



Oil & Gas  
Authority

# Consultation on proposed changes to model clauses for seaward production licences

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The consultation can be found on the OGAs website:  
[www.ogauthority.co.uk/news-publications/consultations/](http://www.ogauthority.co.uk/news-publications/consultations/)

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## General information

### Purpose of this consultation

This consultation seeks comments on the Oil & Gas Authority's intended proposal to the Secretary of State Business, Energy & Industrial Strategy (BEIS) to change the Model Clauses for Seaward Production Licences. Changes to the Model Clauses are proposed in order to introduce a single type of Seaward Production Licence that provides flexibility for all potential applicants for Seaward Production licences. Several other changes to Seaward Production Licences are also proposed, as detailed further in this Consultation Document. The changes to the Model Clauses are proposed to apply for the 30th Seaward Licensing Round onwards.

The Oil & Gas Authority is seeking the views of the offshore oil and gas industry and other interested stakeholders.

The Oil & Gas Authority is a Government Company of which the Secretary of State for Business, Energy and Industrial Strategy is the sole shareholder.

**Issued: 21 November 2016**

**Respond by: 17:00 6 January 2017**

### Territorial extent

The offshore petroleum-licensing regime, including the Model Clauses for Seaward Production Licences, has UK extent. Seaward Production Licences are awarded for areas in the UK's territorial waters and the UK Continental Shelf.

### Responding to this Consultation

The OGA invites written views and comments on the proposed changes, to be made by 17:00, 6 January 2017. Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Please submit your response by email or in writing to the address below.

The OGA has produced a coversheet for responses submitted by email or post (see Annex A) and asks that you complete and include it with your response, which should speed up the processing of responses, and help to maintain confidentiality where appropriate.

Email or written response to the consultation to be sent to:

Nick Richardson  
2nd Floor, AB1 Building  
48 Huntly Street  
Aberdeen, AB10 1SH  
Tel: 0300 020 1031

Email: [correspondence@ogauthority.co.uk](mailto:correspondence@ogauthority.co.uk)

Representative groups are asked to give a summary of the persons or organisations they represent when they respond.

### **Additional copies**

Other versions of the document in Braille, large print, audio or Welsh can be made available on request. Please contact us using the 'enquiries' details to request alternative versions.

### **Confidentiality and data protection**

The OGA will aim to publish its response to this consultation and a summary of the views expressed within 12 weeks of the close of the consultation.

If you think any part of your response should be kept confidential, please place such part(s) in a separate annex to your response and include your reasons why this part of your response should not be published. For example, this may include information such as your personal background and experience. Therefore, if you want your personal details to remain confidential, please provide them in your coversheet only so that the OGA does not have to edit your response.

If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to the OGA to use for its regulatory remit.

### Quality assurance

This consultation has been carried out in principle with the government's consultation principles.

If you have any complaints about the consultation process (as opposed to comments about the issues, which are the subject of the consultation) please address them to:

Matthew Garland  
21 Bloomsbury Street  
London  
WC1B 3HF

Email: [matthew.garland@ogauthority.co.uk](mailto:matthew.garland@ogauthority.co.uk)

## Introduction

1. This consultation is on the Oil & Gas Authority's intended proposal to the Secretary of State for Business, Energy and Industrial Strategy (BEIS), to change the Model Clauses for Seaward Production Licences. Changes to the Model Clauses are proposed in order to introduce a single type of Seaward Production Licence that provides flexibility for all potential applicants for Seaward Production licences. Several other changes to Seaward Production Licences are also proposed, as detailed in this Consultation Document. The changes to the Model Clauses are proposed to apply for the 30th Seaward Licensing Round onwards.
2. The OGA will review the responses to the consultation and will then make its recommendations to the Secretary of State (BEIS). If these recommendations are accepted then amendments will be made via regulations and will be subject to Parliamentary process and approval.



## Consultation questions

1. Do you have any comments on the proposed changes to introduce the Innovate Licence concept in full, as described under 'Further Proposed Innovate Changes'?
2. Do you have any comments on the proposed change to the definition of the licence's Commencement Date, as described under 'Other Proposed Changes'?
3. Do you have any comments on the proposed flexibility regarding termination in the final term, as described under 'Other Proposed Changes'?

