PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT OIL AND GAS AUTHORITY (OFFSHORE PETROLEUM) (DISCLOSURE OF PROTECTED MATERIAL AFTER SPECIFIED PERIOD) REGULATIONS 2018

Tuesday 17 July 2018

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 21 July 2018

The Committee consisted of the following Members:

Chair: MARK PRITCHARD

Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Crabb, Stephen *(Preseli Pembrokeshire)* (Con)
† Garnier, Mark *(Wyre Forest)* (Con)
† Harris, Rebecca *(Lord Commissioner of Her Majesty's Treasury)*
† Harrison, Trudy *(Copeland)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Henderson, Gordon *(Sittingbourne and Sheppey)* (Con)
† Jack, Mr Alister *(Dumfries and Galloway)* (Con)
Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Perry, Claire *(Minister for Energy and Clean Growth)*
† Smith, Nick *(Blaenau Gwent)* (Lab)
Stevens, Jo *(Cardiff Central)* (Lab)
† Swayne, Sir Desmond *(New Forest West)* (Con)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
† Zeichner, Daniel *(Cambridge)* (Lab)

Jenny Burch, *Committee Clerk*

† attended the Committee

Eighth Delegated Legislation Committee

Tuesday 17 July 2018

[Mark Pritchard *in the Chair*]

Draft Oil and Gas Authority (Offshore Petroleum) (Disclosure of Protected Material after Specified Period) Regulations 2018

2.30 pm

The Chair: Given the temperature today, colleagues who want to take off their jackets should feel free to do so.

The Minister for Energy and Clean Growth (Claire Perry): I beg to move,

That the Committee has considered the draft Oil and Gas Authority (Offshore Petroleum) (Disclosure of Protected Material after Specified Period) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Pritchard. I removed my jacket some time ago. All members of the Committee would agree that the UK's offshore oil and gas industry is one of the country's great industrial successes. However, as we know, it has faced numerous challenges over the years, including ageing infrastructure and growing international competition. That is why in 2013 we asked Sir Ian Wood to conduct a review of the offshore sector to see how we could maximise the economic recovery of petroleum. One recommendation of that excellent review was to ensure that the industry had timely and transparent access to petroleum-related information and samples, such as data about reservoir infrastructure or pieces of strata—bits of rock—acquired in the course of drilling a well.

The Government committed to implementing the Wood review and included various powers in the Energy Act 2016 on information and samples. For example, there is a requirement for relevant persons in the industry to retain certain pieces of information and samples for a specified period, as set out in the Oil and Gas Authority (Offshore Petroleum) (Retention of Information and Samples) Regulations 2018. We also introduced safeguarding plans for information and samples for when licence events such as termination occur. At that time, the Oil and Gas Authority was given powers to require relevant persons to provide it with samples they hold that it may need in order to discharge its regulatory role and to contribute towards the highly welcome objective of maximising economic recovery of offshore petroleum. The regulations we are considering are the final piece of the picture. Once information or samples have been acquired by the OGA, the regulations will enable it or a subsequent holder to make the material available after a specified period.

We are all bound by the 2016 Act, which places a general prohibition on the disclosure of protected material, subject to certain exemptions. Indeed, one such exemption permits the OGA or a subsequent holder to make protected material available at such time as may be specified in regulations. Such material might include information about geological surveys, wells drilled, petroleum production and other reports or computerised models of the subsurface or a reservoir—the Committee will know I believe we lead the world in subsurface analysis and geological data collection. It also includes samples of petroleum, fluids or strata acquired or created when drilling or producing from a well and could include information about installations and maps of infrastructure or pipelines associated with offshore petroleum development—it is vital to know where they are.

The Delegated Powers Committee made a recommendation, and of course we listened, so the 2016 Act included a list of factors to which the Secretary of State for Business, Energy and Industrial Strategy must have regard when determining the appropriate period after which protected materials may be made available. There are three aspects to that requirement. First, companies must have had sufficient time to satisfy the purpose for which they created or acquired the information or samples. Secondly, there is the potential chilling effect of requiring disclosure in discouraging future activity, which would be counter to the stated aim of maximising economic recovery. Finally, what is the benefit to industry and the economy in making samples and information more widely available? Each of those factors must be taken into account when setting the period after which disclosures can be made.

