

2017 No. 323

PETROLEUM

The Oil and Gas Authority (Levy) Regulations 2017

Made - - - - *9th March 2017*

Laid before Parliament *10th March 2017*

Coming into force - - *1st April 2017*

The Secretary of State, in exercise of the powers conferred by sections 13(1) to (4) and 14(1) and (3) to (9) of the Energy Act 2016(a), and having consulted the Oil and Gas Authority in accordance with section 13(8) of that Act, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Oil and Gas Authority (Levy) Regulations 2017 and come into force on 1st April 2017.

Interpretation

2. In these Regulations—

“leviable costs” means the sum of the costs incurred by the OGA(b) 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;

“licensee” means a person holding a petroleum licence;

“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 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 2017 and ending on 31st March 2018.

(a) 2016 c. 20.

(b) The OGA is defined as the Oil and Gas Authority in section 1(4) of the Energy Act 2016.

(c) 1934 c. 36; repealed by the Petroleum Act 1998 c. 17, Schedule 5, Part I.

(d) 1998 c. 17. The Secretary of State’s functions under section 3 have been transferred to the OGA by S.I. 2016/898.

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

Liability to pay the levy

3.—(1) A licensee who, at the relevant time, holds a petroleum licence which is an offshore production licence or an offshore exploration licence is liable to pay a levy to the OGA in respect of the relevant charging period.

(2) Subject to paragraph (3), for each offshore production licence which a licensee holds at the relevant time, the licensee is liable to pay a levy of—

- (a) £934.18 where—
 - (i) the licensee is a micro enterprise, and
 - (ii) the licence is a promote licence and the Promote Period has not expired; or
- (b) £9,341.76 where sub-paragraph (a) does not apply.

(3) For each offshore production licence which a licensee holds at the relevant time, and under which, at that time, the licensee is 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,

the licensee is liable to pay a levy of £65,444.77.

(4) Where at the relevant time a licensee holds an offshore exploration licence, the licensee is liable to pay a levy of £9,341.76.

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

- (a) liability to pay the levy is joint and several, and
- (b) the levy specified under paragraph (2)(a) only applies if every person who is the licensee is a micro enterprise.

(6) In this regulation—

“micro enterprise” has the meaning given in article 2(3) of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003^(a) concerning the definition of micro, small and medium-sized enterprises;

“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^(b), 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^(c);

“promote licence” means an offshore production licence in which, in accordance with the model clauses prescribed by the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008^(d)—

- (a) a “Promote Period” (within the meaning of the licence) is specified, and

(a) OJ No L 124, 20.5.2003, p36.

(b) S.I. 2009/2814, amended by S.I. 2016/912.

(c) 1964 c. 29; section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 c.23, section 37, Schedule 3, paragraph 1, and the Energy Act 2011 c. 16, section 103.

(d) S.I. 2008/225, amended by 2009/229, 2009/3283, S.I. 2016/912

- (b) a clause is included concerning the effect of the expiry of the Promote Period in relation to the continuation of the licence beyond that period;

“relevant time” means 12.01a.m. on 1st April 2017.

Payment of the levy

4. Where a licensee is liable to pay a levy to the OGA in accordance with regulation 3, the OGA must notify that licensee in writing by 31st May 2017 of—

- (a) the amount of the levy for which that licensee is liable (and, where that amount has been reduced under regulation 7(5)(a), the notification must say so);
- (b) the date by which the amount is required to be paid, being a date not less than 28 days after the date of the notification, and
- (c) details of how the payment can be made.

Interest payable on late payment of the levy

5.—(1) Where any amount of the levy notified to a licensee is not paid in accordance with the notification under regulation 4, 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) The 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 per cent per annum over the Bank of England base rate from time to time.

(3) 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

6. Where any amount of the levy notified to a licensee is not paid in accordance with the notification under regulation 4, that unpaid amount together with any interest due in accordance with regulation 5 is recoverable as a civil debt due to the OGA.

Repayment or credit of the levy under the 2016 Regulations

7.—(1) This regulation applies where the total amount of the levy under the 2016 Regulations for the 2016 charging period exceeds the leviable costs in respect of that period.

(2) Where this regulation applies, the OGA must divide the leviable costs by the total amount of the levy to 3 decimal places to give the relevant multiplier.

(3) The OGA must then adjust the levy payable by a relevant person (“the original levy”) by multiplying the amount of the original levy by the relevant multiplier to give the new levy figure payable by that person (“the new levy”).

