EXPLANATORY MEMORANDUM TO

THE POLLUTION PREVENTION AND CONTROL (FEES) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2025

2025 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Energy Security & Net Zero ("DESNZ") and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 The Right Honourable Michael Shanks, Minister for Energy at the Department for Energy Security & Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Child, Director for the Offshore Petroleum Regulator for Environment and Decommissioning, at the Department for Energy Security & Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Irene Thomson at the Department for Energy Security & Net Zero Telephone: 01224 254077 or email: OPRED.Fees@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of the Instrument is to revise the hourly rates used to determine the fees which are payable by the UK offshore oil and gas industry ("the offshore hydrocarbons industry") to the Department for Energy Security & Net Zero's Offshore Petroleum Regulator for Environment and Decommissioning ("OPRED") for certain regulatory activities that are undertaken by OPRED in relation to the environmental management of the offshore hydrocarbons industry.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is the United Kingdom.

4.3 The Instrument amends four earlier instruments, and the amendments made by the Instrument have the same extent as the legislation they amend. All four of the amended instruments extend to the whole of the United Kingdom.

4.4 The territorial application of the four instruments amended by this Instrument has the same territorial application as the legislation they amend which varies. In general, they apply to some or all of the territorial sea adjacent to the United Kingdom, to the UK sector of the Continental Shelf (i.e. the area designated for the time being by order

under section 1(7) of the Continental Shelf Act 1964, section 41(3) of the Marine and Coastal Access Act 2009 or section 1(5)(b) of the Energy Act 2008), and in some cases to some or all onshore areas of the United Kingdom. In each case, the instruments only apply to certain types of activity or project and the amendments only affect the rates of fees for offshore regulatory functions conducted by OPRED as explained in paragraph 4.5 and outlined in paragraph 6.2.

4.5 In summary, the territorial application of the amended instruments is as follows:

(a) The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 – the territorial application of this instrument is the UK territorial sea and the UK sector of the Continental Shelf, including the seabed and subsoil under those waters.

(b) The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 – the territorial application of this instrument is the UK territorial sea and the UK sector of the Continental Shelf.

(c) The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 – the territorial application of this instrument is the UK territorial sea and the UK sector of the Continental Shelf.

(d) The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 – this instrument provides for the charging of fees in respect of functions carried out under a number of other instruments, which vary in their extent and territorial application:

(i) The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 – this instrument extends to the United Kingdom and its territorial application is the United Kingdom, the UK territorial sea and the UK sector of the Continental Shelf.

(ii) The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 – this instrument extends to England and Wales and Scotland, and its territorial application is Great Britain, the territorial sea adjacent to Great Britain, and the UK sector of the Continental Shelf.

(iii) The Fluorinated Greenhouse Gases Regulations 2015 – this instrument extends to England and Wales and Scotland, and to Northern Ireland but only in regard to certain import, export and trade provisions. Its territorial application is the United Kingdom, the UK territorial sea and the UK sector of the Continental Shelf.

(iv) The Conservation of Offshore Marine Habitats and Species Regulations 2017 – this instrument extends to the United Kingdom, and the territorial application of the relevant part of the instrument is the UK sector of the Continental Shelf, including the seabed and subsoil of the sea within those areas.

(v) Part 4A of the Energy Act 2008 – this Part extends to the United Kingdom and its territorial application is the UK territorial sea (excluding the territorial sea adjacent to Scotland), the UK sector of the Continental Shelf, including the bed and subsoil of the sea within those areas, the shore adjoining, and any land adjoining or adjacent to that shore (but excluding any land in Scotland).

(vi) The Energy Savings Opportunity Scheme Regulations 2014 – this instrument extends to the United Kingdom and its territorial application is the United Kingdom, the UK territorial sea and the UK sector of the Continental Shelf.

(vii) part 4 of the Marine and Coastal Access Act 2009 – this Part extends to the United Kingdom and its territorial application is the United Kingdom, the UK territorial sea (excluding the territorial sea adjacent to Scotland) and the UK Sector of the Continental Shelf.

4.6 The functions carried out by OPRED under each of those instruments, and for which fees are charged, only relate to the offshore area, i.e. the UK territorial sea and/or UK sector of the Continental Shelf. The amendments made by this Instrument therefore only apply to parts of the offshore area to which the underlying instruments apply.

5. Policy Context

What is being done and why?

5.1 OPRED charges the offshore hydrocarbons industry for regulatory activities undertaken in relation to environmental legislation. This ensures that, where possible, the cost for providing services to the offshore hydrocarbons industry are recovered from that industry rather than being passed on to the taxpayer.

5.2 The existing fees are determined by adding together (1) the recorded number of hours worked by environmental specialists on cost recoverable activities multiplied by £201 plus (2) the number of hours worked by non-specialists on cost recoverable activities multiplied by £104. Environmental Specialists are technical staff who carry out the relevant functions of the Secretary of State and non-specialists are administrative staff.

