EXPLANATORY MEMORANDUM TO

THE GAS AND PETROLEUM (CONSENTS) CHARGES REGULATIONS 2013

2013 No. 1138

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make provision for the Secretary of State to require a charge when a person seeks the consent, approval or authorisation of the Secretary of State to a matter under a carbon dioxide appraisal and storage licence, gas storage licence, or a petroleum licence.

2.2 Where the charge payable is variable and is to be determined by reference to the resources, the process for requesting a charge determination and the methodology for setting the charge is set out in Regulations. The charge is based on the daily rate multiplied by an estimate of the number of officers and an estimate of the number of days required to consider the consent, approval or authorisation request.

2.3 The Regulation sets out the charges for consents and approvals where the charge is fixed.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 This instrument makes provisions under section 188 of the Energy Act 2008 to charge for certain services provided to businesses in connection with getting petroleum and storing gases. This will enable DECC to recover the costs that it incurs in providing these services. DECC does not currently charge industry for consents (such as permission to drill wells) issued under petroleum licences, offshore methane gas licences and carbon dioxide storage licences or for Pipeline Works Authorisations (which allow the construction of offshore pipelines).

4.2 As a result of charging these charges, those benefiting from the services will bear their costs, allowing government to improve resource allocation. In addition, charging industry a charge for providing these functions rather than them being borne by the taxpayer should allow the maintenance of these services within satisfactory timescales in the face of future constraints on public expenditure allocations.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Owing to current economic conditions and the most recent Government Spending Review, it is necessary that DECC recovers costs wherever possible.

7.2 DECC will now recover the costs of its services for consents issued under petroleum licences and offshore methane gas and carbon dioxide storage licences, and for pipeline works authorisations issued under Part III of the Petroleum Act 1998 rather than passing the costs onto the taxpayer. The Department will not be seeking to make a profit from these charges but merely recover its costs in carrying out those functions.

8. Consultation outcome

8.1 A twelve-week consultation on the proposals was carried out from 24th October to the 5th December 2012. Generally the industry was supportive and understood the resource pressures it may face in future in view of the constrained public expenditure allocations. A number of respondents pointed out that the industry already pays significant sums in the form of licence rentals and suggested that these rentals should be diverted to cover DECC's expenses in administering its consenting regime. However this would not be consistent with Government accounting practice for the treatment of economic rents under Managing Public Money rules. The method proposed in the consultation exercise means that the administration costs are transparent and open to scrutiny and there is a clear link between the charge paid and the benefits received. A number of other clarifications were sought and these were also addressed in the consultation response.

8.2 The Department's response to the consultation is available on the DECC's website.

9. Guidance

9.1 Guidance on the charging mechanism will be made available on the DECC's website.

9.2 Further, the existing Guidance Notes to industry on our consents regime (under the Petroleum Act 1998 and Energy Act 2008) will also be revised in

the light of the Regulations and an updated version placed on the DECC's website.

10. Impact

10.1 There is expected to be no impact on charities or voluntary bodies.

10.2 The impact on the public sector is expected to be negligible in the short term; in the longer term the switch to funding from charges should enable a higher level of staffing than otherwise if warranted by the level of industry activity.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the www.legislation.gov.uk website. [See http://www.opsi.gov.uk/psi/.]

11. Regulating small business

11.1 Of the companies who are active in exploration for and production of oil and gas and, going forward, the geological storage of gas in the UK and on the UK Continental Shelf, the vast majority are part of large multi-national companies: very few of them are small firms (i.e. companies with less than ten employees) and the proposed charges would not fall disproportionately on them.

12. Monitoring & review

12.1 Consideration has been given to the new sun setting and review guidance. The regulatory regime for consents which are the subject of these charges are the Petroleum Act 1998 and the Energy Act 2008, not in these Regulations. These Regulations merely provide for the Secretary of State to determine a charge in order to cover his expenditure under the Petroleum Act 1998 and the Energy Act 2008. The standard clauses for sun-setting and review are therefore removed. The operation of these Regulations will be monitored and reviewed on an ongoing basis.

13. Contact

13.1 Ricki Kiff at the Department of Energy and Climate Change. Tel: 0300 068 6042 or email: ricki.kiff@decc.gsi.gov.uk can answer any queries regarding the instrument.