(4) The new levy is to be substituted for the original levy in any notification given, or to be given, under regulation 4 of the 2016 Regulations, and regulation 5 of the 2016 Regulations is to be construed accordingly.

(5) If a relevant person to whom a notification has been given under regulation 4 of the 2016 Regulations has paid more than the new levy—

(a) 1998 c. 11.

- (a) where that person is liable to pay a levy under regulation 3 of these Regulations, the OGA must, by 31st December 2017, reduce the amount of that liability by the difference between the new levy and the amount actually paid (after deducting any repayment of this amount that has already been made) or pay the difference to the person;
 - (b) in all other cases, the OGA must, by 31st December 2017, pay the difference to the person.
- (6) In this regulation—
- “2016 charging period” means the period beginning on 1st April 2016 and ending on 31st March 2017;
- “the 2016 Regulations” means the Oil and Gas Authority (Levy) Regulations 2016(a);
- “relevant person” means a person who, in respect of the 2016 charging period, is liable to pay a levy under regulation 3 of the 2016 Regulations (and includes a person who has discharged that liability in whole or in part).

Repayment or credit of the levy under these Regulations

8.—(1) This regulation applies where the total amount of the levy under these Regulations for the relevant charging period exceeds the leviable costs in respect of that period.

(2) Where this regulation applies, after the relevant charging period the OGA must divide the leviable costs by the total amount of the levy to 3 decimal places to give the relevant multiplier.

(3) The OGA must then adjust the levy payable by a relevant person (“the original levy”) by multiplying the amount of the original levy by the relevant multiplier to give the new levy figure payable by that person (“the new levy”).

(4) The new levy is to be substituted for the original levy in any notification given, or to be given, under regulation 4, and regulation 5 is to be construed accordingly.

(5) If a relevant person to whom a notification is given under regulation 4 pays more than the new levy the OGA must, by 31st December 2018, pay to the person the difference between the new levy and the amount the person actually paid (after deducting any repayment of this amount that has already been made).

(6) In this regulation “relevant person” means a person who is liable to pay a levy under regulation 3 of these Regulations (and includes a person who has discharged that liability in whole or in part).

9th March 2017

Nick Hurd
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

(a) S.I. 2016/318, saved and given effect as if made under sections 13, 14 and 82 of the Energy Act 2016 by S.I. 2016/920.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for imposing a levy on the holders of petroleum licences for the period beginning on 1 April 2017 and ending on 31 March 2018. 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 decisions of the OGA.

Regulation 3 makes provision for the application of the levy to different categories of licensee and makes provision for joint and several liability where the licensee is more than one person. A higher levy rate is payable in circumstances where the holder of an offshore production licence will be producing petroleum or the relevant consent or approval has been given such that there is nothing preventing a licensee from producing petroleum. Licensees who hold offshore exploration licences or who are not yet entitled to produce petroleum under their offshore production licence pay lower levy rates. A discounted pre-production levy rate is payable in relation to promote licences within their “Promote Period” where the licensee is a micro enterprise. Licensees who do not hold offshore petroleum licences are not required to pay the levy.

Regulation 4 provides for the licensees to be notified of the amount of the levy, the time by which it must be paid and the method of payment.

Regulation 5 provides for the payment of interest where the levy is paid late.

Regulation 6 makes provision for any unpaid levy together with interest to be recovered as a civil debt.

Regulation 7 requires the amount of the levy to be paid by licensees under regulation 3 of the Oil and Gas Authority (Levy) Regulations 2016 (S.I. 2016/318) (“the 2016 Regulations”) to be adjusted if the total amount of the levy to be recovered under the 2016 Regulations exceeds the leviable costs incurred by the OGA and Lord Chancellor in carrying out certain functions during the period beginning on 1 April 2016 and ending on 31 March 2017. These leviable costs include costs incurred by the Secretary of State performing functions of the OGA in that period.

Regulation 8 similarly requires the amount of the levy to be paid by licensees under these Regulations to be adjusted if the total amount of the levy to be recovered under these Regulations exceeds the leviable costs incurred by the OGA and Lord Chancellor during the period beginning on 1 April 2017 and ending on 31 March 2018.

A full impact assessment has not been produced for this instrument as no, or no significant, additional 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 (S.I. 2015/1661) (“2015 Regulations”). A copy of that impact assessment is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria St, London SW1H 0ET and is available alongside the 2015 Regulations on www.legislation.gov.uk.

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