## Policy Background

1. Section 3 of the Petroleum Act 1998 (**'the Act'**) empowers the Secretary of State to grant licences to search and bore for and get petroleum. Section 4 of the Act requires the Secretary of State to make regulations prescribing (among other things) model clauses which shall, unless he thinks fit to modify or exclude them in any particular case, be incorporated in any such licence.
2. The Oil & Gas Authority (**'the OGA'**), a Government Company whose shareholder is the Secretary of State for Business, Energy and Industrial Strategy (BEIS), administers the oil and gas licensing system. Oil and gas licensing administration has been carried out by the OGA since 1 April 2015. The OGA became a Government Company, and certain functions regarding oil and gas licensing administration transferred to it via legislation to the OGA, on 1 October 2016.
3. The OGA issues licences through competitive licensing rounds. On 18 March 2015, the former Chancellor of the Exchequer announced the provision of £20 million of funding for a programme of seismic surveys to boost offshore exploration in under-explored areas of the UK Continental Shelf. These areas are the subject of the 29th Seaward Licensing Round, which was launched on 27th July 2016 with an invitation for licence applications<sup>1</sup>. The 30th Seaward Licensing Round is provisionally scheduled to take place in 2017, and will cover mature, better-explored areas that have not been included in the 29th Seaward Licensing Round.
4. As part of the principal objective of maximising economic recovery of UK petroleum (set out in Part 1A of the Petroleum Act 1998), the OGA is considering how the current structure for Seaward Production Licences could be improved and updated.
5. Before the 29th Seaward Licensing Round, and after discussions with industry, the OGA devised the 'Innovate' concept for Seaward Production Licences. Leaflets on the 'Innovate' concept were made available at conferences and a number of presentations on the concept were also given (see [https://www.ogauthority.co.uk/media/1032/exploration\\_forum\\_-\\_aberdeen.pdf](https://www.ogauthority.co.uk/media/1032/exploration_forum_-_aberdeen.pdf)). The 'Innovate' concept is intended to improve the flexibility of the Seaward Production Licence and enable licences to be tailored to each licensee's stated plans.

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<sup>1</sup> Information about which can be found at: <https://oga.thistle.itecc.local/news-events/latest-announcements/2016/oga-launches-29th-offshore-licensing-round/>

6. As the Innovate concept has been generally well-received by Industry as part of the 29th Seaward Licensing Round, the OGA is proposing to offer licences that incorporate the basic framework of the Innovate concept.
7. In this regard, it has been proposed that the Work Programme for the Initial Term be divided into phases and the applicant can propose the length of the Initial Term. (See the [Guidance](#), which accompanied the launch of the 29th Seaward Licensing Round for more information on the Innovate changes introduced in that Round.)
8. As some of the ‘Innovate’ concept has been introduced as part of the 29th Seaward Licensing Round, licences awarded in this round are sometimes referenced as ‘Innovate Licences’.
9. However, the OGA considers that, in order to introduce the full benefit of the ‘Innovate’ concept, certain amendments are needed to the current Model Clauses for Seaward Production Licences (set out in the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008 (the ‘**Regulations**’)<sup>2</sup>) (the ‘**Model Clauses**’), which is the subject of this consultation.
10. On finalising this consultation exercise, the OGA will then make appropriate recommendations to the Secretary of State BEIS to amend the Model Clauses; if the SoS accepts these recommendations such amendments are likely to be achieved by the introduction via Parliament of new Regulations replacing the previous Regulations.
11. It is worth noting that the Model Clauses for licences already held would not change, and that licences to be awarded in the 29th Seaward Licensing Round will be subject to the current Model Clauses, so that the proposed changes being consulted on are relevant for the 30th Seaward Licensing Round onwards.
12. At the same time as proposing changes to the Model Clauses to implement the Innovate concept in full, the OGA is also proposing other changes to the Model Clauses aimed at simplifying the Model Clauses, to contribute to the principal objective of maximising economic recovery of UK petroleum.

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<sup>2</sup> [http://www.legislation.gov.uk/uksi/2008/225/pdfs/uksi\\_20080225\\_en.pdf](http://www.legislation.gov.uk/uksi/2008/225/pdfs/uksi_20080225_en.pdf)

