STATUTORY INSTRUMENTS

2013 No. 1329

PETROLEUM

The Hydrocarbons (Temporary Management Scheme) Regulations 2013

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The Secretary of State, is a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to energy and energy sources.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act, and it appears to the Secretary of State that it is expedient for the references to an EU instrument in these Regulations to be construed as references to that instrument as amended from time to time.

Accordingly, the Secretary of State, in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, that Act(**c**), makes the following Regulations:

PART 1
Introduction

Citation, commencement and review

1.—(1) These Regulations may be cited as the Hydrocarbons (Temporary Management Scheme) Regulations 2013 and come into force on 30th June 2013.

(2) The Secretary of State must from time to time—

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

(b) assess the extent to which those objectives are achieved; and

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(**a**) S.I. 2010/761.
(**b**) 1972 c. 68.
(**c**) Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by S.I. 2007/1388 and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). As regards Scotland, the Secretary of State's power to act under section 2(2) is preserved by section 57(1) of the Scotland Act 1998 (c. 46).

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Interpretation

2. In these Regulations—

"affected person" means any person whom the Secretary of State believes may have contractual rights or property interests which the Secretary of State considers may be directly affected by, as appropriate—

(a) the application of a temporary scheme to any of the hydrocarbons interests of a listed person; or

(b) an extension of the management period under regulation 6;

"Article 43a notice" has the meaning given by regulation 9(3);

"decision notice" has the meaning given by regulation 5(2);

"decommissioning" means the measures which may be included in an abandonment programme within the meaning of section 29(1) of the Petroleum Act 1998(**a**);

"decommissioning account" means an account established by the Secretary of State to make or receive payments in relation to the decommissioning of restricted interests;

"decommissioning contract" means a contract to which the licensees of a licence are parties which provides for decommissioning, including—

(a) a contract which provides for the contributions which the licensees may be required to pay for decommissioning; or

(b) any trust deed entered into pursuant to the contract which provides for the appointment of trustees and the holding of funds on trust for the purposes of decommissioning;

"early enforced termination date" has the meaning given by regulation 26(2);

"early termination" means the termination of a temporary scheme by a termination notice before the end of the management period;

"extension notice" has the meaning given by regulation 6(3);

"final reporting period" has the meaning given by regulation 33(5);

"financial institution" has the same meaning as it has in the Sanctions Regulation;

"frozen funds" has the same meaning as it has in the Sanctions Regulation;

"hydrocarbons contract" means a contract relating to any hydrocarbons interest of a listed person—

(a) to which the listed person is a party; or

(b) under which the listed person has rights or may enjoy benefits,

and includes a contract the performance of which ensures the safety of any hydrocarbons interest;

"hydrocarbons interest" means—

(a) the rights of a listed person comprised in a relevant licence; or

(b) the property and rights of a listed person comprised in—

(i) petroleum which may be obtained in exercise of the rights of the listed person under a relevant licence; or

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(**a**) 1998 c. 17.

(ii) a petroleum facility;

"information notice" has the meaning given by regulation 35(1);

"late payment" means a sum described in regulation 20(1) where the liability to pay the sum arises during the management period but the Secretary of State is unable to pay that sum before the termination date;

"licence" means a licence granted under—

(a) section 3 of the Petroleum Act 1998 ("the 1998 Act"); or

(b) section 2 of the Petroleum (Production) Act 1934(**a**) in respect of those areas to which a licence may be granted under section 3 of the 1998 Act(**b**);

"licensed area" means the area described in a licence in which any of the rights granted under the licence may be exercised;

"listed person" means a person listed in Annex IX of the Sanctions Regulation;

"managed contract" means a hydrocarbons contract in respect of which the Secretary of State may exercise the powers in regulation 15 further to a direction given under regulation 23(1);

"management period" means the period set out in a decision notice during which a temporary scheme applies to restricted interests, including any extension of that period effected by an extension notice;

"management powers" means the powers available to the Secretary of State in chapters 3 and 4 of Part 3;

"new contract" means a contract described in regulation 17(1) which complies with regulation 17(2);

"petroleum" has the same meaning as it has in section 1 of the Petroleum Act 1998;

"petroleum facility" means any facility used to obtain or transport any petroleum to which a listed person is entitled under a relevant licence, including—

(a) platforms and subsea structures; and

(b) wells and pipelines;

"preliminary notice" has the meaning given by regulation 4(1);

"relevant licence" has the meaning given by regulation 3(1)(a);

"representations" means representations made in writing;

"restricted interest" means a hydrocarbons interest to which a temporary scheme applies;

"restricted licence" means a relevant licence described in a decision notice;

"restricted person" means a listed person who has a restricted interest;

"restricted petroleum facility" means a petroleum facility which is a restricted interest;

"rights of a restricted person comprised in a managed contract" means the rights and benefits of a restricted person contained in, or derived under, a managed contract, including—

(a) the right—

(i) to exercise any authority;

(ii) to take any decision;

(iii) to enter into a sub-contract; or

(iv) to require another person to enter into a contract with the restricted person or other party to the managed contract; or

(b) the enjoyment of any benefit from the exercise of a right described in paragraph (a);

(**a**) 1934 c. 36.

(**b**) By section 5 of the Petroleum Act 1998 ("the 1998 Act"), for licences granted under section 2 of the Petroleum (Production) Act 1934 ("the 1934 Act") which were existing immediately before the 1934 Act was repealed, the model clauses of those licences were modified to incorporate model clauses of equivalent licences granted under section 3 of the 1998 Act. Such licences granted under section 2 of the 1934 Act have effect as if granted under section 3 of the 1998 Act.

"rights period" means the period during which the Secretary of State may exercise the rights of a restricted person comprised in a managed contract;

"the Sanctions Regulation" means EU Regulation No. 267/2012 of the Council concerning restrictive measures against Iran and repealing EU Regulation No. 961/2010(**a**), as amended from time to time;

"temporary management account" has the meaning given by regulation 19(2);

"temporary management activity" means—

(a) to ensure the functioning, maintenance and operation of—

(i) platforms and subsea structures; or

(ii) wells and pipelines;

(b) to drill wells;

(c) to conduct seismic surveys;

(d) to obtain, sell or transport petroleum;

(e) to decommission wells and pipelines;

(f) to conduct any activity ancillary to an activity listed in paragraphs (a) to (e) where that would be in accordance with good oilfield practice;

(g) to carry on any commercial or administrative activity in support of any activity listed in paragraphs (a) to (f); or

(h) to conduct litigation or arbitration or to settle any dispute in relation to any activity listed in paragraphs (a) to (g) except any litigation, arbitration or dispute between the restricted person and the Secretary of State;

"temporary management transaction" means any payment—

(a) listed in regulation 20(1) which may be made by the Secretary of State, including an agent acting for the Secretary of State; or

(b) described in regulation 20(2) which may be received by the Secretary of State, including an agent acting for the Secretary of State;

"temporary scheme" means the scheme of duties, restrictions, management powers and procedures in Part 3;

"termination date" has the meaning given by regulation 27(2)(b) and (3);

"termination notice" means a notice described in regulation 27(1)(a) which complies with regulation 27(2);

"wells and pipelines" means any of the following—

(a) a well within the licensed area of a relevant licence;

(b) a pipeline or part of a pipeline which enables petroleum to be brought to shore;

(c) a chemical injection line or any control, production or safety equipment which is used or capable of being used ancillary to such a well or pipeline.

