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STATUTORY INSTRUMENTS

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**2022 No. 204**

**PETROLEUM**

**The Oil and Gas Authority (Levy and Fees) Regulations 2022**

*Made* - - - - 28th February 2022

*Laid before Parliament* 2nd March 2022

*Coming into force* - - 1st April 2022

The Secretary of State, in exercise of the powers conferred by sections 12(1), (2), (5) and (6), 13(1) to (4) and 14(1) and (3) to (9) of the Energy Act 2016<sup>(1)</sup>, makes the following Regulations.

The Secretary of State has consulted the Oil and Gas Authority in accordance with sections 12(8) and 13(8) of the Energy Act 2016.

**PART 1**

**General**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Oil and Gas Authority (Levy and Fees) Regulations 2022 and come into force on 1st April 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

**PART 2**

**The Oil and Gas Authority Levy**

**Interpretation**

2. In this Part—

“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—

- (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 2022 and ending on 31st March 2023;

“relevant time” means 12.01am on 1st April 2022; and

“total amount of levy” means the total payable by licensees in accordance with regulations 3 and 4, being £32,880,000.

### **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 either of the criteria at paragraph (2) is satisfied.

(2) The criteria are 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

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(2) S.I. 2009/2814, as amended by S.I. 2016/912 and S.I. 2016/992.

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

(4) 1934 c. 36. This Act was repealed by section 51 of and Schedule 5 to the Petroleum Act 1998 (c. 17), subject to the savings set out in Schedule 3 to that Act.

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

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

- (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 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% 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
  - (ii) an innovate licence in phase A of its initial term,

is liable to pay the non-production levy discounted by 90% 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 a licensee is a micro-enterprise.

(5) In this regulation—

“financial year” is determined in accordance with section 390 of the Companies Act 2006<sup>(7)</sup>;  
“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” means an undertaking which has fewer than 10 employees and meets one or both of the following requirements—

- (a) its turnover does not exceed £1,778,000;
- (b) the aggregate of the amounts shown as assets in its balance sheet does not exceed £1,778,000,

in the undertaking’s financial year immediately preceding that in which the licensee is liable to pay the non-production levy;

“model clauses” means model clauses prescribed by the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008<sup>(8)</sup>;

“promote licence” means an offshore production licence in which, in accordance with the terms of the licence—

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(7) 2006 c. 46.

(8) S.I. 2008/225, as amended by S.I. 2009/229, S.I. 2009/3283, S.I. 2016/912, S.I. 2016/992, S.I. 2017/426 and S.I. 2017/855.

- (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;
- “turnover” has the meaning given in section 474 of the Companies Act 2006.

### Calculation of production levy and non-production levy

5.—(1) The OGA<sup>(9)</sup> 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 £32,880,000 (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% 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% 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).

### 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 2022 as to—

- (a) whether the licensee is liable to pay the production levy, the non-production levy or both;
- (b) the total amount 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;
- (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 to be paid until the date when payment is made, at a rate of 5% 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.

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

- (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<sup>(10)</sup> (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 2023, credit to each licensee the difference between—
- (a) the amount paid by or on behalf of that licensee in accordance with the 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—
- “leviable costs” means the sum of the costs incurred by the OGA 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 exercising the functions referred to in section 13(2)(b) of that Act, in respect of the relevant charging period;
- “recalculated amount of levy payable” means the sum of—
- (a) the amount of levy payable by a licensee in accordance with the notice given under regulation 6; and
  - (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.

## **PART 3**

### **The Oil and Gas Authority Fees**

#### **Amendments to the Oil and Gas Authority (Fees) Regulations 2016**

- 10.—(1) The Oil and Gas Authority (Fees) Regulations 2016<sup>(11)</sup> are amended as follows.

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<sup>(10)</sup> 1998 c. 11.

<sup>(11)</sup> S.I. 2016/904, as amended by S.I. 2017/426, S.I. 2018/56, S.I. 2018/980, S.I. 2020/208 and S.I. 2021/206.

- (2) In regulation 2 (interpretation)—
- (a) in the definition of “category 2 pipeline works authorisation variation”, for “confirming that it has no objection to the permanent cessation of production from the relevant petroleum field or part of a petroleum field” substitute “receiving confirmation in writing of the last day of production from a relevant petroleum field or part of a petroleum field”; and
  - (b) for the definition of “extended well test” substitute—
 

““extended well test” means any well test which—

    - (a) has a cumulative duration of fluid production of 96 hours or more; or
    - (b) produces a total of more than 2,000 tonnes of oil and, for these purposes, when oil is in a gaseous state 43,000 standard cubic feet is counted as equivalent to one tonne;”.
- (3) In regulation 4 (fees payable for consents and pipeline works authorisations)—
- (a) in the formulae in paragraphs (3), (8) and (11), for “£715” substitute “£670”; and
  - (b) in the table following paragraph (13), in the entry for the fee payable for an application for—
    - (i) a pipeline works authorisation, for “£2,575” substitute “£2,960”;
    - (ii) a Category 1 pipeline works authorisation variation, for “£2,575” substitute “£2,960”;
    - (iii) a Category 2 pipeline works authorisation variation, for “£1,275” substitute “£1,660”;
    - (iv) a variation of holder, user, owner or Operator of a pipeline under a pipeline works authorisation, for “£1,275” substitute “£1,660”;
    - (v) a consent to a pipeline deposit proposal, for “£975” substitute “£1,360”; and
    - (vi) a pipeline works authorisation and deposit consents granted following cessation of production from a petroleum field—
      - (aa) for “cessation of production from a petroleum field” substitute “the OGA receiving confirmation in writing of the last day of production from the relevant petroleum field”; and
      - (bb) for “£1,275” substitute “£1,660”.
- (4) In regulation 6 (fixed fees payable for other consents), in the table following paragraph (3), in the entry for the fee payable for an application for—
- (a) consent to the methodology proposed for the measurement of petroleum, for “£1,445” substitute “£1,380”;
  - (b) consent to drill a primary well, for “£610” substitute “£770”;
  - (c) consent to drill a sidetrack well branching off from the principal well to a target location different from that of the principal well, for “£590” substitute “£770”;
  - (d) consent to fit or refit equipment in a well for the purpose of enabling hydrocarbon production or injection, for “£320” substitute “£420”;
  - (e) consent to get petroleum from a licensed area, for “£990” substitute “£1,180”;
  - (f) variation of a consent to get petroleum from a licensed area, for “£990” substitute “£1,180”;
  - (g) consent to flare or vent petroleum from a well, for “£725” substitute “£930”;
  - (h) variation of a consent to flare or vent petroleum from a well, for “£725” substitute “£930”;