## Innovate Licences

13. The OGA has devised the Innovate concept for future Seaward Production Licences.
14. The Work Programme is one of the factors taken into account in choosing between competing applications for the same acreage. A Work Programme may include several work elements but it should always include either a firm or a Contingent drilling commitment or a Drill-or-Drop element.
15. Each licence provides that it will expire at the end of the Initial Term if, among other things, that the Work Programme has not been completed. In some cases, the licence may additionally provide that it will expire at a certain point during the Initial Term if the licensee has not by then made a firm commitment to drill the well specified in the Work Programme.
16. Except in special circumstances, the duration of the Initial Term was the same for all licences of a particular type – for example, four years for all Traditional Seaward Production Licences in the 28th Round.
17. The Applicant proposes an Initial Term Work Programme that it considers appropriate should it be awarded a licence. This would be discussed by the OGA and, if a licence were awarded, that Work Programme would be set out in the licence document.
18. In the Innovate concept, the applicant will propose not only a Work Programme but also the duration of the Initial Term that it considers to be appropriate to its Work Programme, and the Work Programme may be divided into as many as three phases; the number in any case again being for the applicant to propose according to its plans.
19. Phases into which the Initial Term may be divided are:
  - Phase A for activities other than seismic surveys and drilling and which come ahead of either in an applicant's plans, such as the acquisition and reprocessing of existing data and other desk-based geo-scientific or engineering studies;
  - Phase B for the shooting of new seismic and other geophysical data; and
  - Phase C for drilling exploration and appraisal wells.

20. Each applicant will propose such phases as are appropriate for its particular circumstances. For example, there might be only a Phase A and a Phase C if the applicant has already acquired enough seismic data that there is no need for a Phase B for further seismic acquisition. If a licensee proposes a Work Programme that can be broken into several of these phases, the Work Programme will specify the work required to be completed in each Phase.
21. The OGA will consider these proposals along with the other elements of the application, discuss them with the applicant and will offer licences that it is satisfied are appropriate to deliver its objective of MERUK.

## Proposed Changes

22. The OGA is now proposing the following changes in order to introduce the Innovate Licence concept in full for the 30th Seaward Licensing Round onwards, each of which will require an amendment to the Regulation:

23. With the new flexibility over the length of the Initial Term that is allowed by the Innovate concept, it is important to ensure that valuable exclusive rights are not retained throughout a longer Initial Term unless the licensee carries out the agreed Work Programme on time.

### **Amendment 1:**

***The OGA proposes that the licence will expire at the end of each of the Initial Term Phases if the licensee has not achieved certain milestones that justify the retention of exclusivity into the next phase.***

24. At the end of Phase A and the end of Phase B the licence will expire unless:

- (i) the Licensee has completed that part of the Work Programme that has been allocated to that phase;
- (ii) the Licensee has made a commitment to carry out the work required for the following phase of the Work Programme before the expiry of that phase; and
- (iii) the OGA is satisfied that the Licensee has the financial and technical capacity to carry out the work.

### **Amendment 2:**

***Any individual element of a Work Programme may specify an associated deadline by which the work is to be done, and the Licence shall expire if the work has not been completed by then.***

25. The OGA will consider specifying such deadlines as part of its consideration of the proposed Work Programme, and is most likely to do so within a phase that is longer than usual.

26. For example, a Work Programme might provide for a Phase C that allows four years to drill but requires a seabed survey within its first year; the licence will cease and determine after one year if that latter commitment is not met, unless the OGA decides otherwise.

### **Amendment 3:**

***A mechanism by which the licensee may propose, and the OGA may agree, an amendment of the Work Programme.***

27. Such amendments may be appropriate when, for example, improved knowledge and changed circumstances suggest the need for revision of the Work Programme. The OGA proposes that this may be done by notice, in response to a request from the licensee. That would remove the need for a Deed of Variation, which would be less burdensome for both licensees, and the OGA.

**Amendment 4:**

***The Petroleum Licensing (Applications) Regulations 2015<sup>3</sup> to be amended so that all of the provisions that previously applied to applications for ‘Promote’ Production Licences are applied to applications for Innovate Licences.***

28. In these Regulations, requirements to provide information at Sch3, para 2, and Sch 3, para 1, are dis-applied in the case of applications for Promote licences because that information is not appropriate in those cases. The information will also be inappropriate in the case of applications for Innovate licences unless the proposed Work Programme starts with either Phase A or Phase B; the OGA therefore proposes that these requirements should be dis-applied unless the proposed Work Programme begins with its Phase C (drilling).

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<sup>3</sup> [http://www.legislation.gov.uk/uksi/2015/766/pdfs/uksi\\_20150766\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/766/pdfs/uksi_20150766_en.pdf)

## Other Proposed Changes

29. In addition, the OGA is proposing the following changes to the Model Clauses, which are not part of the Innovate 'concept'.

### Commencement Date

***A licence should commence on the day it is executed.***

30. Currently, a Seaward Production Licence (whether Traditional, Promote or Frontier) commences on the later of the Start Date and the date that the licence is granted (**Model Clause 3**). (The Start Date is the date from which the time period for the Initial Term starts.)