(**a**) OJ No L 88, 24.3.2012, p1.At the date of these Regulations, EU Regulation 267/2012 has been amended by EU Regulation 708/2012 of the Council (OJ No L 208, 3.8.2012, p1, EU Regulation 1067/2012 of the Council (OJ No L 318, 15.11.2012, p34 and EU Regulation 1263/2012 of the Council (OJ No L 356, 22.12.2012, p34), which inserted Article 43a.

PART 2

Application of Temporary Schemes

CHAPTER 1

When temporary schemes may be applied and preliminary and decision notices

When a temporary scheme may be applied

3.—(1) The Secretary of State may apply a temporary scheme to the hydrocarbons interests of a person ("P") if P is a listed person and—

(a) P holds a licence, solely or jointly with another person, and that licence was issued before P became a listed person ("a relevant licence"); and

(b) the Secretary of State is satisfied that to apply a temporary scheme to any of the hydrocarbons interests of P is necessary—

(i) to avoid or remediate environmental damage; or

(ii) to prevent permanent destruction of the value of the relevant licence.

(2) Regulation 4 applies where—

(a) the Secretary of State is entitled to apply a temporary scheme to any of the hydrocarbons interests of P under paragraph (1); or

(b) P is not a listed person but—

(i) the Secretary of State is satisfied that P is likely to become a listed person within 60 days of giving a preliminary notice; and

(ii) were P a listed person, the Secretary of State would be entitled to apply a temporary scheme to any of the hydrocarbons interests of P under paragraph (1).

(3) For the purposes of paragraph (2)(b)(i), where—

(a) P is a body corporate; and

(b) the person who owns or controls P is a listed person,

the Secretary of State is entitled to be satisfied that P is likely to become a listed person unless the Secretary of State has evidence to the contrary.

Preliminary notices

4.—(1) Where this regulation applies and the Secretary of State intends to apply a temporary scheme to any of the hydrocarbons interests of P, the Secretary of State must give notice of that intention to P ("a preliminary notice").

(2) A preliminary notice must include—

(a) a description of the relevant licence;

(b) details of the hydrocarbons interests to which the Secretary of State intends to apply a temporary scheme;

(c) the date on which the Secretary of State intends to apply the temporary scheme;

(d) the intended management period;

(e) details of how the Secretary of State is satisfied in respect of the matters in regulation 3(1)(b);

(f) a statement that P may make representations to the Secretary of State concerning the intended application of the temporary scheme;

(g) the representations date; and

(h) the date of the notice.

(3) Where at the date of a preliminary notice, P is not a listed person, the date in paragraph (2)(c) may be expressed as the date on which P becomes listed or a date no later than 14 days after that date.

(4) The Secretary of State must give to an affected person, at the same time that the preliminary notice is given or as soon as possible afterwards,—

(a) a copy of the preliminary notice; and

(b) a notice that representations may be made by that person by the representations date to the Secretary of State concerning the intended application of the temporary scheme.

(5) In paragraphs (2)(g) and (4)(b), the representations date must not be earlier than 14 days after the date of the preliminary notice.

(6) The Secretary of State may withdraw a preliminary notice by giving notice of withdrawal at any time before the representations date.

(7) Where a preliminary notice is withdrawn, the notice of withdrawal must be given to P and any affected person to whom a copy of the preliminary notice was given.

(8) Before the Secretary of State gives a decision notice, the Secretary of State must take into account any representations received from P, or an affected person, by the representations date.

(9) In this regulation and regulation 5—

"P" means the person to whom regulation 3(2)(a) or (b) applies;

"representations date" means the date stated in the preliminary notice by which P may make representations to the Secretary of State.

Decision notices

5.—(1) Paragraph (2) applies where a preliminary notice has been given and is not withdrawn.

(2) As soon as practicable after the representations date, the Secretary of State must give a notice to P ("a decision notice") which includes the Secretary of State's decision whether or not to apply a temporary scheme to the hydrocarbons interests of P.

(3) Where the Secretary of State decides to apply a temporary scheme to any of the hydrocarbons interests of P—

(a) the matters in—

(i) paragraph (6) must also be included in the decision notice; and

(ii) paragraph (6)(b) to (e) may differ from those matters included in the preliminary notice; and

(b) at the same time that the decision notice is given, or as soon as possible afterwards, the Secretary of State must state in writing to P—

(i) how any representations received from P by the representations date that a temporary scheme should not be applied were taken into account; and

(ii) where applicable, how the matters in paragraphs (6)(b) to (e) differ from those matters included in the preliminary notice.

(4) Where an affected person made representations which were received by the representations date that a temporary scheme should not be applied, the Secretary of State must at the same time that the decision notice is given, or as soon as possible afterwards,—

(a) state in writing to such an affected person how representations from that person were taken into account; and

(b) provide a copy of the decision notice.

(5) The Secretary of State may withdraw a decision notice by giving notice of withdrawal at any time before the date the temporary scheme is due to commence.

(6) The matters referred to in paragraph (3)(a) are—

(a) a description of the relevant licence;

(b) details of the hydrocarbons interests to which the temporary scheme applies;

(c) the date on which the temporary scheme commences, which must be no earlier than the date of the decision notice;

(d) the management period;

(e) details of how the Secretary of State is satisfied in respect of the matters in regulation 3(1)(b); and

(f) the date of the notice.

(7) Where at the date of a decision notice, P is not a listed person—

(a) the date the temporary scheme commences may be expressed as the date when P becomes listed or a date no later than 14 days after that date; but

(b) the decision notice ceases to have effect if P is not listed within 60 days of the date of the notice.

(8) Where a decision notice—

(a) is withdrawn under paragraph (5); or

(b) ceases to have effect under paragraph (7)(b),

notice of the withdrawal or cessation must be given by the Secretary of State as soon as practicable to P and any affected person to whom a copy of the decision notice was given.

(9) Subject to paragraph (10), as soon as possible after a temporary scheme commences, the Secretary of State must make the decision notice publicly available.

(10) The Secretary of State may redact from the decision notice made publicly available any information which the Secretary of State believes to be confidential.

