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STATUTORY INSTRUMENTS

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**2017 No. 404**

**ENVIRONMENTAL PROTECTION**

**The Pollution Prevention and Control (Fees)  
(Miscellaneous Amendments) Regulations 2017**

<i>Made</i>	- - - -	<i>13th March 2017</i>
<i>Laid before Parliament</i>		<i>16th March 2017</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 2(1) to (3) and 7(9) of, and paragraphs 9 and 10 of Schedule 1 to, the Pollution Prevention and Control Act 1999<sup>(1)</sup>, having consulted in accordance with section 2(4) of the Pollution Prevention and Control Act 1999<sup>(2)</sup>. These Regulations are also made in exercise of the powers conferred by section 56(1) and (2) of the Finance Act 1973<sup>(3)</sup> and with the consent of the Treasury<sup>(4)</sup>:

**Citation and commencement**

1. These Regulations may be cited as the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2017 and come into force on 6th April 2017.

**Amendment of the Offshore Chemicals Regulations 2002**

2. Regulation 8 of the Offshore Chemicals Regulations 2002<sup>(5)</sup> is amended as follows.

- (1) In regulation 8(2)(f), omit “and”.
- (2) In regulation 8(2)(g)—
  - (a) after “release”, insert “or discharge”; and
  - (b) for the comma, substitute “; and”.
- (3) After regulation 8(2)(g), insert—
  - “(h) the provision of advice in respect of—

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(1) 1999 c. 24.  
(2) Section 2(4) was amended by the Natural Resources Body for Wales (Functions) Order (S.I. 2013/755 (W. 90)), Schedule 2, paragraph 395.  
(3) 1973 c. 51; section 56(1) was amended by the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), article 6(1)(e).  
(4) The consent of the Treasury is needed to make regulations under section 56(1) of the Finance Act 1973.  
(5) S.I. 2002/1355; relevant amending instruments are S.I. 2010/1513, S.I. 2011/982 and S.I. 2016/912.

- (i) an application or potential application for the grant or renewal of a permit;
- (ii) an application or potential application for the variation of a permit or the conditions to which it is subject, or a review of a permit and its conditions;
- (iii) a request or potential request for the Secretary of State's consent to the transfer of a permit;
- (iv) the revocation or surrender of a permit;
- (v) the testing or analysis of substances;
- (vi) the validating of, or of the results of, any testing or analysis of substances; and
- (vii) assessing how the environment might be affected by the release or discharge into it of any substances.”.

(4) In regulation 8(2), after “the matters referred to in sub-paragraphs (e) to (g)”, insert “and (h) (v) to (h)(vii)”.

### **Amendment of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005**

3. Regulation 6 of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005(6) is amended as follows.

- (1) In regulation 6(2)(g), omit “and”.
- (2) In regulation 6(2)(h)—
  - (a) after “release”, insert “or discharge”; and
  - (b) for the comma, substitute “; and”.
- (3) After regulation 6(2)(h), insert—
  - “(i) the provision of advice in respect of—
    - (i) an application or potential application for the grant or renewal of a permit;
    - (ii) a review, or an application or potential application for a review, of a permit or the conditions to which it is subject;
    - (iii) a request or potential request for the Secretary of State's consent to the transfer of a permit;
    - (iv) the revocation or surrender of a permit;
    - (v) the testing or analysis of substances;
    - (vi) the validating of, or of the results of, any testing or analysis of substances; and
    - (vii) the assessment of the effect upon the environment of the release or discharge into it of any oil,”.

(4) In regulation 6(2), after “the matters referred to in sub-paragraphs (f) to (h)”, insert “and (i) (v) to (i)(vii)”.

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

4. The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and other Provisions) Regulations 2015(7) are amended as follows.

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(6) S.I. 2005/2055; relevant amending instruments are S.I. 2011/983 and S.I. 2016/912. S.I. 2005/2055 is also modified by article 9 of S.I. 2010/1513.

(7) S.I. 2015/1431, amended by S.I. 2016/529 and S.I. 2016/1042.

- (1) For regulation 4(2)(aa)(i)(aa), substitute—  
“(aa) Article 2 (labelling format) of Commission Regulation 2015/2068, or”.
- (2) Omit regulation 4(2)(b)(iii) to (vii), and insert—  
“(iii) Commission Regulation 1497/2007,  
(iv) Commission Regulation 1516/2007,  
(v) Commission Regulation 304/2008,  
(vi) Commission Regulation 306/2008,  
(vii) Commission Regulation 2015/2066,  
(viii) Commission Regulation 2015/2067, and  
(ix) Commission Regulation 2015/2068.”.
- (3) In regulation 4(3)(a), omit “and”.
- (4) Omit regulation 4(3)(b), and insert—
  - “(b) “the 2014 Regulation”, “Commission Regulation 1497/2007”, “Commission Regulation 1516/2007”, “Commission Regulation 304/2008”, “Commission Regulation 306/2008”, “Northern Ireland offshore installations” and “offshore installations” have the meanings given in the 2015 Regulations;
  - (c) “Commission Regulation 2015/2066” means Commission Implementing Regulation (EU) 2015/2066 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons carrying out installation, servicing, maintenance, repair or decommissioning of electrical switchgear containing fluorinated greenhouse gases or recovery of fluorinated greenhouse gases from stationary electrical switchgear<sup>(8)</sup>;
  - (d) “Commission Regulation 2015/2067” means Commission Implementing Regulation (EU) 2015/2067 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons as regards stationary refrigeration, air conditioning and heat pump equipment, and refrigeration units of refrigerated trucks and trailers, containing fluorinated greenhouse gases and for the certification of companies as regards stationary refrigeration, air conditioning and heat pump equipment, containing fluorinated greenhouse gases<sup>(9)</sup>; and
  - (e) “Commission Regulation 2015/2068” means Commission Implementing Regulation (EU) 2015/2068 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, the format of labels for products and equipment containing fluorinated greenhouse gases<sup>(10)</sup>.”.
- (5) After regulation 5A, insert—

**“Fees relating to offshore undertakings: Energy Savings Opportunity Scheme Regulations 2014**

**5B.**—(1) This regulation applies where the Secretary of State’s functions referred to in paragraph (2) are in respect of an offshore undertaking, or a participant for which it has been agreed that the Secretary of State will act as the compliance body in accordance with regulation 6(2) of the ESOS Regulations.