The periods may vary from immediate disclosure for basic information that is not deemed to be sensitive, such as the fact that a survey had been done, to 15 years for raw information from seismic surveys, which are both expensive to do and could contain highly significant commercially relevant data. While care has been taken to ensure that the specified times are set appropriately, there is no requirement to publish the material. Indeed, the OGA could consider keeping information confidential for a longer period, but it would be asked to weigh up the impact of that against delivering its statutory objective on the maximising economic recovery principle.

These are very technical regulations—I anticipate that the hon. Member for Southampton, Test will have gone through them in great detail—but the proposals on which they are based were subject to consultation with industry and other interested parties by the OGA.

The OGA has published a consultation response, detailing the feedback and what it has done with it, such as excluding more subjective information from immediate release. The OGA will continue to provide guidance on the application of the regulations before they come into force. We did not need to carry out a full impact assessment because the additional impact of disclosure under the regulations is expected to be marginal, but there are, potentially, some minor costs on industry due, for example, to familiarising staff and systems with the regulations.

The OGA considers that improvements to information retention, reporting and disclosure processes, including through the regulations, are critical to achieving the statutory objective of maximising the economic recovery of the UK's offshore petroleum reserves and, by doing so, to increasing the productivity levels of a vital industry and ensuring that its highly paid jobs are maintained for as long as possible. The changes are expected to make an important contribution to the OGA's vision for the industry, which suggests that maximising economic

recovery could create £140 billion of additional gross value added for the UK and create thousands of jobs right across our nations. In addition, they could facilitate the reuse of reservoirs and infrastructure for other purposes, including for carbon capture utilisation and storage. I am sure that the Committee will be delighted to know that, despite the cancellation of the original CCS competitions, we have spent since that point more than £300 million on continuing to map and understand our reservoirs, and that we are considered to have the best reservoirs for long-term carbon storage in the world, which will potentially open up huge opportunities when we continue to work with industry to come up with economically viable ways of performing CCS.

Although the regulations are highly technical, they are an important and useful addition to the regulatory framework and I commend them to the Committee.

2.36 pm

Dr Alan Whitehead (Southampton, Test) (Lab): When I received the statutory instrument I had the momentary thought that it was an SI upon which I would have nothing at all to say. But I stayed in that fugue for only a brief period and then decided that, after all, there were things to say.

As the Minister mentioned, the regulations derive from the 2016 Act, the lengthy passage of which I sat through, so it is good to see here the principle that was put into that Act regarding information relating to all aspects of oil and gas exploration, production and decommissioning, which is that the OGA should make publicly available, at the earliest possible date, material it receives and, indeed, material required to be provided to it under the Act. That principle is absolutely right and, as the Minister said, it is potentially important in ensuring that information about future exploration surveys and so on, with proper safeguards, is essentially in the public domain, so that we can learn from each other as far as the future activities in the North sea are concerned. The Opposition thought that was the right thing to do at the time, and the more detailed provisions in the statutory instrument are certainly a good development of the principle.

However, I have two slight concerns about the SI's structure. The Minister mentioned that the guidance on the period before publication of anything provided to the OGA will be determined by various considerations relating to privileged information about a company's economic activities. I imagine that the extent to which that information is published could discourage people from investing in the first place, under certain circumstances. There are also various other things that came before the Department after the Act was passed.

The provisions for publication seem a little random. If someone carries out a geological survey on behalf of the holder of a production licence, the material is not publishable for a period of five years. If it is carried out other than by or on behalf of the holder of a production licence, the period is 10 years. For summary well information, the material is publishable on the date on which the information is obtained by the OGA. There does not seem to be a consistent thread running through those provisions.

