STATUTORY INSTRUMENTS

2016 No. 318

PETROLEUM

The Oil and Gas Authority (Levy) Regulations 2016

Made - - - -	*8th March 2016*
Laid before Parliament	*11th March 2016*
Coming into force - -	*1st April 2016*

The Secretary of State for Energy and Climate Change makes the following Regulations in exercise of the powers conferred by sections 42(1) and 53(1) of, and paragraphs 1, 3 and 5 to 7 of Schedule 7 to, the Infrastructure Act 2015(**a**).

Citation and commencement

1. These Regulations may be cited as the Oil and Gas Authority (Levy) Regulations 2016 and come into force on 1st April 2016.

Interpretation

2. In these Regulations—

"charging period" means the period beginning on 1st April 2016 and ending on 31st March 2017;

"licensee" means a person holding a petroleum licence;

"offshore exploration licence" means a petroleum licence of the sort referred to in regulation 2(2)(a) of the Offshore Exploration (Petroleum, and Gas Storage and Unloading) (Model Clauses) Regulations 2009(**b**), relating to an area any part of which lies within offshore waters;

"offshore licence" means an offshore exploration licence or an offshore production licence;

"offshore production licence" means a petroleum licence relating to an area any part of which lies within offshore waters which is not an offshore exploration licence;

"offshore waters" means—

(a) the waters comprising the territorial sea of the United Kingdom, and

(b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**c**);

"petroleum licence" means a licence under—

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

(**a**) 2015 c. 7.
(**b**) S.I. 2009/2814.
(**c**) 1964 c. 29.
(**d**) 1934 c. 36.

(b) section 3 of the Petroleum Act 1998(**a**) (licences to search and bore for and get petroleum).

Liability to pay the levy

3.—(1) Except where paragraph (2) applies, for each offshore production licence which a licensee holds at the relevant time, the licensee is liable to pay, in respect of the charging period, a levy of £6,808.65.

(2) For each offshore production licence—

(a) which a licensee holds at the relevant time, and

(b) under which, at that time, the licensee is entitled to—

(i) erect or carry out any relevant works (within the meaning of the licence) either in the licensed area or elsewhere, for the purpose of getting petroleum from that area or for the purpose of conveying to a place on land petroleum got from that area; or

(ii) get petroleum from that area otherwise than in the course of searching for petroleum, drilling wells or testing wells,

the licensee is liable to pay, in respect of the charging period, a levy of £64,951.96.

(3) Where at the relevant time a licensee is the licensee of an offshore exploration licence, the licensee is liable to pay, in respect of the charging period, a levy of £6,808.65 for that licence.

(4) For the purpose of this regulation the "relevant time" means 12.01a.m. on 1st April 2016.

Payment of the levy

4. Where a licensee of an offshore licence is liable to pay a levy to the Secretary of State in accordance with regulation 3, the Secretary of State must notify that licensee in writing of—

(a) the amount of the levy for which that licensee is liable (and, where that amount has been reduced under regulation 7(5)(a), the notification must say so);

(b) the date by which the amount is required to be paid; and

(c) details of how the payment can be made.

Interest payable on late payment of the levy

5.—(1) Where any amount of the levy notified to the licensee of an offshore licence is not paid in accordance with the notification under regulation 4, the licensee is liable to pay to the Secretary of State interest, calculated in accordance with paragraph (2), on the amount of the levy which remains unpaid.

(2) The interest payable under paragraph (1) is simple interest calculated from day to day on the unpaid amount from the date by which the amount is required until the date when payment is made at a rate of 5 per cent per annum over the Bank of England base rate from time to time.

(3) For the purpose of this regulation the "Bank of England base rate" means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or

(b) where an order under section 19 of the Bank of England Act 1998(**b**) (reserve powers) is in force, any equivalent rate determined by the Treasury under that section.

(**a**) 1998 c. 17.
(**b**) 1998 c. 11.

