STATUTORY RULES OF NORTHERN IRELAND

2010 No. 169

PETROLEUM

The Petroleum Production (Amendment) Regulations (Northern Ireland) 2010

Made - - - -	*30th April 2010*
Coming into operation	*28th May 2010*

The Department of Enterprise, Trade and Investment(**1**) makes the following Regulations in exercise of the powers conferred by section 13(1) of the Petroleum (Production) Act (Northern Ireland) 1964(**2**) and now vested in it(**3**).

Citation and commencement

1. These Regulations may be cited as the Petroleum Production (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 28th May 2010.

Amendment of the Petroleum Production Regulations (Northern Ireland) 1987

2.—(1) The Petroleum Production Regulations (Northern Ireland) 1987(**4**) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (interpretation)—

(a) at the appropriate places in alphabetical order insert—

""the Department" means the Department of Enterprise, Trade and Investment;"

""work programme" means a scheme of prospecting including any geological survey by any physical or chemical means and any test drilling;";

(b) in the definition of "application", for "regulation 3(1)" substitute "regulation 3 of these Regulations and regulation 3 of the Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010";

(c) omit the definition of "Department".

(3) For regulation 2 (applications for licences) substitute—

(**1**) Formerly the Department of Economic Development; see Article 3(5) of the Departments (Northern Ireland) Order 1999 S.I. 1999/283 (N.I. 1)
(**2**) 1964 c. 28 (N.I.)
(**3**) S.I. 1982/846 (N.I. 11) Article 4(1)
(**4**) S.R. 1987 No. 196

"**Applicants for licences**

2. Any person may apply in accordance with these Regulations and regulation 3 of the Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010 for a licence at any time.";

(4) For regulation 3 (applications for licences) substitute—

"**Applications for licences**

3.—(1) An application for a licence shall be made to the Department in writing and shall—

(a) be made on a form provided by the Department for the purpose;

(b) include the information specified in Schedule 1, accompanied by such evidence and particulars or documents in support thereof as are referred to in that Schedule and are appropriate to the application; and

(c) be accompanied by the fee prescribed by regulation 5.

(2) An application for a licence shall be accompanied by a copy of an Ordnance Survey map on a scale of 1:50,000, or such other map as the Department may allow, upon which the boundaries of the area in relation to which a licence is sought are clearly delineated.

(3) In respect of each applicant for a licence which is a body corporate there shall accompany the application two copies of the most recent audited accounts of such applicant and two copies of the most recent audited accounts of any body corporate having control of such applicant.

(4) For the purposes of paragraph (3) whether a body corporate has control of another body corporate shall be determined as if subsections (2) and (4) to (6) of section 416 of the Income and Corporation Taxes Act 1988 applied subject to the following modifications—

(a) in subsection (2) for "the greater part" (wherever it occurs) there shall be substituted "one-third or more";

(b) in subsection (6)—

(i) for "may" there shall be substituted "shall";

(ii) the words from "and such attributions" onwards shall be omitted; and

(iii) any reference to an associate of a person shall be construed as including only a relative of that person (as defined by section 417(4) of that Act), a partner of that person and a trustee of a settlement (as defined by section 620(1) of the Income Tax (Trading and Other Income) Act 2005) of which that person is a beneficiary.

(5) There shall also accompany the application a list of the bodies corporate whose accounts are submitted pursuant to paragraph (3).

(6) Where the most recent audited accounts of a body corporate whose accounts are required to accompany any application are in respect of a period ending on a date more than twelve months before the date of the application, there shall also accompany the application two copies of a balance sheet showing the state of the body corporate's affairs as at the latest date within that twelve months period in respect of which a balance sheet can be made available.

(7) In the case of each applicant who is not a body corporate there shall accompany the application evidence demonstrating that the applicant will have sufficient resources available to undertake the work programme described in the application.

(8) If any of the matters stated in an application or any further information supplied by the applicant shall change after the application is made or after the information is given but before a licence is granted or the Department informs the applicant that the application is refused,

the applicant shall forthwith give notice in writing to the Department of that change, giving particulars of the change.";

(5) For Schedule 1 (form of application for a licence) substitute the Schedule set out in the Schedule.

(6) In Schedule 2 (model clauses)—

(a) in Clause 1(1) (interpretation)—

(i) in the definition of "development scheme" for "Clause 23" substitute "Clause 20(2)";

(ii) at the appropriate places insert—

""initial term" means the period of 5 years beginning on the date of commencement;";

""production period" means, in circumstances governed by paragraph (2)(a) or (b) of Clause 2B, a period of 20 years and, in circumstances governed by paragraph (2)(c) or paragraph (3) of Clause 2B, such period or periods of not more than 20 years in aggregate as the Department shall direct;";

""second term" means the period of 5 years following expiry of the initial term;";

""work programme" means the programme described in Part I of the Schedule to the Licence;";

(b) for Clause 2 (terms of licence) substitute—

"**Terms of Licence**

2.—(1) The Licence unless sooner determined under any of the provisions thereof shall be and continue for the initial term.

(2) The Licence shall, unless the Department in any particular case decides otherwise, automatically cease and determine on the third anniversary of the date of commencement of the initial term in the event of failure by the Licensee on or before such anniversary to—

(a) take the action described in Part I of the work programme; and

(b) undertake to complete on or before the expiry of the initial term the work described in Part II of the work programme.