CHAPTER 2

Management periods: extension and maximum

Management periods: extension

6.—(1) Paragraph (2) applies where—

(a) a temporary scheme has commenced; and

(b) the Secretary of State is satisfied that an extension of the management period is necessary—

(i) to avoid or remediate environmental damage; or

(ii) to prevent permanent destruction of the value of the restricted licence.

(2) Where this paragraph applies, subject to regulation 7, the Secretary of State may extend the management period in accordance with the following paragraphs.

(3) The Secretary of State must give a notice ("an extension notice") to the restricted person and any affected person that the Secretary of State intends to extend the management period.

(4) An extension notice must include—

(a) a copy of the decision notice further to which the temporary scheme commenced;

(b) a copy of any previous extension notice which was not withdrawn;

(c) the period of extension of the management period;

(d) how the Secretary of State is satisfied in respect of the matters in paragraph (1)(b); and

(e) the date by which representations may be made to the Secretary of State concerning the extension of the management period ("the representations date"); and

(f) the date of the notice.

(5) The representations date must not be earlier than 14 days after the date of the extension notice.

(6) The Secretary of State must take into account any representations received by the representations date before deciding whether or not to withdraw the extension notice.

(7) The Secretary of State may withdraw an extension notice by giving notice of withdrawal.

(8) Except where an extension notice is withdrawn—

(a) the period of extension set out in the notice has effect; and

(b) the Secretary of State must give notice that the extension has effect.

(9) A notice required by paragraph (7) or (8)(b) must be given—

(a) to the restricted person and any affected person to whom the extension notice was given; and

(b) as soon as practicable after the representations date.

Management periods: maximum

7.—(1) The management period, including any extension under regulation 6, must not exceed the shorter of five years or the remaining term of the restricted licence.

(2) Paragraph (3) applies where—

(a) a temporary scheme ("S1") which applied to the hydrocarbons interests of a person ("A") has ended;

(b) the Secretary of State is entitled under regulation 3(1) to apply a further temporary scheme ("S2") to the hydrocarbons interests of A; and

(c) the hydrocarbons interests to which the Secretary of State intends to apply S2 are the same, or substantially the same, as the hydrocarbons interests to which S1 applied.

(3) Where this paragraph applies, the management period of S2 when added to the management period of S1 must not exceed the shorter of five years or the remaining period of the restricted licence.

PART 3

Temporary Schemes

CHAPTER 1

Application, extent of management powers, Article 43a notices and indemnities

Application and extent of management powers

8.—(1) This Part applies where a temporary scheme commences further to a decision notice.

(2) Subject to any early termination, during the management period the Secretary of State may on behalf of the restricted person—

(a) carry out any temporary management activities; and

(b) exercise any of the management powers to do so.

(3) The Secretary of State must by the end of such periods as the Secretary of State considers reasonable, being no more than every six months and no fewer than every two years of the management period, review whether or not the continuation of the temporary scheme is necessary—

(a) to avoid or remediate environmental damage; or

(b) to prevent permanent destruction of the value of the restricted licence.

Sanctions restrictions and Article 43a notices

9.—(1) This regulation applies to any person ("A") other than a listed person, where A—

(a) intends to carry out any of the matters in paragraph (2) ("a relevant matter"); and

(b) would, apart from this regulation, be in breach of the derogated sanctions in carrying out the relevant matter.

(2) The matters referred to in paragraph (1)(a) are—

(a) dealing directly, or indirectly, with the Secretary of State where the Secretary of State is exercising management powers;

(b) acting as agent for the Secretary of State in the exercise of management powers; or

(c) providing information to the Secretary of State further to an information notice given to A under regulation 35(1)(a).

(3) A may request the Secretary of State to give A a notice ("an Article 43a notice") which authorises the relevant matter set out in A's request.

(4) An Article 43a notice may—

(a) authorise a relevant matter in relation to A or any contractor of A;

(b) describe a relevant matter by reference to a class or type of matter;

(c) describe A or any contractor of A by reference to a class or type of person; or

(d) be made subject to conditions or an expiry date.

(5) An Article 43a notice—

(a) must be given to A as soon as practicable; and

(b) may be varied or withdrawn by notice given by the Secretary of State to A.

(6) A notice under paragraph (5)(b) must—

(a) be given to A as soon as possible;

(b) state the date the variation or withdrawal has effect; and

(c) be dated.

(7) In this regulation—

"contractor of A" means a person (other than A or a listed person) who is, or may be, a party to a contract to be performed in relation to a relevant matter set out in the request made by A under paragraph (3);

"derogated sanctions" means those restrictions in the Sanctions Regulation to which a derogation applies by Article 43a of the Sanctions Regulation.

Indemnities and liability

10.—(1) Subject to paragraph (2), where the Secretary of State exercises any of the management powers, the Secretary of State is indemnified by the restricted person in respect of any liability which the Secretary of State incurs in respect of the exercise of those powers.

(2) The indemnity in paragraph (1) does not extend to any liability which the Secretary of State incurs by reason of the negligence of the Secretary of State.

(3) Where a restricted person is a body corporate, by reason of the exercise of any of the management powers the Secretary of State is not to be regarded as—

(a) a director or other office holder of the restricted person;

(b) a person in accordance with whose directions or instructions the directors of the restricted person are accustomed to act; or

(c) exercising any function of management of the restricted person.

(4) Subject to paragraph (5), the Secretary of State is not liable to a person in respect of any cost, expense, loss or other adverse consequence which may be incurred by that person by reason of—

(a) a temporary scheme being applied or not applied to the restricted interests of any person;

(b) the termination of a temporary scheme; or

(c) the Secretary of State exercising or deciding not to exercise of any of the management powers.

(5) The exclusion of liability in paragraph (4) does not apply to the extent that any cost, expense, loss or other adverse consequence is directly attributable to the negligence of the Secretary of State.

CHAPTER 2

Prohibitions and effect of restrictions

Restricted interests: prohibition

11. A restricted person is prohibited from exercising the rights of that person comprised in a restricted interest during the management period.

Contracts: prohibition and obligations

12.—(1) A restricted person is prohibited from exercising the rights of that person comprised in, or derived under, a managed contract or a new contract.

(2) Paragraph (3) applies where a relevant party to a managed contract owes, or may owe, an obligation under the contract for the benefit of the restricted person.

(3) Where this paragraph applies, during the rights period the obligation is owed by the relevant party to the Secretary of State acting on behalf of the restricted person and is not owed directly to the restricted person.

(4) During the management period, a relevant party to a new contract owes any obligation of that party under that contract to the Secretary of State acting on behalf of the restricted person and not directly to the restricted person.

(5) In this regulation, "relevant party" means a party to a contract other than the restricted person.

