

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT POLLUTION PREVENTION AND
CONTROL (FEES) (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2022

Tuesday 24 May 2022

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Saturday 28 May 2022

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The Committee consisted of the following Members:

Chair: † HANNAH BARDELL

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| † Aldous, Peter (<i>Waveney</i>) (Con) | † McDonald, Andy (<i>Middlesbrough</i>) (Lab) |
| † Baillie, Siobhan (<i>Stroud</i>) (Con) | † Scully, Paul (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Baker, Duncan (<i>North Norfolk</i>) (Con) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Baldwin, Harriett (<i>West Worcestershire</i>) (Con) | † Wakeford, Christian (<i>Bury South</i>) (Lab) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Browne, Anthony (<i>South Cambridgeshire</i>) (Con) | † Wild, James (<i>North West Norfolk</i>) (Con) |
| † Fletcher, Mark (<i>Bolsover</i>) (Con) | |
| † Greenwood, Lilian (<i>Nottingham South</i>) (Lab) | Jack Edwards, Anna Kennedy-O'Brien, <i>Committee Clerks</i> |
| † Johnson, Gareth (<i>Dartford</i>) (Con) | |
| † Levy, Ian (<i>Blyth Valley</i>) (Con) | |
| McDonagh, Siobhain (<i>Mitcham and Morden</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Tuesday 24 May 2022

[HANNAH BARDELL *in the Chair*]

Draft Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022

2.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Paul Scully): I beg to move,

That the Committee has considered the draft Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022.

It is a pleasure to serve under your chairmanship, Ms Bardell.

The draft regulations were laid before the House on 25 April. As the environmental regulator of the offshore oil and gas sector, which I will refer to as the offshore sector, the Department for Business, Energy and Industrial Strategy's Offshore Petroleum Regulator for Environment and Decommissioning—snappily abbreviated to OPRED—recoups the costs of its regulatory functions from the offshore sector rather than the taxpayer.

OPRED minimises the impact of the offshore sector on the environment by controlling air emissions and discharges to sea, and minimising disturbance over the lifecycle of operations, from seismic surveys through to post-decommissioning monitoring. Its recoverable costs are covered in two ways: in regulations covered by the fees regulations; and by five fee schemes that do not require legislative change and which will be amended administratively.

OPRED's average annual fees income is £6.2 million, which is recovered from about 120 companies. It recovers its costs via fees based on hourly rates. The fees that OPRED charges are currently based on hourly rates of £197 for environmental specialists and £108 for non-specialists. Specialists are technical staff who carry out the functions of the Secretary of State, and non-specialists are support staff. The current hourly rates have been in force since June 2021. OPRED reviewed the cost base and concluded that the existing hourly rates needed to be revised to reflect the present costs to OPRED for providing regulatory services.

Alan Brown (Kilmarnock and Loudoun) (SNP): Will the Minister provide a bit more detail about the qualification level of environmental specialists that merits their high rate, and the qualifications of non-specialist support staff, given that their rate is still very substantial at £104 an hour?

Paul Scully: The headline figure is less to do with personal specialisms, and more to do with admin and back office specialisms. Support staff obviously have a different point of view from the specialists looking at the exact decommissioning services that OPRED tackles.

The draft regulations will amend the charging provisions by increasing the existing hourly rates for environmental specialists to £201 and decreasing the hourly rate for non-specialists to £104; that reflects the administrative whole, rather than the individuals themselves. The fees are determined by adding together the hours worked by specialists and non-specialists on cost-recoverable activities, multiplied by the hourly rates. The new hourly rates were approved by the Treasury in March and were calculated in line with the Treasury's "Managing public money" guidance. They cover the expenditure on all resources used by OPRED to support its activities—for example, staff salaries, accommodation, IT and legal services.

OPRED's costs-recoverable functions include, for example: the evaluation of applications and issuing of consents for seismic surveys, and conducting assessments of the likely environmental effects of proposed projects; assessing operators' oil pollution emergency plans; and compliance monitoring through inspections. The payable fees will be revised by small amount to enable OPRED to recover its eligible costs. OPRED's fees regime guidance will be revised to reflect the new hourly rates. OPRED informed the offshore sector of the planned revisions to the hourly rates, and no representations were received.

The revisions to the hourly rates introduced by the regulations will allow operators to recover the costs of providing regulatory services from those who benefit from them, rather than the costs being passed on to the taxpayer. I hope that hon. Members will support the regulations, which I commend to the Committee.

