

EXPLANATORY MEMORANDUM TO
THE OIL AND GAS AUTHORITY (LEVY) REGULATIONS 2015

2015 No. 1661

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.
2. **Purpose of the instrument**
 - 2.1 The purpose of this instrument is to impose a levy on holders of offshore petroleum licences to fund the carrying out of certain functions by the Oil and Gas Authority (the “OGA”). The OGA is an executive agency of the Department.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Section 42 of the Infrastructure Act 2015 provides a power for the Secretary of State to raise a levy to fund the activities of the OGA.
5. **Territorial Extent and Application**
 - 5.1 This instrument extends to Great Britain. It applies to holders of petroleum licences which confer rights in respect of petroleum beneath the United Kingdom territorial sea and United Kingdom continental shelf.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject the negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 Following the 2014 Wood Review into maximising the economic recovery of oil and gas from the UK Continental Shelf, the OGA was established as an Executive Agency on 1 April 2015.
 - 7.2 The OGA needs to be significantly better resourced to carry out its objectives, including ultimately delivering the objective of maximising the economic recovery of offshore oil and gas. In line with the established practice across regulation and service delivery, it is appropriate for the OGA to recover its costs from companies benefitting from the services of the regulator.

7.3 Some of the OGA's costs are recovered via fees for the delivery of specific services. But an additional cost recovery mechanism will be required to fund the remainder of the costs, and a levy will provide the fairest and simplest method of achieving this aim. In line with the early focus of the OGA, the Government has determined that, initially, the levy will be targeted only at offshore petroleum licence holders. Holders of unloading and storage of gas and storage of carbon dioxide licences will, in the short term, be exempt from paying the levy, as we do not envisage that the OGA will incur costs for those categories of licence that cannot be recovered via direct charges.

7.4 Managing Public Money sets out that it may be appropriate to charge different levies to different kinds of licensees, depending on what is being provided. Our analysis has identified that the majority of the OGA's costs will relate to activities which benefit licensees that are producing – around 89% - while the remaining 11% of the costs are incurred with regard to non-producing licences.

7.5 Based on the projected levy requirement of £10.1m and the number of licences, a producing licence holder will be subject to a higher levy rate of £30,422.92 for the period of 1 October 2015 to 31 March 2016 in respect of each licence. Non-producing licence holders will be subject to a lower levy rate of £2,759.30 for that period in respect of each licence.

7.6 The trigger for determining that the higher rate of the levy is payable will be either a consent for the licensee to get petroleum or to carry out relevant works (an approval to a Field Development Plan) for more recent licences, or the approval of a works programme for older licences. This is because once the relevant approvals are in place there is nothing stopping the licensee from producing petroleum.

7.7 The lower levy rate will be paid in relation to each licence where a relevant consent has not yet been given or a works programme has not been approved. That lower rate will also be paid by holders of offshore exploration licences since those licences do not give a right to produce petroleum.

7.8 For this instrument, the rate will be determined based on the type of offshore licence and whether a consent or approval has been given, where relevant, as at 1 October 2015. In the future, we plan to bring forward levy regulations annually and the relevant date will be 1 April.

8. Consultation outcome

8.1 The policy was subject to a four week consultation: Funding the Oil and Gas Authority: Consultation on Levy design, published on 23 March 2015, which allowed stakeholders to provide feedback on the proposals. A number of stakeholder workshops were also held prior to the consultation.

8.2 Eighteen responses were received to the consultation. The majority of stakeholders were supportive of the methodology we have used to calculate the levy rate, whereby different levy rates apply to different types of licence holders, depending on the services provided.

8.3 A small number of respondents opposed a levy, however the majority recognised that the levy is needed to allow the OGA to be better resourced to deliver its objectives.

8.4 The government response to the consultation has been published to coincide with the laying of the Regulations in Parliament. The government response sets out the views of stakeholders and an explanation of the final policy decisions taken.

9. Guidance

9.1 We will provide a note with additional guidelines on settling the levy once the invoices have been issued.

10. Impact

10.1 The main impact of this instrument will be on existing offshore petroleum licence holders (as at 1 October 2015), who will have to pay a levy to fund the OGA.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 Given the nature and scale of investment in the oil and gas industry, it is unlikely that firms with fewer than 20 people will be affected by these regulations. The Department has sought to consult as widely as possible to ensure the views of stakeholders have been taken into account in the development of the levy.

12. Monitoring & review

12.1 A review provision is not appropriate. Because a levy is being imposed the exemption in section 28(3)(a) of the Small Business Enterprise and Employment Act 2015 applies.

13. Contact

Eva Stepniewska at the Department of Energy and Climate Change, Telephone: 0300 068 8376 or email Eva.Stepniewska@decc.gsi.gov.uk, can answer any queries regarding the instrument.