Effect of restrictions

13.—(1) The prohibition in regulation 11 does not entitle the Secretary of State—

(a) to revoke a restricted licence; or

(b) to terminate a pipeline works authorisation which applies to any pipeline which is a restricted interest.

(2) In paragraph (1)(b), "pipeline works authorisation" means an authorisation granted under section 14(1) of the Petroleum Act 1998.

CHAPTER 3

Management powers: exercise of rights, managed contracts, new contracts and agents

Power to exercise rights in restricted interests

14.—(1) The Secretary of State may exercise the rights of a restricted person comprised in a restricted interest but except as provided by paragraph (3) or (4), the Secretary of State must not dispose of the interest.

(2) Paragraph (3) applies to petroleum produced, before or during the management period, from the licensed area of a restricted licence.

(3) Where this paragraph applies, the Secretary of State may dispose of the petroleum—

(a) for valuable consideration; or

(b) other than for valuable consideration where that disposal is undertaken—

(i) for the purposes of safety or as use as a fuel;

(ii) to test or maintain a petroleum facility; or

(iii) in accordance with good oilfield practice.

(4) The Secretary of State may dispose of any property which is comprised in a restricted interest where the property is—

(a) regarded in accordance with good oilfield practice as waste; or

(b) no longer required for, or capable of carrying out, the function for which it was used or designed to be used.

Power to exercise rights in managed contracts and discharge of liabilities

15.—(1) The Secretary of State may—

(a) in accordance with regulation 23, direct that a hydrocarbons contract is a managed contract for the rights period; and

(b) exercise the rights of a restricted person comprised in a managed contract during the rights period.

(2) Paragraph (3) applies where a liability ("a relevant liability") of a restricted person under a managed contract—

(a) arises during the rights period; and

(b) is required by the contract to be discharged during the rights period.

(3) Where this paragraph applies, the relevant liability must be discharged by the Secretary of State, to the extent it is practicable for the Secretary of State to do so.

(4) For the purposes of paragraph (3)—

(a) where the payment of moneys to any person is a relevant liability, it is only practicable for the Secretary of State to pay those moneys where sufficient moneys are available to do so in a temporary management account; and

(b) no liability is to be discharged which requires the Secretary of State to breach the Sanctions Regulation.

(5) The Secretary of State may discharge the liability of a restricted person under a managed contract where that liability arose before the commencement of the rights period.

(6) Subject to regulation 16, the Secretary of State may amend a managed contract by agreement with the parties to it (except the restricted person).

(7) Paragraph (8) applies where a joint operating agreement—

(a) is a managed contract; and

(b) the operator appointed under the agreement is the agent of the restricted person in respect of the matters set out in that agreement ("the agency matters").

(8) Where this paragraph applies, during the rights period applicable to the agreement, the operator is—

(a) the agent of the Secretary of State in respect of the agency matters, unless and to the extent the Secretary of State agrees otherwise with the operator; and

(b) not the agent of the restricted person.

(9) In paragraph (7), "joint operating agreement" means an agreement between joint licensees of a licence which provides for the commercial basis of the licensees' joint venture and may include the appointment of a person as the operator who is responsible for the day-to-day affairs of the joint venture.

Amendments to managed contracts

16. Where the Secretary of State intends to agree an amendment to a managed contract, the Secretary of State must ensure that the agreement provides for the amendment to cease to have effect when the contract ceases to be a managed contract.

Power to enter into new contracts

17.—(1) The Secretary of State may enter into a contract ("a new contract") on behalf of a restricted person in respect of a restricted interest.

(2) The Secretary of State must ensure that a new contract provides that—

(a) the period for performance of the contract does not continue after the end of the management period; and

(b) the contract may be terminated as provided by regulation 30.

(3) The Secretary of State is not a party to a new contract by virtue of exercising the power in paragraph (1) but the Secretary of State is not precluded from being a party in exercise of any other power.

Appointment of agents

18.—(1) The Secretary of State may appoint a person to act as agent for the Secretary of State—

(a) in the exercise of any of the management powers in regulations 14, 15(1)(b) and (5) and 17(1);

(b) to assist the Secretary of State in the discharge of the Secretary of State's duty under regulation 15(3);

(c) to make a payment from a temporary management account under regulation 20(1); or

(d) to pay into a temporary management account a payment described in regulation 20(2).

(2) The Secretary of State must ensure that an appointment under paragraph (1) provides that—

(a) it does not continue after the end of the management period; and

(b) it may be terminated before the end of the management period where a termination notice provides for an early termination.

CHAPTER 4

Management powers: accounts and transactions

Temporary management accounts

19.—(1) The Secretary of State may—

(a) set up with a financial institution an account to be used for temporary management transactions in the name of—

(i) the restricted person; or

(ii) the Secretary of State on behalf of the restricted person; or

(b) by notice specify an account held by a financial institution for the restricted person as an account to be used for temporary management transactions.

(2) An account set up or specified under paragraph (1) is a "temporary management account" and temporary management transactions may take place using the account.

(3) A notice under paragraph (1)(b) must be given to the financial institution at least 7 days before the Secretary of State intends to make the first temporary management transaction using the specified account.

(4) The Secretary of State may require a financial institution which holds a temporary management account to provide transactions statements to the Secretary of State for such periods as the Secretary of State considers reasonable.

(5) Subject to any early termination and to regulation 32, an account ceases to be a temporary management account at the end of the management period.

(6) In this regulation, "transactions statements" means statements of all transactions that take place using a temporary management account, including temporary management transactions.

Temporary management transactions

20.—(1) The Secretary of State may pay out of a temporary management account any sum—

(a) required to discharge (in whole or part) a liability of a restricted person under—

(i) a restricted licence;

(ii) a managed contract, including a liability described in regulation 15(5)(**a**);

(iii) a new contract, including a decommissioning contract; or

(iv) regulation 10(1)(**b**);

(b) which a prudent licensee would from time to time set aside in accordance with good oilfield practice towards the licensee's liability under Part 4 of the Petroleum Act 1998(**c**) to decommission a restricted petroleum facility;

(c) which is then paid into another temporary management account; or

(d) required or permitted by law to be paid in respect of a restricted interest.

(2) A payment which may be received by the Secretary of State—

(a) in respect of a restricted interest; or

(b) under a managed contract or a new contract,

must be paid into a temporary management account.

(3) A sum described in paragraph (1)(b) must be paid into a decommissioning account.

(4) In paragraph (1), reference to "any sum required to discharge (in whole or part) a liability" means such sum as the Secretary of State reasonably believes is required to discharge the liability.

(5) Funds in a temporary management account are funds to which the restricted person is beneficially entitled but, except for temporary management transactions, are frozen funds.