- (i) consent for a well suspension, for “£590” substitute “£800”;
  - (j) consent to put back into use any well subject to a well suspension, for “£320” substitute “£350”;
  - (k) consent to abandon a well permanently, for “£1,025” substitute “£1,120”;
  - (l) consent to a change of licensee of a petroleum licence, for “£610” substitute “£880”;
  - (m) consent to a change of the beneficiary of rights granted by a petroleum licence, for “£610” substitute “£880”;
  - (n) consent to the appointment of an operator under a petroleum licence, “£1,825” substitute “£730”;
  - (o) consent to an extension of the initial, second or final term of a petroleum licence, for “£4,640” substitute “£5,480”;
  - (p) consent to an extension of the final phase of the initial term of a petroleum licence, for “£4,640” substitute “£5,480”;
  - (q) consent to the amendment of a work programme, for “£4,640” substitute “£5,480”;
  - (r) consent to flare or vent natural gas from a relevant oil processing facility or a relevant gas processing facility, for “£300” substitute “£390”;
  - (s) consent to a drill stem test, for “£400” substitute “£250”; and
  - (t) consent to an extended well test, for “£990” substitute “£860”.
- (5) In regulation 6A(1) (fees payable for consent to retention or development area proposals), for “£1,340” substitute “£1,350”.
- (6) In regulation 6B(1) (fees payable for determination of oil fields), for “£5,820” substitute “£5,740”.
- (7) In regulation 6C (fees payable for metering examinations and tests), in the table following paragraph (3), in the entry for a fee payable for—
- (a) a metering examination under a seaward area production licence, for “£3,240” substitute “£2,770”;
  - (b) a metering examination under a petroleum exploration and development licence for “£3,260” substitute “£2,770”; and
  - (c) a meter flow calibration, for “£2,020” substitute “£1,380”.
- (8) In regulation 7 (fees payable for applications for petroleum licences), in the table following paragraph (2) in the entry for a fee payable for an application for—
- (a) a landward petroleum exploration licence, for “£1,480” substitute “£2,250”;
  - (b) a seaward petroleum exploration licence, for “£1,480” substitute “£2,250”;
  - (c) a methane drainage licence, for “£120” substitute “£180”;
  - (d) a petroleum exploration and development licence, for “£3,955” substitute “£6,020”; and
  - (e) a seaward area production licence, for “£6,105” substitute “£9,210”.
- (9) In regulation 8(1) (fees payable for applications for gas storage licences), for “£5,930” substitute “£9,030”.
- (10) In regulation 9(1) (fees payable for applications for carbon dioxide appraisal and storage licences), for “£5,930” substitute “£18,060”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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28th February 2022

Greg Hands  
Minister of State  
Department for Business, Energy and Industrial  
Strategy



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in respect of a levy and fees payable to the Oil and Gas Authority (“the OGA”).

Regulations 2 to 9 make provision for calculating and imposing a levy on the holders of petroleum licences in respect of the period beginning on 1st April 2022 and ending on 31st March 2023 (“the relevant charging period”). The levy is payable to meet costs incurred by 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 the decisions of the OGA.

Regulation 3 sets out liability to pay the production levy for the relevant charging period. This is the highest rate of levy.

Regulation 4 sets out liability to pay the non-production levy. Paragraphs (2) and (3) provide that micro-enterprises holding promote or innovate licences at the relevant time in certain circumstances qualify to pay the non-production levy at discounted rates in respect of those licences.

Regulation 5 provides the methodology for calculating the production levy and the non-production levy.

Regulations 6 to 8 provide for the process by which licensees are notified as to the amount of levy payable, for interest to be payable on late payments and for the OGA to be able to take action to recover any unpaid levy as a civil debt.

Regulation 9 requires the amount of the levy to be paid by licensees under regulations 3 and 4 to be adjusted if the total amount of levy to be recovered under these Regulations exceeds the leviable costs incurred by the OGA and Lord Chancellor in respect of the relevant charging period. The OGA will credit the licensees appropriately should the amount of levy recovered exceed the leviable costs incurred by the OGA and Lord Chancellor in respect of the relevant charging period.

Regulation 10 amends the Oil and Gas Authority (Fees) Regulations 2016 to change certain fees charged by the OGA relating to the offshore oil and gas industry including in relation to carbon dioxide storage. The changes (some fees are increased and some decreased) do not reflect changes in inflation and are explained in the Explanatory Memorandum published alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk). Regulation 10(2) also substitutes a replacement definition for the phrase extended well test, to improve the drafting, and amends the definition of a category 2 pipeline works authorisation variation.

A full impact assessment has not been produced for this instrument as no or no significant 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 and is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET and on [www.legislation.gov.uk](http://www.legislation.gov.uk).