

SL(5)253 – The Petroleum Licensing (Charges) (Wales) Regulations 2018

Background and Purpose

These Regulations make provision for the Welsh Ministers to charge fees in respect of an application to them for a petroleum licence under the Petroleum Act 1998 and for consents required under those licences for various listed activities and matters.

Section 23 of the Wales Act 2017 transfers licensing functions under Part 1 of the Petroleum Act 1998 to the Welsh Ministers, in relation to the Welsh onshore area. Those provisions are due to come into force on 1 October 2018 and these Regulations are therefore made on an anticipatory exercise of powers basis.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Three points are identified under Standing Order 21.3 in respect of this instrument.

- 1. SO 21.3(i) – the instrument contains provisions requirement payments to be made to the Welsh Consolidated Fund or any part of the government in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.**

These Regulations contain provision prescribing the fees payable to Welsh Ministers in connection with applications to them for a petroleum licence and for various consents in connection with petroleum licensing. Such payments will be required to be paid into the Welsh Consolidated Fund pursuant to section 188(13) of the Energy Act 2004.

- 2. SO 21.3(ii) – the instrument contains provisions which gives rise to issues of public policy likely to be of interest to the Assembly.**

Regulation 4 sets out a formula for determining the fee payable upon application for the Welsh Ministers' consent to a development and production programme. The fee payable is a fixed sum (of £595) multiplied by the number of days of officer time required to determine the application.

The cost to an applicant will not therefore be known at the point that an application is submitted. However, the applicant will nevertheless be committing to incur that application cost by submitting the application.



The Explanatory Memorandum to these Regulations notes that the *"rationale for this approach is this type of application varies greatly from one case to another. If a standard fee was applied it would result in more straightforward applications subsidising the cost of more complex applications which take longer to determine"*.

3. SO 21.3(ii) – the instrument contains provisions which gives rise to issues of public policy likely to be of interest to the Assembly.

Regulation 8(3) provides that any fees due under these Regulations are recoverable as a civil debt. The Welsh Ministers will therefore be able to recover overdue sums of money from applicants summarily through magistrates' courts in accordance with the Magistrates' Courts Act 1980.

The Explanatory Memorandum to these Regulations notes that *"without this provision, the Welsh Ministers would first have to litigate to prove the debt and obtain a court judgement before it could then seek to enforce the judgment and recover the sums due. This would involve unnecessary expense to the public purse"*.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

14 September 2018