Decommissioning accounts

21.—(1) The Secretary of State may set up set up with a financial institution a decommissioning account in the name of—

(a) the restricted person; or

(b) the Secretary of State on behalf of the restricted person.

(2) A decommissioning account must be an interest bearing account.

(3) Subject to any early termination, during the management period the Secretary of State may pay from a decommissioning account any liability of the restricted person to decommission a restricted petroleum facility where that liability arises under—

(a) Part 4 of the Petroleum Act 1998; or

(b) a decommissioning contract.

(**a**) Under regulation 15(5), the Secretary of State may discharge a liability of a restricted person under a managed contract where the liability arose before the commencement of the rights period.

(**b**) Regulation 10(1) provides for the restricted person to indemnify the Secretary of State in respect of any liability which the Secretary of State incurs in exercising management powers.

(**c**) Part 4 has been amended by sections 36, 72 to 74, 107 and 108 of the Energy Act 2008 (c. 32) and by Schedules 1, 5 and 6 to that Act.

(4) The Secretary of State may require a financial institution which holds a decommissioning account to provide statements of payments and receipts to the Secretary of State for such periods as the Secretary of State considers reasonable.

(5) Funds in a decommissioning account are, subject to the terms of any decommissioning contract, funds to which the restricted person is beneficially entitled.

(6) To the extent a restricted person is beneficially entitled to the funds in a decommissioning account, except for payments which may be made under paragraph (3), those funds are frozen funds.

CHAPTER 5

Periodic reports

Periodic reports

22.—(1) Subject to paragraph (5), the Secretary of State must provide to a restricted person a written report ("a periodic report") in respect of each reporting period.

(2) A periodic report must—

(a) set out—

(i) in summary form the matters listed in paragraph (3) for the reporting period; and

(ii) the balances held in any temporary management or decommissioning account at the end of the reporting period;

(b) include such information as may be held by the Secretary of State which the Secretary of State reasonably believes the restricted person may require for the purposes of dealing with any tax which may arise in respect of any temporary management activity carried out in the reporting period; and

(c) be provided as soon as practicable after the end of the reporting period to which it relates.

(3) The matters referred to in paragraph (2)(a)(i) are—

(a) the total of all payments described in regulation 20(2) paid into a temporary management account;

(b) the total of all payments made under regulation 20(1) or 21(3);

(c) any new contracts entered into or terminated;

(d) directions given under chapter 6 of this Part; and

(e) any temporary management activities which were carried out in the reporting period.

(4) Paragraph (5) applies where in respect of a temporary scheme—

(a) the management period does not exceed six months; or

(b) a termination notice is given during the first six months of the management period.

(5) Where this paragraph applies—

(a) a periodic report is not required; but

(b) a report must be given in accordance with regulation 33.

(6) In this regulation, "reporting period" means—

(a) the first six months; and

(b) each subsequent period of six months,

of the management period but excluding the final reporting period.

(7) Nothing in this regulation requires the provision of any information on equipment or technology where to do so would be in breach of Article 9(a), 10a, 10b(1)(a) or 10c(1)(a) of the Sanctions Regulation.

CHAPTER 6

Directions and managed contracts

Hydrocarbons contracts directed as managed contracts

23.—(1) The Secretary of State may by notice given to each relevant party to a hydrocarbons contract, direct that the hydrocarbons contract is to be a managed contract.

(2) A direction given under paragraph (1)—

(a) may apply to more than one hydrocarbons contract; and

(b) must—

(i) identify each hydrocarbons contract to which the direction relates;

(ii) give the date on and from which the Secretary of State intends each contract to be a managed contract ("the commencement date"), which date must be no earlier than seven days after the date of the direction; and

(iii) state the rights period.

(3) The rights period must commence on the commencement date and end by no later than the end of the management period.

(4) A hydrocarbons contract may be identified under paragraph (2)(b)(i) by reference to a class or description of contract set out in the direction.

(5) The Secretary of State may before the commencement date give a notice withdrawing a direction given under paragraph (1).

(6) A notice under paragraph (4) must be given to each relevant party to whom the direction was given.

(7) Subject to a direction given under regulation 24, where a direction under paragraph (1) is not withdrawn, a hydrocarbons contract is a managed contract during the rights period.

(8) In this regulation, a "relevant party" means a person, other than the restricted person, whom the Secretary of State believes may be a party to the hydrocarbons contract.

Contracts directed as ceasing to be managed contracts

24.—(1) The Secretary of State may by notice given to each relevant party to a managed contract, direct that the contract is to cease to be a managed contract.

(2) A direction under paragraph (1)—

(a) may apply to more than one managed contract; and

(b) must—

(i) identify each managed contract to which the direction relates; and

(ii) give the date on which the contract will cease to be a managed contract ("the cessation date"), which date must be no earlier than seven days after the date of the direction.

(3) A managed contract may be identified under paragraph (2)(b)(i) by reference to a class or description of contract set out in the direction.

(4) The Secretary of State may before the cessation date give a notice withdrawing a direction given under paragraph (1).

(5) A notice under paragraph (4) must be given to each relevant party to whom the direction was given.

(6) In this regulation, a "relevant party" means a person, other than the restricted person, whom the Secretary of State believes may be a party to the managed contract.

PART 4

End of temporary schemes

CHAPTER 1

End of temporary schemes, early termination and termination notices

End of temporary schemes

25.—(1) Where the Secretary of State gives a termination notice and that notice is not withdrawn, a temporary scheme ends on the termination date stated in that notice.

(2) Where the Secretary of State—

(a) does not give a termination notice; or

(b) withdraws a termination notice and does not give a further notice,

a temporary scheme ends at the end of the management period.

Early termination

26.—(1) The Secretary of State must effect an early termination where—

(a) a restricted person ceases to be a listed person; or

(b) the Secretary of State is satisfied that to continue a temporary scheme until the expiry of the management period is not necessary—

(i) to avoid or remediate environmental damage; or

(ii) to prevent permanent destruction of the value of the restricted licence.

(2) Where paragraph (1) applies, the Secretary of State must determine the date the temporary scheme ends (an "early enforced termination date"), which must be no later than 60 days after—

(a) where paragraph (1)(a) applies, the date the restricted person ceases to be a listed person; or

(b) where paragraph (1)(b) applies, the date the Secretary of State becomes satisfied under that paragraph.

Termination notices

27.—(1) The Secretary of State—

(a) where regulation 26(1) applies, must give a notice to end a temporary scheme ("a termination notice"); and

(b) where regulation 26(1) does not apply, may give a termination notice.

(2) A termination notice must—

(a) identify the decision notice further to which the temporary scheme commenced and any extension notice further to which the management period was extended;

(b) state the date on which the temporary scheme ends (" the termination date");

(c) be given—

(i) to the persons listed in paragraph (4); and

(ii) as far in advance of the termination date as possible and in any event no less than 21 days before the termination date; and

(d) be dated.