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<sup>(8)</sup> OJ No L 301, 18.11.2015, p 22.

<sup>(9)</sup> OJ No L 301, 18.11.2015, p 28.

<sup>(10)</sup> OJ No L 301, 18.11.2015, p 39.

(2) The Secretary of State may charge fees, calculated in accordance with regulation 7, in respect of monitoring compliance with the requirements of the ESOS Regulations.

(3) In this regulation—

- (a) “the ESOS Regulations” means the Energy Savings Opportunity Scheme Regulations 2014<sup>(11)</sup>;
- (b) “compliance body”, “offshore undertaking” and “participant” have the meanings given in the ESOS Regulations; and
- (c) “Secretary of State” means the Secretary of State for Business, Energy and Industrial Strategy.”.

### **Amendment of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015**

5. After regulation 13 of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015<sup>(12)</sup>, insert—

#### **“Fees**

**13A.**—(1) The Secretary of State may charge fees in relation to the Secretary of State’s functions as competent authority in respect of—

- (a) providing advice in accordance with the competent authority’s functions as a consultee under regulations 3(1)(b) and 5(3); and
- (b) monitoring compliance with an offshore licensee’s obligations—
  - (i) under regulation 9(a), in relation to its liabilities under regulation 10; and
  - (ii) under regulation 9(c) and (d), including notifying the licensing authority of any determination, and the reasons for it, under regulation 7.

(2) A fee charged under paragraph (1) is  $(A \times B) + (C \times D)$  where—

A is the number of hours work carried out by specialist officers;

B is £168;

C is the number of hours work carried out by non-specialist officers; and

D is £82.

(3) For the purposes of paragraph (2), the number of hours work may be expressed as a fraction where—

- (a) less than one hour’s work has been carried out; or
- (b) the total amount of time worked is more than one hour but cannot be expressed as a whole number in hours.

(4) In this regulation “specialist officers” means persons engaged on behalf of the Secretary of State to carry out the functions of the Secretary of State referred to in paragraph (1) and “non-specialist officers” means any other persons engaged on behalf of the Secretary of State to provide administrative support to specialist officers.”.

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<sup>(11)</sup> S.I. 2014/1643, amended by S.I. 2016/992; there are other amending instruments but none is relevant.

<sup>(12)</sup> S.I. 2015/385, amended by the Energy Act 2016, Schedule 1, paragraph 81.

13th March 2017

*Jesse Norman*  
Parliamentary Under-Secretary of State  
Department for Business, Energy and Industrial  
Strategy

We consent

13th March 2017

*David Evennett*  
*Andrew Griffiths*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

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

Regulation 2 amends the Offshore Chemicals Regulations 2002 (S.I. 2002/1355) (“OCR”). It allows fees to be charged in respect of assessing how the environment might be affected by the discharge into it of any substances. (“Discharge” is defined at regulation 2 of OCR.) Regulation 2 also allows fees to be charged in relation to certain advice given as part of the Secretary of State’s functions under OCR.

Regulation 3 amends the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (S.I. 2005/2055) (“OPPC”). It allows fees to be charged in respect of the assessment of the effect upon the environment of the discharge into it of any oil. (“Discharge” is defined at regulation 2 of OPPC.) Regulation 3 also allows fees to be charged in relation to certain advice given as part of the Secretary of State’s functions under OPPC.

Regulation 4 amends the Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 (S.I. 2015/1431).

Regulation 4(1) to 4(4) amends the charging provisions relating to the regulation of fluorinated greenhouse gases. Powers to charge for monitoring compliance with Commission Regulation (EC) No 1497/2007(13), Commission Regulation (EC) No 304/2008(14) and Commission Implementing Regulation (EU) 2015/2066(15) have been introduced and the power to charge for monitoring compliance with Commission Implementing Regulation (EU) No 1191/2014(16) has been removed. The amendments also reflect that Commission Regulation (EC) No 1494/2007(17) has been repealed and replaced by Commission Implementing Regulation (EU) 2015/2068(18) and Commission Regulation (EC) No 303/2008(19) has been repealed and replaced by Commission Implementing Regulation (EU) 2015/2067(20).

Regulation 4(5) allows fees to be charged in relation to the functions of the Secretary of State for Business, Energy and Industrial Strategy under the Energy Savings Opportunity Scheme Regulations 2014 (S.I. 2014/1643).

Regulation 5 amends the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385) (“OPLR”). It allows fees to be charged in relation to the Secretary of State’s functions as part of the competent authority under OPLR.

An impact assessment of the effect that this instrument will have on the costs of business is annexed to the Explanatory Memorandum which is available alongside these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk). No impact on the voluntary sector is expected.

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(13) OJ No L 333, 19.12.2007, p 4.

(14) OJ No L 92, 3.4.2008, p 12.

(15) OJ No L 301, 18.11.2015, p 22.

(16) OJ No L 318, 5.11.2014, p 5.

(17) OJ No L 332, 18.12.2007, p 25.

(18) OJ No L 301, 18.11.2015, p 39.

(19) OJ No L 92, 3.4.2008, p 3.

(20) OJ No L 301, 18.11.2015, p 28.