5.3 The current hourly rates have been in place since 17 June 2022. The cost base has been reviewed and it was determined that the existing hourly rates of £201 for environmental specialists and £104 for non-specialists needed to be increased to £210 (environmental specialists) and to £114 (non-specialists) per hour to appropriately recover OPRED's costs (but not to make a profit) for providing regulatory services to the offshore hydrocarbons industry under the legislation referred to in paragraph 4.5. The revisions to the hourly rates reflect changes to the relevant costs detailed in paragraph 5.4 along with changes to OPRED staffing levels. It is expected that the amount to be recovered in FY 25/26 will be around £7.3 million. This will be higher than the current figure (£6.7 million) to reflect the increased costs base.

5.4 The hourly rates are calculated in accordance with HM Treasury's 'Managing Public Money' guidance and include the full cost of all the resources utilised by OPRED in carrying out and supporting the cost recoverable activities. This includes the gross salaries of staff undertaking the work; relevant costs relating to their line managers and support staff; general administrative expenditure (such as accommodation, information technology, office services, etc); and corporate services (such as human resources, senior management, finance and learning and development). The hourly rates have been calculated by taking these costs and dividing them by 1,243 hours (for each staff member). The figure of 1,243 represents the average number of hours per annum spent on potentially cost recoverable activities and removes the hours spent on leave, bank holidays, staff management, etc.

5.5 Subject to Parliamentary approval, the intention is that the new hourly rates will come into force in July 2025 (or potentially sooner i.e. towards the end of June 2025).

What was the previous policy, how is this different?

5.6 The four instruments being amended by this Instrument enable OPRED to charge fees to recover its costs for the provision of regulatory services to the offshore hydrocarbons industry under the legislation referred to in paragraph 4.5. From 17 June 2022, the previous Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022, which were also made using enabling powers under, amongst other Acts, the European Union (Withdrawal) Act 2018, amended the hourly rates used to set those fees to £201 for environmental specialists and £104 for non-specialists.

5.7 As described in paragraph 5.3, following a review of OPRED's costs base, it was determined that the existing rates of £201 per hour for environmental specialists and £104 per hour for non-specialists needed to be increased to £210 per hour and £114 per hour respectively, to allow OPRED to appropriately recover its costs.

5.8 Once the Instrument enters into force, the new hourly rates – as referred to in paragraphs 5.3 and 5.7 – will be used to calculate the fees to be charged to the offshore hydrocarbons industry for the provision by OPRED of regulatory services under the legislation referred to in paragraph 4.5. The fees schemes (detailed in paragraph 6.1) will be updated administratively to reflect the new hourly rates introduced by the Instrument.

6. Legislative and Legal Context

How has the law changed?

6.1 OPRED carries out environmental regulatory functions for the offshore hydrocarbons industry directly and through providing certain functions to the North Sea Transition Authority (as indicated in paragraph 6.2 item (b)). For some of these functions, OPRED charges the offshore hydrocarbons industry fees using fees schemes. A fees scheme was first introduced in 2001, provided for by the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 (replaced by the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013. In subsequent years, four further fees schemes were introduced under the Offshore Chemicals Regulations 2002; the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005; the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (replaced by the Greenhouse Gas Emissions Trading Scheme Regulations 2012); and the Greenhouse Gas Emissions Trading Scheme Order 2020.

6.2 For other statutory functions for which it is appropriate to charge a fee, OPRED's fees provisions are detailed in secondary legislation as explained in items (a) to (d) below:

(a) The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001. The fees charged to the offshore hydrocarbons industry cover functions such as;

- the evaluation of applications and issuing of consents for geological surveys; and
- carrying out appropriate assessments on the likely significant environmental effects of proposed projects.

(b) The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015. The fees charged concern functions such as providing advice on the appointment of well and installation operators.

(c) The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015, which make provisions for charging fees to the offshore hydrocarbons industry in relation to carrying out functions under a number of other instruments:

(i) The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (e.g. considering / approving and monitoring offshore operators' oil pollution emergency plans).

(ii) The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (e.g. assessing the environmental elements of a safety case, a design notification, a relocation notification and combined operations or well operations).

(iii) The Fluorinated Greenhouse Gases Regulations 2015 (e.g. monitoring industry compliance with the legislative requirements).

(iv) The Conservation of Offshore Marine Habitats and Species Regulations 2017 (functions in relation to licences under regulation 55).

(v) Part 4A of the Energy Act 2008 (in connection with the issuing of consents to locate and emergency safety notices).

(vi) Functions carried out under the Energy Savings Opportunity Scheme Regulations 2014.

