liable to pay the non-production levy discounted by 80 per cent under regulation 4(2); and

“P” is the total number of offshore production licences in respect of which a licensee is liable to pay the production levy under regulation 3(1).

## Payment of the levy

6. Where a licensee is liable to pay a levy to the OGA in accordance with these Regulations, the OGA must notify the licensee in writing by 31st May 2021 as to—

- (a) whether the licensee is liable to pay the production levy, the non-production levy or both;
- (b) the total amount payable by the licensee;
- (c) the date by which that amount is to be paid, being a date not less than 30 days after the date of the notification; and
- (d) details of how the payment can be made.

## Interest payable on late payment of the levy

7.—(1) Where any amount of levy is not paid in accordance with a payment notice, the licensee is liable to pay to the OGA interest calculated in accordance with paragraph (2) on the amount of the levy which remains unpaid.

(2) Interest payable under paragraph (1) is simple interest calculated from day to day on the unpaid amount from the date by which the amount is required until the date when payment is made, at a rate of 5% over the Bank of England base rate from time to time.

(3) Where the licensee is more than one person the liability under this regulation is joint and several.

(4) For the purpose of this regulation, the “Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

- (b) where an order under section 19 of the Bank of England Act 1998(a) (reserve powers) is in force, any equivalent rate determined by the Treasury under that section.

### **Recovery of the levy**

8. Where any amount of levy is not paid in accordance with a payment notice, that unpaid amount, together with any interest due in accordance with regulation 7, is recoverable as a civil debt due to the OGA.

### **Repayment or credit of the levy under these Regulations**

- 9.—(1) This regulation applies where the total amount of levy exceeds the leviable costs.
- (2) The OGA must, by 31st December 2022, credit to each licensee the difference between—
- (a) the amount paid by or on behalf of that licensee in accordance with the notice given under regulation 6 (including any interest paid by or on behalf of that licensee in accordance with regulation 7); and
  - (b) the recalculated amount of levy payable by that licensee.
- (3) Any payment notice in respect of which sums remain outstanding shall be construed as referring to the recalculated amount of levy payable by the relevant licensee (and regulation 7 shall be construed accordingly).
- (4) In this regulation—
- “recalculated amount of levy payable” means the sum of—
- (a) the amount of levy payable by a licensee in accordance with the notice given under regulation 6; and
  - (b) any amount of interest which became payable by that licensee in accordance with regulation 7,
- multiplied by the relevant multiplier; and
- “relevant multiplier” means the figure calculated by dividing the leviable costs by the total amount of levy, expressed to three decimal places.

## **PART 3**

### **The Oil and Gas Authority Fees**

#### **Amendments to the Oil and Gas Authority (Fees) Regulations 2016**

- 10.—(1) The Oil and Gas Authority (Fees) Regulations 2016(b) are amended as follows.
- (2) In regulation 2 (interpretation)—
- (a) after the definition of “carbon dioxide storage proposal” insert—
    - ““category 1 pipeline works authorisation variation” means an application to vary an existing pipeline works authorisation where the variation relates to the installation of a new pipeline that is greater than 500 metres in length and situated entirely or partially outside a safety zone;
    - “category 2 pipeline works authorisation variation” means an application to vary an existing pipeline works authorisation where the variation relates to—
      - (i) the installation of a new pipeline that is 500 metres or less in length or entirely within a safety zone; or

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(a) 1998 c.11.

(b) S.I. 2016/904, amended by S.I. 2017/426, S.I. 2018/56, S.I. 2018/980 and S.I. 2020/208.