(3) In paragraph (2)(b), "the termination date" is—

(a) where regulation 26(1) applies, the early enforced termination date; and

(b) where regulation 26(1) does not apply, a date determined by the Secretary of State, being a date no later than the end of the management period.

(4) The persons referred to in paragraph (2)(c)(i) are—

(a) the restricted person;

(b) a person other than the restricted person who holds the relevant licence at the date of the notice;

(c) the operator appointed in respect of the restricted licence at the date of the notice, if not the person described in subparagraph (a) or (b);

(d) a party to a contract which is a managed contract at the date of the notice or to a contract which was a managed contract during the management period;

(e) a party to a new contract which is in existence at the date of the notice;

(f) a financial institution which holds or has held a temporary management account or decommissioning account;

(g) a person (other than one described in subparagraphs (b) to (f)) to whom an Article 43a notice is given further to a request for such a notice from that person.

Withdrawal of termination notices

28.—(1) Subject to paragraphs (2) and (3), the Secretary of State may give a notice withdrawing a termination notice to those persons to whom the termination notice was given.

(2) Where regulation 26(1) applies, the Secretary of State must not withdraw a termination notice except where the Secretary of State is no longer satisfied under regulation 26(1)(b).

(3) A notice of withdrawal under paragraph (1) must be given no later than seven days before the termination date.

CHAPTER 2

Early termination: managed contracts and new contracts

Early termination: managed contracts

29.—(1) Paragraph (2) applies where—

(a) a termination notice provides for an early termination;

(b) at the date of the termination notice there is a managed contract;

(c) the rights period of that contract ends after the termination date; and

(d) the termination notice is not withdrawn.

(2) Where this paragraph applies—

(a) the Secretary of State must give a direction under regulation 24(1) in respect of the managed contract; and

(b) the cessation date referred to in regulation 24(2)(b)(ii) which applies in respect of that direction must be no later than the termination date.

Early termination: new contracts

30. Where—

(a) a termination notice provides for an early termination;

(b) the period for performance of a new contract ends after the termination date; and

(c) the termination notice is not withdrawn,

the Secretary of State must, in accordance with the terms of the new contract, terminate the contract such that performance of the contract ends no later than the termination date.

CHAPTER 3

End of temporary schemes: temporary management accounts and final reports

Early termination: temporary management accounts

31.—(1) Paragraph (2) applies where—

(a) a termination notice provides for an early termination;

(b) a financial institution holds a temporary management account; and

(c) the termination notice is not withdrawn.

(2) Where this paragraph applies, the Secretary of State must give notice to a financial institution which holds a temporary management account that from a date stated in the notice, subject to regulation 32, the account ceases to be a temporary management account.

(3) The date stated in the notice under paragraph (2) must be no later than the termination date.

(4) A notice under paragraph (2) must be given as soon as possible after the termination notice is given.

Temporary management accounts: late payments

32. The Secretary of State may pay a late payment (or part of it) from a temporary management account no later than 30 days after the temporary scheme ends.

Final reports

33.—(1) The Secretary of State must provide to the person who was, during the period of temporary management, a restricted person ("P") a written report ("the final report").

(2) The final report must—

(a) set out in summary form the matters listed in paragraph (4) for the final reporting period;

(b) include such information as may be held by the Secretary of State which the Secretary of State reasonably believes the restricted person may require for the purposes of dealing with any tax which may arise in respect of any temporary management activity carried out in the final reporting period; and

(c) be provided as soon as practicable after the end of the final reporting period.

(3) The final report must also state the balances in any temporary management or decommissioning account at the end of the temporary scheme and at the date of the final report.

(4) The matters referred to in paragraph (2)(a) are—

(a) the total of all payments described in regulation 20(2) paid into a temporary management account;

(b) the total of all payments made under regulation 20(1), 21(3) or 32;

(c) any new contracts entered into or terminated;

(d) directions given under chapter 6 of Part 3; and

(e) any temporary management activities which were carried out in the final reporting period.

(5) In this regulation, "final reporting period" means the period which—

(a) begins with the later of—

(i) the date of the commencement of the management period; or

(ii) the day after the six monthly period to which the last periodic report required to be given under regulation 22 related; and

(b) ends on the date of the final report.

(6) Nothing in this regulation requires the provision of any information on equipment or technology where to do so would be in breach of Article 9(a), 10a, 10b(1)(a) or 10c(1)(a) of the Sanctions Regulation.

PART 5

Information notices

Information notices: exercise of powers and confidentiality

34.—(1) An information notice may be given under regulation 35 provided that the Secretary of State believes that the information required by the notice is necessary in order for the Secretary of State—

(a) to apply a temporary scheme to the hydrocarbons interests of a person;

(b) to exercise or enable the exercise of any of the management powers;

(c) to provide a report under regulation 22 or 33; or

(d) to terminate a temporary scheme.

(2) Subject to paragraph (3), a person to whom an information notice is given is not entitled to refuse to provide the information required by the notice by reason that the information is or includes information which is confidential.

(3) A person to whom an information notice is given is not required to produce information which—

(a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court, High Court or High Court in Northern Ireland; or

(b) in relation to Scotland, a claim to confidentiality of communications could be maintained in an action in the Sheriffs Courts or the Court of Session in respect of communications—

(i) between a professional legal adviser and the adviser's client; or

(ii) made in connection with, or in contemplation of, legal proceedings and made for the purposes of those proceedings.

Information notices: content

35.—(1) Subject to regulation 34, the Secretary of State may give a notice ("an information notice") to—

(a) a person ("A") requiring A to provide to the Secretary of State any of the information in mentioned in paragraph (2);

(b) a listed person ("B") requiring B to provide in respect of the period set out in the information notice, the costs and expenses incurred by B in complying with the obligations imposed on B by a licence described in the notice.

(2) The information referred to in paragraph (1)(a) is—

(a) whether or not A is a party to—

(i) a hydrocarbons contract;

(ii) a contract which would be a hydrocarbons contract were another party to it a listed person; or

(iii) a contract which is a sub-contract under a contract described in paragraph (i) or (ii);

(b) where it is possessed by A, a copy of a contract described in subparagraph (a);

(c) where A is a listed person or a person whom the Secretary of State believes is likely to become a listed person within 60 days of the giving of the notice, details of the rights or property of A which—

(i) are hydrocarbons interests; or

(ii) would be hydrocarbons interests were A a listed person,

and any charge or incumbrance which affects such rights or property;

(d) where A is a financial institution—

(i) whether or not A holds a relevant account, and, if it does, the details of the account; and

(ii) where A holds a relevant account, copies of statements of that account for the period set out in the information notice.

