

**EXPLANATORY MEMORANDUM TO  
THE PETROLEUM LICENSING (EXPLORATION AND PRODUCTION)  
(SEAWARD AND LANDWARD AREAS) (AMENDMENT) REGULATIONS 2006**

**2006 No. 784**

1. This explanatory memorandum has been prepared by the Department of Trade & Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

- 2.1 The Regulations amend the Model Clauses to be used in future Petroleum Production Licences so as to provide for:

- (a) a licensee's duty to decommission (i.e., abandon) wells (or to leave them in good order) in the event that the Minister revokes the licence;
- (b) the ownership of certain wellhead equipment after the Minister revokes a licence; and
- (c) the Secretary of State's powers of revocation in the event of the bankruptcy or insolvency of the licensee and certain similar circumstances.

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

- 3.1 None.

**4. Legislative Background**

- 4.1 Section 4 of the Petroleum Act 1998 ("the Act") requires the Secretary of State for Trade & Industry to make regulations prescribing model clauses for licences to search and bore for and get petroleum to be issued under section 3 of the Act. Section 4(1)(e) requires that the model clauses so prescribed shall, unless the Secretary of State decides otherwise, be incorporated into each licence.
- 4.2 The Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004 (SI No. 352 of 2004) ("the 2004 regulations") were made under section 4, and prescribed model clauses for five categories of licence governing exploration, production and petroleum exploration and development.
- 4.3 The Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) (Amendment) Regulations 2006 amend the 2004 regulations by making the same three comparatively minor amendments to the model clauses prescribed for four categories of licence (covering production and petroleum exploration and development). One of these amendments is also applied to exploration licences. Please note that although there are only three basic kinds of licence in total (exploration, production and petroleum exploration and development), under the 2004 regulations these fall into five categories because production licenses have a different set of model clauses depending on whether they relate to "frontier areas" and whether they include a "break clause". Under regulation 3 of the 2004 regulations there are therefore three categories of production licenses together with exploration licenses and petroleum exploration and development licenses, giving five categories in total. The model clauses for these five categories of licence are set out in schedules 1 to 4 and 6 of the 2004 regulations. All three amendments are intended to address the following shortcomings in the clauses that have been observed during their routine application.

- 4.4 Firstly, to date there has been no provision in the model clauses governing the licensee's obligation for decommissioning or other work required to petroleum wells in the event that the Minister revokes the licence with immediate effect. Regulations 3(2) and 3(3) insert a provision into production and petroleum exploration and development licences requiring a licensee whose licence is revoked to plug and seal any wells drilled pursuant to that licence or, if the Minister so directs, to leave them in good working order.
- 4.5 Secondly, regulation 3(4) amends the model clauses for the same categories of licence to enable the Minister to assume ownership of remaining well casings and fixtures after he has revoked a licence and any decommissioning work has been completed.
- 4.6 The amendments described in paragraphs 4.4 and 4.5 do not apply to exploration licences, for which the model clauses are set out in schedule 1 to the 2004 regulations. This is because the activities conducted under exploration licences do not result in the construction of wells requiring significant decommissioning work or in respect of which ownership of casings and fixtures is likely to be a matter of significant concern to the DTI. It was therefore not thought necessary to amend the model clauses relating to exploration licences in these respects.
- 4.7 Thirdly, regulation 3(5) amends the clauses prescribing the circumstances in which the Minister may revoke a licence where the licensee becomes bankrupt or insolvent or makes an arrangement with its creditors. Under the amended clauses the Minister may also revoke a licence where an analogous order is made in a foreign jurisdiction. This amendment is intended to deal with situations where the licensee is a foreign registered company and becomes insolvent, in which case the Minister will be able to revoke the licence in the same way as he or she could have done had the licensee been UK-registered. This amendment applies to all categories of licence.

## **5. Extent**

- 5.1 This instrument applies to the United Kingdom.

## **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**

- 7.1 The Petroleum Act 1998 consolidated certain previous enactments relating to petroleum and other matters. The objective of the Department of Trade & Industry as regards the UK's oil and gas reserves is to maximise the economic recovery of the UK's hydrocarbon resources, and the resulting contribution to security of supply.
- 7.2 The principal effect of the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) (Amendment) Regulations 2006 will be to establish the obligations of the licensee and the rights of the Minister in the event that the Minister revokes a licence. The amendments to the 2004 regulations inserted by regulation 3(3) provide that where the Minister revokes a licence he may direct the licensee either to plug and seal the wells drilled pursuant to that licence, or to leave them in good order and fit for further working. In addition, the amendments inserted by regulation 3(4) provide that, in cases where the Minister exercises his power to revoke a licence, he shall assume ownership of certain wellhead equipment remaining after the licence has been revoked.
- 7.3 In the DTI's view it is important that, where revocation takes place, the rights of the Minister and the licensee are clearly stated as regards both ownership of equipment and further works, partly because there may be third parties (such as administrators

and creditors) who may have an interest in the licensee's remaining assets. It is also important that, where the Minister revokes a licence, he has the power to decide at that point whether any wells drilled pursuant to that licence should be decommissioned (i.e., plugged and sealed) or left in good order and fit for further working.

- 7.4 The second main effect of the amendments to the model clauses is to enable the Minister to revoke a licence if an insolvency event occurs in respect of the licensee in any country, rather than only in the UK as at present. Under the model clauses as currently drafted, the insolvency of such a licensee company does not give the Minister the right to revoke the licence in question. However the same policy reasons for enabling the Minister to revoke a licence would appear to apply whether the licensee was registered in the UK or elsewhere. The amendment therefore confers on the Minister the right to revoke a licence held by an insolvent licensee, wherever located.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument because it has minimal impact on business, charities or voluntary bodies. Since the beginning of offshore licensing in 1964, fewer than five licences have been revoked, and so it is reasonable to suppose that the amended clauses will be applied rarely (although in our view the practical significance of doing so suffices to justify the making of these regulations). Furthermore, the amendments only affect future licences, so the companies that will be affected (a) cannot be identified, and (b) are free to decide whether or not to accept licences on these terms.
- 8.2 The impact on the public sector will be negligible because the effects will only arise in very restricted circumstances, and will only impact on the Department of Trade & Industry.

## **9. Contact**

Mike Hawkins at the Department of Trade & Industry. Tel: 020 7215 5098 or e-mail: [Michael.Hawkins@dti.gsi.gov.uk](mailto:Michael.Hawkins@dti.gsi.gov.uk) can answer any queries regarding the instrument.