(vii) Part 4 of the Marine and Coastal Access Act 2009 (e.g. granting certain marine licences).

(d) The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020. The fees charged to the offshore hydrocarbons industry cover functions such as evaluating developers' assessments of environmental effects of projects and giving directions as to whether developments require the preparation of an Environmental Statement.

6.3 The fees that OPRED charge are based on the application of hourly rates multiplied by the number of hours worked by environmental specialist and non-specialist staff. The only changes being made to both the legislation, detailed in paragraph 6.2, and the fees schemes, detailed in paragraph 6.1, is an amendment to the hourly rates to fully reflect the costs of providing the service.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In February 2025, OPRED informed the offshore hydrocarbons industry of plans to revise the hourly rates of the fees to be charged for the provision of regulatory services under the fees schemes and legislation referred to in paragraphs 6.1 and 6.2 respectively and no representations were received.

7.2 The offshore hydrocarbons industry is aware that OPRED reviews its hourly rates and the chargeable services provided annually and that the industry will be informed of any changes prior to their implementation.

8. Applicable Guidance

8.1 Once the Instrument enters into force, the existing 'Guidance Notes to Industry on OPRED's Cost Recovery for offshore functions' will be appropriately revised and an updated version placed on the GOV.UK website.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because provisions and their impacts which impose, abolish, vary or are in connection with any tax, duty, levy or other charge are not in scope of the definition of 'Regulatory Provision' provided in section 2.3 of the Better Regulation Framework guidance.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the amendments being introduced by the Instrument revise the fees that are payable by the offshore hydrocarbons industry by a small amount (estimated at £500,000) to ensure OPRED is recovering its eligible costs.

9.3 The legislation does impact small or micro businesses.

9.4 No specific action is proposed to minimise regulatory burdens on small businesses. Of the companies who are active in offshore oil and gas related operations, very few of them are small firms and the proposed charges would not fall disproportionately on them. It is crucial that all businesses operating offshore, regardless of size, are subject to the same regulatory regime to ensure that they continue to provide a high level of protection for the marine environment.

9.5 There is no, or no significant, impact on the public sector because OPRED has sufficient staff in place to administer the fees legislation / schemes. The Instrument will change the hourly rates but does not introduce new charging powers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to review its effectiveness on a regular basis, alongside the review of chargeable services as described in paragraph 7.2

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Right Honourable Michael Shanks, Minister for Energy at the Department for Energy Security & Net Zero has made the following statement: "I am satisfied that as a result of section 28(3)(a) of the Small Business Enterprise and Employment Act 2015, the Instrument – which contains only charging provisions – is not subject to the requirement to contain a review clause."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This Instrument amends four earlier instruments, which contain provision for, or in connection with, the charging of fees that were made under section 2(2) of the European Communities Act 1972 and / or section 56 of the Finance Act 1973. The changes to fees are not being made to reflect changes in the value of money. Under paragraph 12(1) of Schedule 7 and paragraph 38 of Schedule 7 to the European Union (Withdrawal) Act 2018, this Instrument may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

12. European Convention on Human Rights

12.1 The Right Honourable Michael Shanks, Minister for Energy at the Department for Energy Security & Net Zero has made the following statement regarding Human Rights:

"In my view the provisions of the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This Instrument is made, in part, under paragraph 7 of Schedule 4 and paragraphs 12(1) and 38 of Schedule 7 to the European Union (Withdrawal) Act 2018 and therefore relates to the withdrawal of the United Kingdom from the European Union. This Instrument is not being made to address a deficiency in assimilated law; it relates to the withdrawal of the United Kingdom from the European Union because it relates to the charging of fees for the exercise of functions by the relevant authority under assimilated law.

13.2 The Right Honourable Michael Shanks, Minister for Energy at the Department for Energy Security & Net Zero has made the following statement regarding regulations made under the European Communities Act 1972: "In my opinion there are good reasons for The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2025 to amend The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2015. This is because the amendment will allow the hourly rates for fees charged to the offshore hydrocarbons industry for regulatory activities undertaken in relation to environmental legislation to be amended to reflect changes to the cost base for those activities. This will ensure that, where possible, the cost of providing services to the offshore hydrocarbons industry is recovered from that industry rather than being passed on to the taxpayer."

13.3 The four instruments being amended by the Instrument contain provision for, or in connection with, the charging of fees that were made under section 2(2) of the European Communities Act 1972 and / or section 56 of the Finance Act 1973. Paragraph 7 of Schedule 4 to the European Union (Withdrawal) Act 2018 contains provision to allow the amount of fees or charges to be amended. The Instrument will allow the hourly rates used to calculate fees for the environmental regulatory activities detailed in paragraph 4.5 to be increased to reflect changes to the cost base as detailed in paragraphs 5.1 to 5.8. No new charging provisions are being introduced.