

2023 No. 228

PETROLEUM

The Oil and Gas Authority (Levy and Fees) Regulations 2023

Made - - - - 23rd February 2023

Laid before Parliament 1st March 2023

Coming into force - - 1st April 2023

CONTENTS

PART 1

General

1. Citation, commencement and extent

PART 2

The Oil and Gas Authority Levy

2. Interpretation
3. Liability to pay production levy
4. Liability to pay non-production levy
5. Calculation of production levy and non-production levy
6. Payment of the levy
7. Interest payable on late payment of the levy
8. Recovery of the levy
9. Repayment or credit of the levy under these Regulations

PART 3

The Oil and Gas Authority Fees

10. Amendments to the Oil and Gas Authority (Fees) Regulations 2016
11. Amendment of regulation 2 of the Oil and Gas Authority (Fees) Regulations 2016
12. Amendment of regulation 3 of the Oil and Gas Authority (Fees) Regulations 2016
13. Amendment of regulation 4 of the Oil and Gas Authority (Fees) Regulations 2016
14. Amendment of regulation 6 of the Oil and Gas Authority (Fees) Regulations 2016
15. Amendment of regulation 6C of the Oil and Gas Authority (Fees) Regulations 2016

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^(a), 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 2023 and come into force on 1st April 2023.

(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^(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);

“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) 2016 c. 20.

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

(c) 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).

(a) section 2 of the Petroleum (Production) Act 1934^(a) (licences to search for and get petroleum), or

(b) section 3 of the Petroleum Act 1998^(b) (licences to search for and bore for and get petroleum),

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

“relevant charging period” means the period beginning on 1st April 2023 and ending on 31st March 2024;

“relevant time” means 12.01am on 1st April 2023;

“total amount of levy” means the total payable by licensees in accordance with regulations 3 and 4, being £35,155,000.

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

(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) to (4), 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 criteria 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.

(a) 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.

(b) 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.

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

(4) A licensee does not qualify to pay the non-production levy at a discounted rate under paragraph (2) or (3) if the licensee, when viewed together with all group undertakings of the licensee, does not fall within the size and financial limits set out in the definition of “micro-enterprise”.

(5) 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.

(6) In this regulation—

“financial year” is determined in accordance with section 390 of the Companies Act 2006(a);

“group undertaking”, in relation to an undertaking, means—

- (a) a parent undertaking or subsidiary undertaking of that undertaking, or
- (b) a subsidiary undertaking of any parent undertaking of that undertaking;

“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(b);

“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;

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

“undertaking” means—

- (a) a body corporate or partnership, or
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit.

Calculation of production levy and non-production levy

5.—(1) The OGA(c) 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—

(a) 2006 c.46.

(b) 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.

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

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

(3) In this regulation—

“C” is £35,155,000 (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 criteria at regulation 4(2) nor the criteria at regulation 4(3) are 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);

“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 2023 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.

(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(a) (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.

(a) 1998 c. 11.

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 2024, 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;
- “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. The Oil and Gas Authority (Fees) Regulations 2016(a) are amended in accordance with regulations 11 to 15.

Amendment of regulation 2 of the Oil and Gas Authority (Fees) Regulations 2016

- 11.** In regulation 2 (interpretation)—
- (a) after the definition of “carbon dioxide appraisal and storage licence” insert—
 - ““carbon dioxide storage monitoring plan” means a monitoring plan within the meaning given by regulation 7(5) of the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010(b);
 - “carbon dioxide storage permit” means a storage permit within the meaning given by regulation 1(3) of the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010;”;
 - (b) after the definition of “carbon dioxide storage proposal” insert—
 - ““carbon dioxide storage work programme” means the work programme set out in a schedule to a carbon dioxide appraisal and storage licence;”.

(a) S.I. 2016/904, as amended by S.I. 2017/426, S.I. 2018/56, S.I. 2018/980, S.I. 2020/208, S.I. 2021/206 and S.I. 2022/204.
(b) S.I. 2010/2221.

Amendment of regulation 3 of the Oil and Gas Authority (Fees) Regulations 2016

12. In regulation 3 (applications of a prescribed description), after paragraph (3)(b) insert—

- “(c) an application for consent to a change of licensee of a carbon dioxide appraisal and storage licence;
- (d) an application for consent to a change of the beneficiary of rights under a carbon dioxide appraisal and storage licence;
- (e) an application for consent to appoint an exploration operator under a carbon dioxide appraisal and storage licence;
- (f) an application for consent to appoint a storage operator under a carbon dioxide appraisal and storage licence;
- (g) an application for consent to extend the initial or appraisal term of a carbon dioxide appraisal and storage licence;
- (h) an application for consent to amend a carbon dioxide storage permit;
- (i) an application for consent to review and amend a carbon dioxide storage monitoring plan;
- (j) an application for consent to amend a carbon dioxide storage work programme.”

Amendment of regulation 4 of the Oil and Gas Authority (Fees) Regulations 2016

13.—(1) Regulation 4 (fees payable for consents and pipeline works authorisations) is amended as follows.

(2) In paragraph (1)—

- (a) at the end of sub-paragraph (b), omit “or”;
- (b) after sub-paragraph (c) insert—
 - “(d) amend a carbon dioxide storage permit;
 - (e) review and amend a carbon dioxide storage monitoring plan; or
 - (f) amend a carbon dioxide storage work programme.”.