2.34 pm

Dr Alan Whitehead (Southampton, Test) (Lab): The statutory instrument before us is about as non-controversial as it gets. There has clearly been a regime in place previously relating to OPRED'S activities and fees. As the Minister elucidated in response to the question of the hon. Member for Kilmarnock and Loudoun, OPRED has a regime whereby the total back office costs of the activities related to its inspections and so on are calculated and categorised into the number of hours for which the activity is undertaken and what is cost-recoverable. The level of fees are then determined by the whole calculation together.

The distinction between the specialist officers and the non-specialist officers is that the first are the technical staff who carry out the relevant functions of the Secretary of State and the latter are the administrative staff who back up that work. The average number of hours per annum spent on potentially cost-recoverable activities is suggested to be 1,243. The total amount recovered by OPRED appears to be about the same under the new arrangements—the marginal increase in rates for specialist officers compared with the marginal decrease in rates for non-specialist officers—as the average recovered from industry in previous years, and that figure is £6.2 million.

The problem with all this is that the figures that have been provided by the Minister—for hours, and previous and present costs—do not add up to £6.2 million. Indeed, they add up to substantially less. Either my calculations are badly out or there is a missing money problem, concerning the total amount recovered by OPRED and the mechanism for recovery that is set out in the explanatory memorandum, as the Minister said.

I invite hon. Members to get out the calculators on their mobile phones—to do rather better business with their mobile phones than perhaps some hon. Members are doing at the moment—and just to multiply one number by the other. If they do so, they will see that the two sums do not add up. I wonder what the explanation is. I do not think that any inspiration is likely to come to the Minister this afternoon, so unless he has an explanation right now, perhaps he could write to me on the matter.

I am happy that the instrument is not controversial, but I think we ought to know what is in the total sum recovered by OPRED per annum, so that we can be sure that what is being recovered from industry is a proper representation of the work that is undertaken and the detailed rationale that is set out in the explanatory memorandum. Other than that, the Opposition have no intention of pushing the SI to a vote and are happy to see it pass, subject to that bit of information coming my way.

2.40 pm

Alan Brown: It is a pleasure to serve under your chairmanship, Ms Bardell.

I will not delay the instrument much longer and will certainly not vote against it, because as the shadow Minister—the hon. Member for Southampton, Test—said, it is pretty non-controversial. I just wonder whether the Minister will provide a wee bit more information on the different duties and qualifications of specialist and non-specialist staff. Paragraph 7.4 of the explanatory memorandum mentions that the number of hours worked in recoverable duties is 1,243, which is less than one full-time equivalent person, so will he provide some more information on staffing levels?

2.40 pm

Paul Scully: I am glad to hear that overall I have provided the necessary assurances for the Committee to approve the statutory instrument, but I appreciate the valid questions that have been asked.

OPRED's accrued income is about £6.2 million per year, as the hon. Member for Southampton, Test said. The majority is charged to the offshore sector, with less

than £100,000 charged to the North Sea Transition Authority, which is largely for the provision of advice related to licence transfers, and the appointment of operators and monitoring compliance with an offshore licensee's obligations to make adequate provision to cover potential environmental damage liabilities deriving from their operations.

OPRED bills about 120 companies and the NSTA on a quarterly basis, but the fees are determined by adding together the number of hours worked by specialists and non-specialists on cost-recoverable activities multiplied by the applicable hourly rates. That is the chargeable amount, but there is something like £10 million of overall running costs for OPRED's environmental operations unit, including the cost of the office in Aberdeen and corporate support supplied from London. The recovery is 65% of those costs.

Dr Whitehead: Does the Minister accept that it looks like there are a number of other recoverable costs liable to OPRED that have not been mentioned this afternoon? It would be helpful to know what those costs are.

Paul Scully: I will write to the hon. Gentleman about the costs and to the hon. Member for Kilmarnock and Loudoun about the qualifications. OPRED's operating costs are more than £6.2 million—about £10 million—but the recoverable costs have been established in previous years. The amendment is just a recalibration of the hourly rates according to the annual uprating, and indeed downrating for the non-specialists, as they relate to the administrative costs around the hourly rate that the individuals get themselves. I hope the hon. Member for Southampton, Test will accept my explanation if I provide more detail in writing.

Dr Whitehead *indicated assent.*

Paul Scully: The regulations will enable OPRED to recover the costs, which we do not want to pass on to the taxpayer. I therefore commend them to the Committee.

Question put and agreed to.

2.44 pm

Committee rose.