- (ii) the partial or full removal from the seabed, or the taking out of use, of an existing pipeline prior to the OGA confirming that it has no objection to the permanent cessation of production from the relevant petroleum field or part of a petroleum field;”;
- (b) in the definition of “development and production programme”, after “programme” insert “or proposal”;
- (c) after the definition of “development plan” insert—
  - ““drill stem test” means any well test that is not an extended well test;
  - “extended well test” means any well test which—
    - (a) has a cumulative duration of fluid production of 96 hours; or
    - (b) produces a total of more than 2,000 tonnes of oil or when oil is in a gaseous state, 43,000 standard cubic feet is counted as equivalent to one tonne;”;
- (d) after the definition of “licensee” insert—
  - ““offshore installation” has the meaning given in section 44 of the 1998 Act;”;
- (e) after the definition of “retention area proposal” insert—
  - ““safety zone” means a safety zone established under section 21 or section 22 of the Petroleum Act 1987(a);”;
- (f) after the definition of “wells suspension” insert—
  - ““well test” means a test of the production from a well where the petroleum, water or any other fluid produced or used in such production is not conveyed to a permanent offshore installation;”.
- (3) In regulation 3 (applications of a prescribed description) after paragraph (1)(u) insert—
  - “(v) an application for consent to a drill stem test;
  - “(w) an application for consent to an extended well test.”.
- (4) In regulation 4 (fees payable for consents and pipeline works authorisations)—
  - (a) in paragraph (2) after sub-paragraph (b) insert—
    - “(c) or a variation to an existing pipeline works authorisation”;
  - (b) for paragraph (3) substitute—
    - “(3) Subject to paragraphs (7) and (10), the amount of the fee under paragraph (1), and for a complex application under paragraph (2), is determined by the formula—

$$£715 \times A \times B$$

- (c) for paragraph (5) substitute—
  - “(5) The licensee or person must:
    - (a) pay any fee payable under paragraph (1), or paragraph (2) for a complex application, within 30 days of the OGA notifying the licensee or person of the determination of the application unless paragraphs (7) or (10) apply;
    - (b) where paragraphs (7) or (10) apply, pay any fee payable under paragraph (1) within 30 days of the OGA notifying the licensee or person of the amount due, unless the OGA notifies the licensee or person, as appropriate, in writing that the licensee or person may pay the fee at a later date;
    - (c) pay any fee payable under paragraph (2), other than for a complex application, at the time of making the application; and

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(a) 1987 c.12.

(d) in relation to paragraph (16) pay any additional fee payable under paragraph (2) within 30 days of the OGA notifying the licensee or person of the determination of the application,

unless the OGA notifies the licensee or person, as appropriate, in writing that the licensee or person may pay the fee at a later date.”;

(d) after regulation 4(6) insert—

“(7) If a licensee who has applied for consent to a development and production programme notifies the OGA in writing, before the OGA has determined the application, that the licensee no longer intends to proceed with the application, the amount of the fee is to be determined in accordance with paragraph 8.

(8) The amount of the fee under paragraph (7) is determined by the formula—

$$£715 \times A \times B$$

(9) In paragraph (8), reference to—

A is the number of days; and

B is the number of officers working to determine an application for consent to a development and production programme,

up to and including the date notification is received by the OGA.

(10) If the determination of an application for consent to a development and production programme by the OGA takes longer than 6 months, the OGA may charge the fee for such application in instalments every six months, determined in accordance with paragraph (11), following receipt by the OGA of the application until its determination, after which the OGA will charge any remaining fee.

(11) The amount of the fee under paragraph (10) is determined by the formula—

$$£715 \times A \times B$$

(12) In paragraph (11), reference to—

A is the number of days; and

B is the number of officers working to determine an application for consent to a development and production programme,

in the relevant period under paragraph (10).

(13) Subject to paragraphs (14) and (16), the amount of the fee under paragraph (2) for an application for consent to, or an authorisation for, an activity or matter listed in the first column of the table below is the corresponding fee set out in the second column of the table.

<i>Application for consent to or authorisation for activity or matter</i>	<i>Fee Payable</i>
Pipeline works authorisation	£2,575
Category 1 pipeline works authorisation variation	£2,575
Category 2 pipeline works authorisation variation	£1,275
Variation of holder, user, owner or Operator of a pipeline under a pipeline works authorisation	£1,275
Consent to a pipeline deposit proposal	£975
Pipeline works authorisation and deposit consents granted following cessation of production from a petroleum field	£1,275

(14) If the OGA agrees to determine an application for an activity or matter listed in the first column of the table in paragraph (13) on an expedited basis, the amount of the fee is double the corresponding fee set out in the second column of the table.

