
STATUTORY INSTRUMENTS

2019 No. 439

The Oil and Gas Authority (Levy) and Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2019

PART 2

The Oil and Gas Authority Levy

Interpretation

2. In this Part—

“leviable costs” means the sum of the costs incurred by the OGA⁽¹⁾ 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, in respect of the relevant charging period;

“licensee” means a person who holds a petroleum licence or, where a petroleum licence is held by more than one person, together the persons who hold that petroleum licence;

“non-production levy” means the levy which is payable in respect of the relevant charging period in accordance with regulation 4 and which is calculated in accordance with the formula at regulation 5(2);

“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⁽²⁾, 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⁽³⁾;

“payment notice” means a notice given to a licensee in accordance with regulation 6 in respect of the relevant charging period;

“production levy” means the levy which is payable in respect of the relevant charging period in accordance with regulation 3 and which is calculated in accordance with the formula at regulation 5(1);

“petroleum licence” means a licence granted under—

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

(2) S.I. 2009/2814; this instrument is amended by S.I. 2016/912 and S.I. 2016/992.

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

- (a) section 2 of the Petroleum (Production) Act 1934⁽⁴⁾ (licences to search for and get petroleum); or
- (b) section 3 of the Petroleum Act 1998⁽⁵⁾ (licences to search for and bore for and get petroleum),

which is not an excluded licence⁽⁶⁾ in relation to the relevant charging period;

“relevant charging period” means the period beginning on 1st April 2019 and ending on 31st March 2020;

“relevant time” means 12.01a.m. on 1st April 2019; and

“total amount of levy” means the total amount of levy payable by licensees in accordance with regulations 3 and 4, being £26,420,000.

Liability to pay production levy

3.—(1) A licensee is liable to pay the production levy in respect of each offshore production licence which is held by the licensee at the relevant time and in respect of which the criterion at paragraph (2) is satisfied.

(2) The criterion is that at the relevant time the licensee is, in accordance with that licence, 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.

(3) Where the licensee is more than one person, the liability under paragraph (1) is joint and several.

Liability to pay non-production levy

4.—(1) Subject to any discount to be applied in accordance with paragraphs (2) and (3), a licensee is liable to pay the non-production levy in respect of each of the following kinds of licence held by the licensee at the relevant time—

- (a) an offshore exploration licence;
- (b) an offshore production licence in respect of which the criterion at regulation 3(2) is not satisfied.

(2) A licensee which at the relevant time—

- (a) is a micro-enterprise; and
- (b) holds an innovate licence in phase B of its initial term,

is liable to pay the non-production levy discounted by 80 per cent in respect of that licence.

(3) A licensee which at the relevant time—

- (a) is a micro-enterprise; and
- (b) holds either—
 - (i) a promote licence in its promote period; or

(4) 1934 c.36; this Act is repealed by the Petroleum Act 1998 (c.17), section 51 and Schedule 5, subject to the savings provisions set out in Schedule 3.

(5) 1998 c.17; section 3 is amended by the Scotland Act 2016 (c.11) section 48(1) to (4) and by S.I. 2016/898.

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

- (ii) an innovate licence in phase A of its initial term,
is liable to pay the non-production levy discounted by 90 per cent in respect of that licence.
- (4) Where the licensee is more than one person—
- (a) the liability under this regulation is joint and several; and
 - (b) the licensee is only a micro-enterprise for the purposes of paragraphs (2) and (3) if every person who is the licensee is a micro-enterprise.
- (5) In this regulation—
- “innovate licence” means an offshore production licence in which, in accordance with the model clauses, the initial term of the licence (within the meaning of the licence) is divided into phases;
- “micro-enterprise” has the meaning given in article 2(3) of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 concerning the definition of micro, small and medium-sized enterprises(7);
- “model clauses” means model clauses prescribed by the Petroleum Licensing (Production) (Seawards Areas) Regulations 2008(8);
- “promote licence” means an offshore production licence in which, in accordance with the terms of the licence—
- (a) a “promote period” is specified, and
 - (b) a clause is included concerning the effect of the expiry of the promote period in relation to the continuation of that licence beyond that period.

Calculation of production levy and non-production levy

- 5.—(1) The OGA must calculate the production levy in accordance with the formula—

$$\frac{C \times 0.89}{P}$$

- (2) The OGA must calculate the non-production levy in accordance with the formula—

$$\frac{C \times 0.11}{N100 + (N90 \times 0.1) + (N80 \times 0.2)}$$

- (3) In this regulation—
- “C” is £26,420,000 (being the total amount of levy);
- “N100” is the total number of licences in respect of which a licensee is liable to pay the non-production levy under regulation 4(1) and in respect of which neither the criterion at regulation 4(2) nor the criterion at regulation 4(3) is satisfied;
- “N90” is the total number of licences in respect of which a licensee is liable to pay the non-production levy discounted by 90 per cent under regulation 4(3);
- “N80” is the total number of licences in respect of which a licensee is liable to pay the non-production levy discounted by 80 per cent under regulation 4(2); and
- “P” is the total number of offshore production licences in respect of which a licensee is liable to pay the production levy under regulation 3(1).

(7) OJ L 124, 20.5.2003, p36.

(8) S.I. 2008/225. This instrument is amended by S.I. 2009/3283, S.I. 2016/912, S.I. 2017/426 and S.I. 2017/855.

Payment of the levy

6. Where a licensee is liable to pay a levy to the OGA in accordance with these Regulations, the OGA must notify the licensee in writing by 31st May 2019 as to—

- (a) whether the licensee is liable to pay the production levy, the non-production levy or both;
- (b) the total amount of levy payable by the licensee;
- (c) the date by which that amount is to be paid, being a date not less than 30 days after the date of the notification; and
- (d) details of how the payment can be made.

Interest payable on late payment of the levy

7.—(1) Where any amount of levy is not paid in accordance with a payment notice, 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) 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 five per cent over the Bank of England base rate from time to time.

(3) Where the licensee is more than one person the liability under this regulation is joint and several.

(4) 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⁽⁹⁾ (reserve powers) is in force, any equivalent rate determined by the Treasury under that section.

Recovery of the levy

8. Where any amount of levy is not paid in accordance with a payment notice, that unpaid amount, together with any interest due in accordance with regulation 7, is recoverable as a civil debt due to the OGA.

Repayment or credit of the levy under these Regulations

9.—(1) This regulation applies where the total amount of levy exceeds the leviable costs.

(2) The OGA must, by 31st December 2020, return to each licensee the difference between—

- (a) the amount paid by or on behalf of that licensee in accordance with the relevant payment notice (including any interest paid by or on behalf of that licensee in accordance with regulation 7); and
- (b) the recalculated amount of levy payable by that licensee.

(3) Any payment notice in respect of which sums remain outstanding shall be construed as referring to the recalculated amount of levy payable by the relevant licensee (and regulation 7 shall be construed accordingly).

(4) In this regulation—

“recalculated amount of levy payable” means the sum of—

- (a) the amount of levy payable by a licensee in accordance with a payment notice; and

(9) 1998 c.11.

- (b) any amount of interest which became payable by that licensee in accordance with regulation 7,
multiplied by the relevant multiplier; and
“relevant multiplier” means the figure calculated by dividing the leviable costs by the total amount of levy, expressed to three decimal places.