

**EXPLANATORY MEMORANDUM TO
THE PETROLEUM LICENSING (EXPLORATION AND PRODUCTION)
(LANDWARD AREAS) REGULATIONS 2014**

2014 No.1686

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

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

2. **Purpose of the instrument**

- 2.1 To amend the terms of Petroleum Exploration and Development Licences so as to improve their compatibility with shale oil, shale gas and coalbed methane.

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

- 3.1 Paragraph 7 of Schedule 1 to the Regulations provides a definition of the expression “low water line” by reference to Ordnance Survey maps on a scale of 1:25,000.

- 3.2 Paragraph 5.4.10(c) of Statutory Instrument Practice requires Departments to provide copies of any relevant map to the Joint Committee on Statutory Instruments.

- 3.3 After considering the cost of meeting this requirement, the well-understood nature of what the “low water line” is and the significant experience of the Committee in dealing with this type of definition, the Department concluded that to supply copies of the relevant maps might put the taxpayer to unnecessary expense.

- 3.4 However, the Department would be happy to supply copies of the maps if the Committee would find it helpful.

- 3.5 The Department sincerely regrets that it has breached the 21-day rule and sends its unreserved apologies to the Committee and to both Houses of Parliament. The Regulatory Policy Committee validated the Impact Assessment but recommended certain improvements, and regrettably, the time needed to make these improvements has reduced below 21 days the period between laying and the date on which the Regulations come into force. In practice, those parties affected by the regulations will still have considerably more than 21 days in which to understand the implications and effect, because the regulations will not have a practical effect until the Secretary of State awards licences that incorporate the model clauses, and that is not expected to happen within the next several weeks or months.

4. **Legislative Context**

- 4.1 Section 4 of the Petroleum Act 1998 places a duty on the Secretary of State to make regulations prescribing the model clauses which are to be included in Petroleum licences unless the Secretary of State thinks fit to modify or exclude them. The last set of model clauses for landward petroleum exploration and development licences were set out in regulations made in 2004. There are no existing landward exploration licences.

4.2 Landward oil and gas companies propose to exploit new types of hydrocarbon target, whose characteristics are different from those of conventional oil and gas. The existing terms of Petroleum Act licences – particularly those relating to the retention of acreage – require an update, so that licences will continue to accommodate all forms of petroleum, whether conventional or not.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

The Minister of State for Energy has made the following statement regarding Human Rights:

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 empowers the Secretary of State to award exclusive licences to search, bore for and get petroleum. The UK's petroleum reserves are a valuable national resource, so all such licences contain certain provisions that ensure that this exclusivity is not retained without exploitation of the petroleum covered. The existing retention provisions are inflexible; they have nevertheless worked well for licensees working conventional oil and gas fields, but they accommodate unconventional reserves less well. The new set of Model Clauses will introduce greater flexibility and responsiveness and therefore accommodate both conventional and unconventional hydrocarbons.

8. Consultation outcome

8.1 On 25 November 2013, DECC consulted existing licensees and UKOOG (the onshore trade association), and after discussions and consultation with its members UKOOG replied on 17 January 2014 with a warm welcome: the approach is “much to be encouraged”, “offers an increase in flexibility which will complement how shale and coal bed methane is likely to be developed”, “reduces complexity” and “provides the operator with the opportunity to target a range of hydrocarbon types”. It was an appropriate level of consultation because the changes proposed here are of interest only to industry and other prospective licensees. Other issues have generated interest from the wider community – environmental, health and safety and planning regulation and landowner rights – but these changes do not relate to or modify any of those things. The wider community has been given ample opportunity to feed its views to DECC in a full public consultation that forms part of DECC's Strategic Environmental Assessment ahead of the launch of a 14th Landward Licensing Round.

9. Guidance

9.1 DECC has already provided guidance to stakeholders affected in the form of the consultation of UKOOG and existing licensees, and is committed to work with UKOOG to develop procedures and guidance about fracking reports. The changes introduce new options that licensees are not likely to take for several years, and DECC will develop the remaining guidance in good time.

10. Impact

10.1 The direct impact on business is expected to be an average net benefit of £68.6 million a year; there is not expected to be any direct impact on charities or voluntary bodies.

10.2 The impact on the public sector is negligible (with any administrative costs accommodated within existing resources).

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website following certain minor amendments proposed by the RPC.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 This policy is beneficial to business so its effect on small firms has not been minimised because that would put them at a competitive disadvantage.

12. Monitoring & review

12.1 The new Model Clauses will be judged a success if a large proportion of interested companies are attracted to apply for licences on these terms in the 14th Landward Licensing Round. Given that much acreage is already licensed, applications for 30 blocks would be a good response.

13. Contact

Mike Hawkins at the Department of Energy and Climate Change. Tel: 0300 068 6038 or email: mike.hawkins@decc.gsi.gov.uk with any queries regarding the instrument.