(3) Subject to paragraph (2), upon expiry of the initial term the Licence shall, provided always that its terms and conditions continue to be performed and observed, be and continue as follows—

(a) subject to Clause 2A, for the second term; and

(b) subject to Clause 2B, for the production period.

Option to continue Licence as to part of the licensed area

2A.—(1) At any time not later than 4 months before the expiry of the initial term the Licensee may—

(a) subject to performance of the terms and conditions herein contained including, without limitation, those set forth in paragraph (2) of this Clause; and

(b) conditional upon due performance by the Licensee of the work programme or, in cases where the Department does not exercise its

discretion under paragraph (2) of Clause 2, the work described in Part II of the work programme on or before expiry of the initial term,

give notice in writing to the Department in the manner hereinafter provided that the Licensee desires the Licence to continue in force in relation to part of the licensed area (hereinafter called "the continuing part").

(2) Where the Licensee gives notice to the Department in accordance with paragraph (1) of this Clause such notice shall indicate that the Licensee will determine the Licence in relation to such part of the licensed area as shall be described by the Licensee in the notice (hereinafter called "the surrendered part") in accordance with the requirements of paragraph (3) of this Clause.

(3) Subject to paragraphs (4) and (5) of this Clause the surrendered part, when taken together with any one or more portions of the licensed area previously surrendered in accordance with Clause 4, shall consist of not less than half of the initial licensed area.

(4) The Licensee shall not be obliged to surrender so much of the licensed area that following such surrender the licensed area comprises less than 10 square kilometres.

(5) The Licensee shall not be obliged to surrender such part of the licensed area as the Department considers, on an application in writing being made to it in that regard by the Licensee, necessary to secure the recovery of petroleum from such area.

(6) Any notice served in accordance with paragraph (1) of this Clause shall specify a date not later than the expiry of the initial term on which the surrendered part is to be surrendered.

(7) The Licence shall, upon the option conferred by this Clause being duly exercised but subject to the provisions of Clause 2 of the Licence, continue in respect of the continuing part for the second term.

Continuance of Licence after the second term

2B.—(1) At any time not later than 4 months before the expiry of the second term the Licensee may, subject to performance of the terms and conditions herein contained, give notice in writing to the Department that the Licensee desires the Licence to continue in force thereafter.

(2) If such notice is given the Licence shall continue in force after the expiry of the second term as provided by the following paragraphs of this Clause in the event that before such expiry—

(a) the Department has in pursuance of Clause 10(4) of the Licence approved a programme submitted to it in pursuance of Clause 10(2) and such approval is still in force upon expiry of the second term;

(b) the Department has served a programme on the Licensee in pursuance of Clause 10(6) of the Licence and such programme is still in force upon expiry of the second term; or

(c) the Department has with a view to securing the maximum economic recovery of petroleum so directed in writing.

(3) Where the Department has given a direction extending the second term of the Licence in pursuance of paragraph (2)(c) of this Clause it may, on notice in writing being given to it by the Licensee not later than three months before the expiry of such extension or before the expiry of any subsequent extension under

this paragraph that the Licensee desires the Licence to continue in force thereafter, give a further direction that the Licence shall so continue in force.

(4) Where the Licence continues in force by virtue of this Clause it shall, subject to the provisions of Clause 2 of the Licence, so continue during the production period.

(5) A direction given by the Department in pursuance of paragraph (2)(c) of this Clause or further direction given by the Department in pursuance of paragraph (3) of this Clause may be given subject to such conditions as it may specify and (without prejudice to the generality of the foregoing) such conditions may, subject to the provisions of paragraph (4) of this Clause, include conditions as to the duration of the extension or further extension (as the case may be) of the second term.

Power further to extend term of Licence

2C. Where the Licence has continued in force by virtue of Clause 2B of the Licence for a total period of 20 years after the expiry of the second term, the Department, on application in writing being made to it not later than 4 months before the expiry of such period, may agree with the Licensee that the Licence shall continue in force thereafter for such further period as the Department and the Licensee may agree in order to secure the maximum economic recovery of petroleum from the licensed area and subject to such modification of the terms and conditions of the Licence (which modification may include making provision for any further extension of the term of the Licence) as the Department and the Licensee may then agree is appropriate.";

(c) in Clause 3 (right of Licensee to determine Licence)—

(i) in paragraph (a) for "first renewal" substitute "second";

(ii) in paragraph (b) for "30 years renewal term" and "18 months'" substitute "production period" and "3 months'" respectively;

(d) in Clause 4 (right of Licensee to surrender portions of the Licensed area) for "paragraph (3) of Clause 2" substitute "paragraph (2) of Clause 2A";

(e) after Clause 4 insert—

"**Consequences of determination or surrender by Licensee**

4A. Upon the date on which any determination of the Licence or any surrender of part or portion of the licensed area in the manner provided by Clause 2A, Clause 3 or Clause 4 of the Licence is to take effect, the rights granted by the Licence shall cease in respect of the licensed area or of the part or portion so surrendered as the case may be but without prejudice to any obligation or liability imposed on the Licensee or incurred by the Licensee under the terms of the Licence prior to that date.";

(f) in Clause 9 (working obligation)—

(i) for paragraph (1) substitute—

"(1) The Licensee shall during the initial term of the Licence carry out with due diligence the work programme or, in cases where the Department does not exercise its discretion under paragraph (2) of Clause 2, the work described in Part II of the work programme.";

(ii) in paragraph (4) omit the words "30 years renewal";