In the guidance for the regulations, I could not find exactly how those dates of publication restraint, or dates of publication, had been determined. There does not appear to be a principles manual that underlines the publication of material. That could be important because somebody who wants to get hold of that information could say, "Actually, the restraint on this information has not been determined by a fully worked-out process," and that might therefore be actionable in terms of the material's publication.

Conversely, since several regulations require the publication of information on the date on which the information is obtained by the OGA, that could be a recipe for encouraging people to go slow on providing information to the OGA. In the 2016 Act, there are sanctions for long-term non-co-operation with the OGA in a variety of ways, but there is nothing that says, "You'd better be reasonably smart about providing the information by a certain period, otherwise the sanction regime will come in and it's the worst for you." There is a question about whether some elements of the regime, welcome and positive though it is in terms of publication, can avoid suppressing the likelihood of that information coming forward so that the OGA can publish it.

Other than that, this is a well-crafted set of regulations that should greatly enhance the ability of the industry and the general public to understand what is happening in the North sea, and, where appropriate, to be supplied with that material in a reasonably timely fashion. Therefore, we do not wish to oppose or divide the Committee on the motion. It would be good if the Minister gave some guidance on some of the issues that I have raised, as I hope she will be able to—a little note has just appeared in her hand—and we can then finish the proceedings on a note of concordance.

2.44 pm

Claire Perry: Would it not be nice to have that running through all debates? As always, the hon. Member for Southampton, Test has asked some sensible questions. The information that I have been provided with suggests that the OGA has consulted industry extensively on the periodicity of the provision of information. Further guidance will be forthcoming if people want it.

The hon. Gentleman prompted a question in my mind, which was, what happens if a person who requests information disagrees with the period for which that information is retained? Basically, appeal provisions are set out in the Energy Act, which he sat through in Committee, that say non-compliance with a reporting notice is sanctionable. The OGA has dedicated compliance personnel who already ensure compliance with other aspects of information and samples powers, and it can set a deadline for the provision of information with which companies must comply. I hope that answers his sensible questions.

Dr Whitehead: I would be grateful for clarification on one more point. As is set out in the regulations and the guidance, the Minister mentioned that the OGA is not required necessarily to publish according to the lines that are set out in the regulations and that it may not publish as a result of representations by companies that say there would be particular problems.

Unless there is subsequently some form of code that relates to that, the OGA could put itself in the situation of not recording the circumstances under which it has declined to publish something that it should have done,

[Dr Whitehead]

or, if it has declined to publish something that it should have done, what its justification for doing so was. That might make some of those actions actionable, if someone wanted something to be determined according to what the regulations had set out, but the OGA had declined to publish it for reasons that it had not put forward. There may already be guidance on that, but if the Minister could assure me on that point, it would be helpful.

Claire Perry: It is an important question. Essentially, the OGA has to pay attention to the objective of maximising economic recovery. It is therefore a judgment question for it as to whether it makes information available. We have now set out more guidance on the timeframes, depending on different sorts of information, but it may make a judgment that it will not publish because it would inhibit the delivery of that objective. For example, a field or licence report that might be subject to a shorter reporting period could contain confidential seismic data that is subject to a longer protection.

The hon. Gentleman will know from his time on the Energy Act Committee that many of those compliance and appeal requirements were set out in that Act. I will ask the team to draft a note to him so he can be satisfied that that power of judgment is being exercised correctly and that appropriate appeal routes are in place if there is a sense that it is not.

It is always a pleasure doing business with Her Majesty's official Opposition, because we have a thoughtful discussion. It is rather disappointing that Scottish National party Members never bother to show up to debates about this vital industry these days. Luckily, I have my hon. Friend the Member for Dumfries and Galloway behind me, but, if I may be so partisan, having a political party that does not effectively represent the most economically valuable industry in that geographical area is disappointing. With those remarks, having hopefully reassured the hon. Member for Southampton, Test on his good questions, I commend the regulations to the Committee.

Question put and agreed to.

2.49 pm

Committee rose.