(15) In this regulation, a “complex application” is an application of the type set out in paragraph (2) and that the OGA considers will require more than four days for an officer to determine.

(16) The OGA will notify, in writing, the person making an application—

- (a) within seven days of receipt of the application if it determines the application to be a complex application; or
- (b) within seven days of the OGA making a determination that it is a complex application, if the OGA makes such a determination at a later date,

and credit the fee paid by the licensee or person at the time of making the application against the amount of the fee payable by the licensee or person for a complex application under paragraph (2).”

(5) In regulation 6 (fixed fees payable for other consents)—

(a) at the end of the table following paragraph (3) insert the following rows—

“Flare or vent natural gas from a relevant oil processing facility or a relevant gas processing facility	£300
Drill stem test	£400
Extended well test	£990”

(b) after paragraph (3) insert—

“(4) In this regulation, “relevant gas processing facility” and “relevant oil processing facility” have the meanings given in sections 82(3) and 90 of the Energy Act 2011.”

(6) In regulation 7, in the table (fees payable for applications for petroleum licences) for “£5,930” substitute “£6,105”.

24th February 2021

*Anne-Marie Trevelyan*  
Minister of State for Business, Energy and Clean Growth  
Department for Business, Energy and Industrial Strategy

## **EXPLANATORY NOTE**

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

These Regulations make provision for calculating and imposing a levy on the holders of petroleum licences in respect of the period beginning on 1st April 2021 and ending on 31st March 2022 (“the relevant charging period”). The levy is payable to meet costs incurred by the Oil and Gas Authority (“the OGA”) in carrying out its functions as well as costs incurred by the Lord Chancellor in connection with the provision of Tribunals to consider appeals against the decisions of the OGA.

These Regulations also make provision to increase and amend certain fees charged in relation to activities carried out by the Secretary of State and OGA relating to the offshore oil and gas industry.

Regulation 3 sets out liability to pay the production levy for the relevant charging period. This is the highest rate of levy.

Regulation 4 sets out liability to pay the non-production levy. Paragraphs (2) and (3) provide that micro-enterprises holding promote or innovate licences at the relevant time in certain circumstances qualify to pay the non-production levy at discounted rates in respect of those licences.

Regulation 5 provides the methodology for calculating the production levy and the non-production levy.

Regulations 6 to 8 provide for the process by which licensees are notified as to the amount of levy payable, for interest to be payable on late payments and for the OGA to be able to take action to recover any unpaid levy as a civil debt.

Regulation 9 requires the amount of the levy to be paid by licensees under regulations 3 and 4 to be adjusted if the total amount of levy to be recovered under these Regulations exceeds the leviable costs incurred by the OGA and Lord Chancellor in respect of the relevant charging period. The OGA will credit the licensees appropriately should the amount of levy recovered exceed the leviable costs incurred by the OGA and Lord Chancellor in respect of the relevant charging period.

Regulation 10 sets out revised rates for fees and amendments to the Oil and Gas Authority (Fees) Regulations 2016. It provides for a fee to be payable for discontinued applications and expedited applications, and a new method for calculating fees for applications that the OGA determines to be complex. It provides for fees to be payable for flaring and venting natural gas from an oil or gas processing facility, and well and extended well tests.

A full impact assessment has not been produced for this instrument as no or no significant impact on the private, voluntary or public sectors is foreseen. An impact assessment was produced for the original levy regulations, the Oil and Gas Authority (Levy) Regulations 2015 and is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET and on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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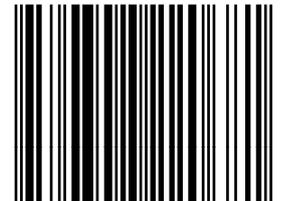




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