Recovery of the levy

6.—(1) Where any amount of the levy notified to the licensee of an offshore licence is not paid in accordance with the notification under regulation 4, that unpaid amount together with any interest due in accordance with regulation 5 is recoverable as a civil debt due to the Secretary of State.

(2) Where a licensee of an offshore licence is more than one person, the liability to pay the levy is joint and several.

Repayment or credit of the levy

7.—(1) This regulation applies where the total amount of the levy to be paid by virtue of the 2015 Regulations in respect of the period beginning on 1st October 2015 and ending on 31st March 2016 exceeds the costs incurred by the Secretary of State in exercising the relevant functions referred to in section 42(3)(a) of the Infrastructure Act 2015(**a**) in respect of that period.

(2) Where this regulation applies, the Secretary of State must divide those costs by the total amount of the levy to be paid to 3 decimal places to give the relevant multiplier.

(3) The Secretary of State must then adjust the levy payable by a relevant person under regulation 3 of the 2015 Regulations ("the original levy") by multiplying the amount of that original levy by the relevant multiplier to give the new levy figure payable by that person ("the new levy").

(4) The new levy is to be substituted for the original levy in any notification given, or to be given, under regulation 5 of the 2015 Regulations, and regulation 6 of the 2015 Regulations is to be construed accordingly.

(5) If a relevant person to whom a notification has been given under regulation 5 of the 2015 Regulations has paid more than the new levy—

(a) where that person is liable to pay a levy under regulation 3 of these Regulations, the Secretary of State must either reduce the amount of that liability by the difference between the new levy and the amount actually paid or pay the difference to the person;

(b) in all other cases, the Secretary of State must pay the difference to the person.

(6) In this regulation—

"the 2015 Regulations" means the Oil and Gas Authority (Levy) Regulations 2015(**b**);

"relevant person" means a person who, in respect of the period beginning on 1st October 2015 and ending on 31st March 2016, is liable to pay a levy under regulation 3 of the 2015 Regulations (and includes a person who has discharged that liability in whole or in part).

Signed by authority of the Secretary of State for Energy and Climate Change

Andrea Leadsom
Minister of State
8th March 2016 Department of Energy and Climate Change

(**a**) 2015 c. 7.
(**b**) S.I. 2015/1661.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for imposing a levy on licensees of offshore licences. The levy is payable to meet the expenditure of the Oil and Gas Authority ("the OGA") in carrying out certain functions as set out in section 42(5) of the Infrastructure Act 2015 (c. 7).

The provisions of these Regulations refer to the Secretary of State rather than the OGA since the OGA is an executive agency of the Department of Energy and Climate Change and has no separate legal identity.

Regulation 3 makes provision for the application of the levy to licensees of offshore exploration licences and offshore production licences. The higher levy rate is payable in circumstances where a licensee will be producing petroleum or the relevant consent or approval has been given such that there is nothing preventing a licensee from producing petroleum in respect of that licence.

Regulation 4 provides for the licensees to be notified of the amount of the levy, the time by which it must be paid and the method of payment.

Regulation 5 provides for the payment of interest where the levy is paid late.

Regulation 6 makes provision for any unpaid levy together with interest to be recovered as a civil debt and makes provision for joint and several liability where the licensee is more than one person.

Regulation 7 requires the amount of the levy to be paid by licensees under regulation 3 of the Oil and Gas Authority (Levy) Regulations 2015 (S.I. 2015/1661) ("the 2015 Regulations") to be adjusted if the total amount of the levy to be recovered under the 2015 Regulations exceeds the costs incurred by the OGA in carrying out certain functions during the charging period to which the 2015 Regulations relate.

An impact assessment has not been produced for this instrument since a full impact assessment was produced for the 2015 Regulations. A copy of that impact assessment is available from the Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is available alongside the 2015 Regulations on www.legislation.gov.uk. There has been no change to the methodology in determining the amount of the levy or an extension of the regulatory powers and therefore the burden on business has not increased.

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