(3) An information notice must state the date by which the information is required, which must be no earlier than 14 days after the date of the notice.

(4) In this regulation, "relevant account" means an account—

(a) held for a person ("C") described in the information notice as—

(i) a listed person; or

(ii) a person whom the Secretary of State is satisfied is likely to become a listed person within 60 days of the giving of the notice; and

(b) which is, or has been used, to make or receive payments in respect of the hydrocarbons interests of C (or what would be hydrocarbons interests were C a listed person) set out in the information notice.

(5) For the purposes of paragraphs (2)(c)(ii) (in respect of A) and (4)(a)(ii) (in respect of C), where—

(a) A or C is a body corporate; and

(b) the person who owns or controls A or C is a listed person,

the Secretary of State is entitled to be satisfied that A or C is likely to become a listed person unless the Secretary of State has evidence to the contrary.

PART 6

Offences and penalties

Offences

36.—(1) It is an offence for a person to breach regulation 11 or 12(1).

(2) It is an offence for a person—

(a) to fail to comply with an information notice;

(b) in purported compliance with an information notice, to make a statement which—

(i) that person knows to be false or misleading in a material particular; or

(ii) is false or misleading in a material particular and that person is reckless that the statement is so false or misleading.

(3) Proceedings for an offence under paragraph (1) or (2) may be taken, and the offence may be treated as having been committed, in any part of the United Kingdom.

Penalties

37. A person guilty of an offence under regulation 36 is liable—

(a) on summary conviction, to a fine not exceeding—

(i) except in Scotland, the statutory maximum;

(ii) in Scotland, £5000;

(b) on conviction on indictment, to a fine.

Bodies corporate and Scottish partnerships

38.—(1) Where an offence under regulation 36 is committed by a body corporate and—

(a) it is committed with the consent or connivance of an officer; or

(b) it is attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) "Officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

(4) Where an offence under regulation 36 is committed by a Scottish partnership and—

(a) it is committed with the consent or connivance of a partner; or

(b) it is attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5) In paragraph (4) "partner" includes a person purporting to act as a partner.

PART 7

Notices

Notices

39.—(1) A notice under these Regulations—

(a) must be in writing; and

(b) may be given to a person by—

(i) delivering it to that person in person;

(ii) leaving it at that person's proper address, or

(iii) sending it by post or electronic means to that person's proper address.

(2) In the case of a body corporate, a notice may be served on or given to the secretary or clerk of that body.

(3) In the case of a partnership, a notice may be served on or given to a partner or a person having control or management of the partnership business.

(4) If a person to be served with or given a notice has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept notices, that address must instead be treated as that person's proper address.

(5) In this regulation—

(a) "person" (except in subparagraph (b)(ii)) includes an unincorporated association other than a partnership;

(b) "proper address" means—

(i) in the case of a body corporate or their secretary or clerk—

(aa) the registered or principal office of that body, or

(bb) the email address of the secretary or clerk;

(ii) in the case of a partnership or a partner or person having control or management of the partnership business—

(aa) the principal office of the partnership, or

(bb) the email address of a partner or a person having that control or management;

(iii) in any other case, a person's last known address, which includes an email address.

(6) For the purposes of paragraph (5), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

(7) Where the Secretary of State specifies an electronic address for submission of a notice to the Secretary of State, it may be submitted electronically to that address.

Edward Davey
Secretary of State
4th June 2013 Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations are made further to Article 43a of EU Regulation No. 267/2012 of the Council concerning restrictive measures against Iran and repealing EU Regulation No. 961/2010 (OJ No L 88, 24.3.2012), as amended ("the Iran Sanctions Regulation"). Under that Article, a member State may authorise activities related to the exploration for, or exploitation of, hydrocarbons undertaken pursuant to a licence for such exploration or exploitation issued to a person listed in Annex IX to the Iran Sanctions Regulation. Where there is an authorisation, a derogation applies from certain restrictions in the Iran Sanctions Regulation, which at the date the Regulations are made are Articles 8, 9, 17(1), 17(2)(b), 23(2) and (3), 30 and 35.

General description of temporary schemes

The Regulations establish a framework of duties, restrictions, powers and procedures in Part 3 ("a temporary scheme") in respect of certain property and rights ("hydrocarbons interests") of a person listed in Annex IX to the Iran Sanctions Regulation ("a listed person"). The hydrocarbons interests are those related to a licence granted under section 3 of the Petroleum Act 1998 (c. 17) or section 2 of the Petroleum (Production) Act 1934 (c. 36) where that licence is held by a listed person ("a restricted licence"). A temporary scheme may be applied to hydrocarbons interests where that is necessary to avoid or remediate environmental damage or to prevent permanent destruction of the value of the restricted licence. The hydrocarbons interests to which a scheme is applied are referred to in the Regulations as "restricted interests" and the listed person whose hydrocarbons interests are restricted interests is referred to as a "restricted person".

Under a temporary scheme, the Secretary of State may, on behalf of a restricted person, carry out various activities in relation to that person's hydrocarbons interests ("temporary management activities") and exercise certain powers ("management powers") in order to do so. Persons who deal with the Secretary of State in the exercise of the management powers may request a notice from the Secretary of State that their dealing is authorised for the purposes of Article 43a.

The Secretary of State may take control of contracts ("managed contracts") entered into by the listed person which relate to restricted interests or enter into contracts on behalf of the listed person ("new contracts"). Transactions of moneys are permitted ("temporary management transactions") and the management powers include the power to set up bank accounts ("temporary management accounts") to effect such transactions. Bank accounts may also be set up to hold funds or effect transactions in relation to the decommissioning of restricted interests.

The Secretary of State is required to provide a report ("a periodic report") every six months to the listed person that in summary form includes a description of the temporary management activities undertaken and the balances held in any temporary management accounts or decommissioning accounts. To the extent the information is held by the Secretary of State, a periodic report must include such information as a listed person may require in order to deal with tax which may arise in respect of the temporary management activities.

Provision is made in Part 4 for a temporary scheme to end.

Part 1

Regulation 1 provides for periodic review of the Regulations by the Secretary of State and the publication of reports further to a review. Regulation 2 lists definitions used in the Regulations.

Part 2

Regulation 3 provides for the matters which must be satisfied before a temporary scheme may be applied to the hydrocarbons interest of a listed person and that, if satisfied, a preliminary notice may be given under regulation 4. A preliminary notice may also be given where a person is not a listed person but the Secretary of State believes that person is likely to become a listed person.

Regulation 4 provides for preliminary notices. These must be given to the listed person and other persons who may be affected by the application of the scheme. The regulation provides for the content of a preliminary notice and requires the Secretary of State to take into account representations received before a decision notice is given under regulation 5. A preliminary notice may be withdrawn before a decision notice is given.