(3) In paragraph (2)—

- (a) at the end of sub-paragraph (a), omit “or”;
- (b) at the start of sub-paragraph (c), omit “or”;
- (c) after sub-paragraph (c) insert—
 - “(d) a consent to get petroleum from a licensed area;
 - (e) a variation of a consent to get petroleum from a licensed area;
 - (f) a consent to flare or vent petroleum from a well; or
 - (g) a variation of a consent to flare or vent petroleum from a well.”.

(4) In the table in paragraph (13), at the end insert—

“Consent to get petroleum from a licensed area	£1,180
Variation of a consent to get petroleum from a licensed area	£1,180
Consent to flare or vent petroleum from a well	£930
Variation of a consent to flare or vent petroleum from a well	£930”

(5) For paragraph (15) substitute—

“(15) In this regulation, a “complex application” is an application of the type set out in paragraph (2) and that the OGA considers will require—

- (a) in the case of sub-paragraphs (a) to (c) of paragraph (2), more than four days for an officer to determine;
- (b) in the case of sub-paragraphs (d) to (g) of paragraph (2), more than two days for an officer to determine.”.

Amendment of regulation 6 of the Oil and Gas Authority (Fees) Regulations 2016

14.—(1) Regulation 6 (fixed fees payable for other consents) is amended as follows.

(2) In the table following paragraph (3)—

(a) omit the following entries—

“Get petroleum from a licensed area	£1,180
Variation of a consent to get petroleum from a licensed area	£1,180
Flare or vent petroleum from a well	£930
Variation of a consent to flare or vent petroleum from a well	£930”

(b) after the entry for the fee payable for an application for amendment of a work programme, insert—

“Change of licensee of a carbon dioxide appraisal and storage licence	£880
Change of the beneficiary of rights granted by a carbon dioxide appraisal and storage licence	£880
Appointment of an exploration operator under a carbon dioxide appraisal and storage licence	£730
Appointment of a storage operator under a carbon dioxide appraisal and storage licence	£730
Extension of the initial or appraisal term of a carbon dioxide appraisal and storage licence	£5,480”

Amendment of regulation 6C of the Oil and Gas Authority (Fees) Regulations 2016

15.—(1) Regulation 6C (fees payable for metering examinations and tests) is amended as follows.

(2) In paragraph (1), after “used to measure petroleum” insert “or carbon dioxide”.

(3) In the table following paragraph (3)—

- (a) in the last entry, after “calibration” insert “for measurement of petroleum”;
- (b) at the end insert—

“Measurement of carbon dioxide injection flow rate	£2,770”
--	---------

Graham Stuart

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”).

Part 1 covers general introductory provisions.

Part 2 covers the OGA levy. 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 2023 and ending on 31st March 2024 (“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 the 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.

Part 3 covers OGA fees. Regulations 11 to 15 amend the Oil and Gas Authority (Fees) Regulations 2016 (S.I. 2016/904) (“the 2016 Regulation”). The amendments relate to fees charged by the OGA in connection with petroleum and the storage of carbon dioxide.

Regulation 11 amends regulation 2 of the 2016 Regulations (interpretation), so as to insert definitions of new terms relating to the storage of carbon dioxide.

Regulation 12 amends regulation 3 of the 2016 Regulations (applications of a prescribed description), so as to prescribe additional applications for which the OGA may charge a fee.

Regulation 13 amends regulation 4 of the 2016 Regulations (fees payable for consents and pipeline works authorisations) in two main ways.

Firstly, provision is made for three new types of application concerning carbon dioxide storage to be added to the list of applications in regulation 4(1) of the 2016 Regulations. The effect of this amendment is that the fee for each of these applications will be calculated using a daily rate in all cases, in accordance with the formula contained in regulation 4(3) of the 2016 Regulations (“the daily rate formula”).

Secondly, provision is made for four types of application concerning petroleum, which were previously covered by regulation 6 of the 2016 Regulations (fixed fees payable for other

consents), to be added to the list of applications in regulation 4(2) of the 2016 Regulations. The effect of this amendment is that the fee for these applications will be calculated using the daily rate formula if the OGA determines that the application in question is a complex application (as per the amended definition of “complex application” in regulation 4(15) of the 2016 Regulations), or else will be a fixed fee (as per the amended table in regulation 4(13) of the 2016 Regulations).

Regulation 14 amends regulation 6 of the 2016 Regulations (fixed fees payable for other consents), so as to omit reference to the four fixed fees concerning petroleum which are being covered instead by regulation 4 of the 2016 Regulations, and to make provision for five new fixed fees concerning carbon dioxide storage licences.

Regulation 15 amends regulation 6C of the 2016 Regulations (fees payable for metering examinations and tests), so as to make provision for a new fixed fee relating to measurement and metering of a carbon dioxide injection.

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, namely the Oil and Gas Authority (Levy) Regulations 2015 (S.I. 2015/1661), and is available from the Department for Energy Security and Net Zero at 1 Victoria Street, London SW1H 0ET and on www.legislation.gov.uk.

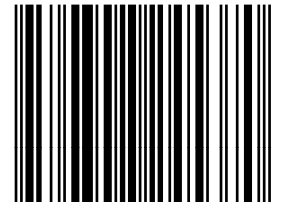
© Crown copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty’s Stationery Office and King’s Printer of Acts of Parliament.

£6.90

<http://www.legislation.gov.uk/id/uksi/2023/228>

ISBN 978-0-34-824537-0



9 780348 245370