31. This can be detrimental to Licensees because, occasionally, the execution of a licence can be delayed for a significant period by, for example, the time taken to get all the parties to execute the document or for other unforeseen circumstances. The licence then would not come into force until considerably after the Start Date and the licensee would consequently have less time than expected to complete the Work Programme.

32. It is, therefore proposed that a licence should commence on the earlier of the Start Date and the day it is executed; this will minimise the chances that unexpected delay will cut into the duration of the licence, without removing the need for the applicant to make a

timely decision whether or not accept the offer of a licence.

### Termination provisions

***All licences to have termination provisions that allow a licence to last for as long as justified by the need to cover continuing production, without further amendment to the Licence being needed.***

33. In 2009-2010, provisions were discussed with OGUK and those licensees that were party to first and second-round licences that prolonged licences past their original expiry dates where necessary to allow working oil and gas fields to continue in production.

34. The OGA proposes that the Secretary of State introduces similar provisions to the Model Clauses for future licences.

35. This would allow licences to continue from areas (i.e. fields) where production is continuing or is just about to commence, and would allow rights to be terminated in areas where production has not begun, or where it has begun and permanently ceased.

### Operational Amendments

36. The OGA also intends to recommend to the Secretary of State changes to the Model Clauses for Seaward Production licences, to clarify certain operational



references. The OGA has provided information on these potential changes below for completeness, but does not propose to consult on these.

### **Remove the requirement for sonar beacons.**

37. Paragraph (3) of **Model Clause 44** makes provision for the installation of sonar beacons at the licensee's expense to temporary structures, but it has been made redundant since 2013 by BEIS's addition of a new condition, with the same effect, in its Consents to Locate. Therefore, the OGA is to propose to the Secretary of State that the requirement could be removed from the Model Clauses.

### **Replace references to Tax Acts.**

38. **Model Clauses 40(4)** and **41(4)** contain references to provisions in the Income and Corporation Taxes Act 1988, which have been repealed and replaced by similar provisions in the Corporation Tax Act 2010. Therefore, the OGA is to propose that the Secretary of State update the Model Clauses accordingly. The corresponding reference in the Model Clauses for Landward Petroleum Exploration and Development Licences (see the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) to be amended in the same way.

## Next Steps

The deadline for responses to this consultation is 17:00, 6 January 2017.

The OGA will review the responses to the consultation and will then make its recommendations to the Secretary of State BEIS to make the proposed amendments.

Decisions resulting from this consultation will be made public with a summary of the views expressed and the reasons for the decisions finally taken. If the SoS accepts the OGA recommendations then regulations will need to be agreed by Parliament before being introduced.

The OGA will review consultation responses throughout the consultation, with the aim of publishing a response within 12 weeks of the closing date in order to ensure certainty for industry. If you would like to be notified by e-mail when the response is published, please indicate this in your response.

# Regulatory Impact Assessment and Equality Impact Assessment

The proposal to change model clauses for seaward production licences and the introduction of a single, phased license will allow industry to develop work programmes that are best suited to their circumstances. The new licence will offer improved flexibility and choice to operators while allowing operators to continue to have the option to retain 29th round model clauses. It has been concluded that the proposed changes will therefore impose no additional cost on business.

The OGA has a general duty under the Equality Act 2010 in carrying out its functions to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and,
- foster good relations between different groups.

Further details can be found at:

<https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.



Annex A: Response coversheet

To: Nick Richardson, OGA, AB1 building, 48 Huntly Street, Aberdeen, AB10 1SH

Your Details

Name:

Company/Organisation:

Position:

E-mail address:

Address:

Representing:

Confidentiality

Please tick below if you consider any part of your response is confidential, giving your reasons why:

Nothing	<input type="checkbox"/>	Name/contact details/position	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Company/organisation	<input type="checkbox"/>
Part of the response If there is no separate annex, which parts?	<input type="checkbox"/>		

If you want any part of your response, your name or your organisation to be kept confidential, can the OGA still publish a reference to the contents of your response including (for any confidential parts) a general summary that does not disclose the specific information or enable you to be identified? YES / NO

Declaration

I confirm that the correspondence supplied with this coversheet is a formal consultation response that the OGA can publish, except as indicated above.

However, in supplying this response, I understand that the OGA may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations.

If I have sent my response by email, the OGA can disregard any standard e-mail text about not disclosing email contents and attachments.

The OGA may wish to publish responses on receipt. If your response is non-confidential (in whole or in part), but you would prefer us to publish your response only once the consultation has ended, tick here.

Name:

Signed (if hard copy):