Regulation 5 provides for decision notices. These must be given to the listed person (or the person the Secretary of State believes may become a listed person) and include the Secretary of State's decision whether or not to apply a temporary scheme. The regulation provides for the additional content of the notice where a temporary scheme is to be applied. The Secretary of State must also provide a written statement on how representations received were taken into account and how any matters described in the decision notice differ from the same matters described in the preliminary notice. The decision notice includes the period that a temporary scheme applies ("the management period") and identifies the restricted licence. A decision notice may be withdrawn before the management period commences.

Regulation 6 provides for the extension of the management period by an extension notice given to the restricted person and other persons who may be affected by the extension. Representations concerning an extension may be made to the Secretary of State.

Regulation 7 provides that the management period, including any extension, must not exceed the shorter of five years or the remaining term of the restricted licence.

Part 3

Regulation 8 provides that temporary management activities may be carried out during the management period and the management powers may be exercised to do so. The Secretary of State must review periodically whether or not the continuation of a temporary scheme is necessary to avoid or remediate environmental damage or to prevent permanent destruction of the value of the restricted licence.

Under regulation 9, a person (other than a listed person) may apply to the Secretary of State for a notice ("an Article 43a notice") which authorises a dealing with the Secretary of State when the Secretary of State is exercising management powers, where that dealing would otherwise be in breach of the restrictions listed in Article 43a of the Iran Sanctions Regulation. At the date the Regulations are made, those restrictions are Articles 8, 9, 17(1), 17(2)(b), 23(2) and (3), 30 and 35 of the Iran Sanctions Regulations.

By regulation 10, a restricted person indemnifies the Secretary of State in respect of any liability incurred by the Secretary of State in exercising management powers, except where the Secretary of State acts negligently. The regulation also provides that the Secretary of State is not liable to any person in respect of any cost, expense, loss or other adverse consequence which that person incurs by reason of the application (or not) of a temporary scheme, its termination or the exercise (or not) of management powers, except where the Secretary of State acts negligently.

Regulation 11 prohibits a restricted person from exercising their rights comprised in a restricted interest during the management period. Breach of this prohibition is an offence under regulation 36.

Regulation 12 prohibits a restricted person from exercising their rights comprised in a managed contract or a new contract. Breach of this prohibition is an offence under regulation 36. A party to a managed contract or a new contract (other than the restricted person) owes their obligations under the contract to the Secretary of State acting for the restricted person.

Regulation 13 provides that the prohibition in regulation 10 does not entitle the Secretary of State to revoke a restricted licence or to terminate a pipeline works authorisation which applies to a pipeline which is a restricted interest.

By regulation 14, the Secretary of State may exercise rights comprised in restricted interests.

By regulation 15, the Secretary of State may direct (under regulation 23) that contracts are managed contracts and may exercise the rights of the restricted person comprised in managed contracts on the restricted person's behalf. A liability of a restricted person under a managed contract which is required to be discharged during the rights period must be discharged by the Secretary of State, where it is practicable for the Secretary of State to do so. Where the liability is the payment of moneys, the Secretary of State is only required to discharge the payment where sufficient moneys are available to do so from any temporary management account (see regulation 19). The Secretary of State may discharge liabilities which arose before the rights period and may amend a managed contract with the consent of the other parties to it. Where a joint operating agreement is a managed contract, an operator who under that agreement was an agent for the restricted person, acts instead as agent for the Secretary of State.

Regulation 16 provides that amendments to managed contracts do not continue after the end of the management period.

By regulation 17, the Secretary of State may enter into new contracts on behalf of a restricted person. The period for performance of a new contract may not extend after the end of the management period.

By regulation 18, the Secretary of State may appoint an agent to act for the Secretary of State in the exercise of management powers or to make or receive payments.

By regulation 19, the Secretary of State may set up temporary management accounts with financial institutions or specify an account of a restricted person as a temporary management account. Payments and receipts listed in regulation 20 ("temporary management transactions") may take place using a temporary management account. Funds held in a temporary management account are beneficially owned by the restricted person but, except for temporary management transactions, are frozen funds within the meaning of the Iran Sanctions Regulation.

Regulation 20 lists the payments and receipts which are temporary management transactions.

By regulation 21, the Secretary of State may set up a decommissioning account and pay into and from that account for the purposes of decommissioning a restricted petroleum facility. Funds held in a decommissioning account are beneficially owned by the restricted person (unless a decommissioning contract provides to the contrary) but, except for payments for decommissioning, are frozen funds within the meaning of the Iran Sanctions Regulation.

Regulation 22 provides for periodic reports to a restricted person. Where the management period does not exceed 6 months, only a final report under regulation 33 is required.

By regulation 23, the Secretary of State may give notice to the parties to a contract (except the restricted person) that the contract is to be a managed contract. Provision is made for the period for which the contract will be a managed contract ("the rights period") and for the withdrawal of a notice.

Regulation 24 provides for a contract to cease to be a managed contract.

Part 4

By regulation 25, a temporary scheme ends on the termination date stated in a termination notice or otherwise at the end of the management period.

By regulation 26, the Secretary of State must terminate a temporary scheme before the end of the management period where the restricted person ceases to be a listed person or to continue the scheme is not necessary to avoid or remediate environmental damage or to prevent permanent destruction of the value of the restricted licence. The Secretary of State may in other cases decide to terminate a temporary scheme by a termination notice.

Regulation 27 provides for termination notices and the persons to be given a termination notice.

By regulation 28, a termination notice may be withdrawn.

By regulation 29, where a temporary scheme terminates before the end of the management period ("early termination"), the Secretary of State must give a notice under regulation 23 for a contract to cease as a managed contract.

Regulation 30 provides that where there is an early termination and the performance of a new contract may extend after the termination date, the Secretary of State must terminate that contract.

Regulation 31 provides that where there is an early termination, the Secretary of State must give notice to a financial institution which holds a temporary management account that the account will cease to be a temporary management account from the date stated in the notice.

Regulation 32 provides for payments from a temporary management account up to 30 days after a temporary scheme ends.

Regulation 33 requires the Secretary of State to give a final report to a restricted person and provides for the matters to be contained in a final report.

Part 5

By regulation 34 an information notice may be given. A notice may require the provision of confidential information, subject to limited exceptions. Regulation 35 provides for the persons to whom information notices may be given and for the content of notices.

Part 6

By regulation 36 it is an offence to breach the prohibitions in regulation 11 or 12(1) or to fail to comply with an information notice. Penalties are imposed by regulation 37 in respect of an offence. Regulation 38 provides that offences may be committed by officers of a body corporate and by partners of Scottish partnerships.

Part 7

Regulation 39 provides for the form and content of notices under the Regulations.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

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