
SUBSIDIARY LEGISLATION

CONTINENTAL SHELF

Petroleum Survey Licences (Model Clauses) Regulations 1992

(S.R. & O. No. 25 of 1992)

Made: 27th October 1992

Published in the Gazette and coming into force: 27th October 1992

IN EXERCISE of my powers under section 7(1) of the Continental Shelf Ordinance 1991(a) I make the following Regulations :

1. These Regulations may be cited as the Petroleum Survey Licences (Model Clauses) Regulations 1992, shall come into force on publication in the Gazette and shall apply to Licences to explore for petroleum in any designated area of the continental shelf. *Citation, commencement and application.*

2. In these Regulations - *Interpretation.*
 - (a) "continental shelf" and "designated area" have the same meanings as they have under section 2(1) of the Ordinance;
 - (b) "explore", in relation to petroleum, has the same meaning as it has in relation to any mineral under section 2(1) of the Ordinance;
 - (c) "model clause" has the meaning assigned to those words by regulation 3(1); and
 - (d) "petroleum" has the meaning assigned to that word in model clause 1(1) set out in the Schedule to these Regulations.

- 3.(1) Except to the extent that they are specifically excluded modified or varied by any provision of any Licence granted under section 4 of the Ordinance, the clauses set out in the Schedule to this Ordinance ("the model clauses") shall be deemed to be incorporated in every Licence granted under that section. *Model clauses.*

- (2) These Regulations shall not be construed as in any way limiting the powers under the Ordinance to impose conditions on the grant of a Licence or subsequent to such grant.

4. Where any model clause modified or varied as may be is incorporated in a Licence by virtue of regulation 3, it shall have the same effect as if it were a condition imposed on the grant of the Licence which is set out verbatim in the Licence. *Model clauses to have effect as conditions.*

(a) No. 19 of 1991.

SCHEDULE
MODEL CLAUSES FOR PETROLEUM EXPLORATION LICENCES (regulation 3(1))

1.(1) In the following clauses the following expressions have the meanings hereby respectively assigned to them, that is to say - *Interpretation.*

"the Agent" means the person appointed by the Licensee pursuant to clause 22 of this Licence;

"the exploration area" means the area for the time being in which the Licensee may exercise the rights granted by this Licence;

"the Falkland Islands Government" means Her Majesty in right of Her Government in the Falkland Islands;

"the Falkland Islands Government's consultants" means the body specified in column 1 of Schedule 3 to this Licence;

"the Governor" means the Governor of the Falkland Islands for the time being and includes the person for the time being administering the government of the Falkland Islands;

"the High Court in England" includes any court or tribunal to which an appeal or further appeal lies in respect of an order or determination of the High Court in England;

"the Licensee" includes any permitted assign of the Licensee;

"the Ordinance" means the Continental Shelf Ordinance 1991 of the Falkland Islands;

"person" includes a company or other body corporate;

"petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

"the Secretary of State" means Her Majesty's Secretary of State for Foreign and Commonwealth Affairs;

"the specified data" has the meaning given in clause 17(1) of this Licence;

"the Supreme Court of the Falkland Islands" includes any court or tribunal to which an appeal or further appeal lies in respect of an order or determination of the Supreme Court of the Falkland Islands; and

"the United Kingdom Government" means Her Majesty in right of Her Government in the United Kingdom.

(2) Any obligations which are to be observed and performed by the Licensee shall at any time at which the Licensee is more than one person be joint and several obligations.

(3) If any word or expression used in any subsequent model clause is defined in the Ordinance or, if not so defined, is defined in the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands and is not defined in paragraph (1) of this Clause, then that word or expression shall, unless the context otherwise requires, have the meaning it has under the Ordinance and, if it is not there defined, but it is defined in the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands, it shall have the meaning it has under that Ordinance.

2.(1) This Licence is governed by the law of the Falkland Islands.

Governing law and jurisdiction.

(2) Save as is provided by paragraph (3) of this clause and clause 21(1) (arbitration) the Supreme Court of the Falkland Islands has sole and exclusive jurisdiction in relation to any dispute, difference or question arising between the Governor and the Licensee under or by virtue of this Licence or their respective rights and liabilities in respect of this Licence and the High Court in England has sole and exclusive jurisdiction in relation to any dispute difference or question arising between the Secretary of State and the Licensee as to any matter arising under or by virtue of this Licence or as to their respective rights and liabilities in respect thereof.

(3) In respect of any sum or sums owed by the Licensee under any provision of this Licence, the Governor or the Falkland Islands Government may bring proceedings in any court of competent jurisdiction in the country of the Licensee's place of incorporation or in the case of an individual his place of residence as well as or instead of in the Supreme Court of the Falkland Islands.

(4) The Licensee irrevocably submits itself to the jurisdiction of the Supreme Court of the Falkland Islands and to that of the High Court in England to the extent necessary for paragraph (2) of this clause to have full force and effect in accordance with its tenor.

3.(1) Such of the provisions of this Licence as impose an obligation upon the Licensee to or towards the Secretary of State or confer any right or power upon the Secretary of State enure for the benefit of the Secretary of State and are enforceable by him against the Licensee as if the Secretary of State were a party to this Licence and the relevant obligation of the Licensee had been entered into by the Licensee directly with the Secretary of State and as if he had given full consideration for that obligation.

Enforceability.

(2) Such of the provisions of this Licence as impose an obligation upon the Licensee to or towards the Falkland Islands Government enure for the benefit of the Falkland Islands Government as if it were a party to this Licence and the relevant obligation of the Licensee had been entered into by the Licensee directly with the Falkland Islands Government and as if it had given full consideration for that obligation.

(3) The obligations referred to in paragraphs (1) and (2) of this clause are also enforceable by the Governor as if those obligations had been obligations towards him entered into by the Licensee.

4. In consideration of the payments hereinafter provided for and the performance and observance by the Licensee of all the terms and conditions hereof, the Governor, in exercise of the powers conferred on him by the Ordinance and all powers in that behalf enabling him, hereby grants to the Licensee LICENCE AND LIBERTY in common with all other persons to whom the like right may have been granted or may hereafter be granted during the continuance of this Licence and subject to the provisions hereof to search for petroleum in the sea-bed and subsoil comprised in the areas defined in Schedule 1 to this Licence.

Right to search for hydrocarbons.

5.(1) The Licensee shall (if he has not already paid the same) forthwith pay to the Governor the sum specified in Schedule 2 to this Licence and shall pay the like sum to the Governor on every anniversary of the Licence while it continues to be in force and effect. *Licence fees.*

(2) The Licensee shall not by reason of determination of this Licence or of any reduction in the exploration area be entitled to be repaid or allowed any part of any sum payable to the Governor under paragraph (2) of this clause.

6.(1) The Licensee shall not assign this Licence or any of his rights under this Licence either in whole or in part without the prior consent of the Governor and of the Secretary of State. *Prohibition of assignment.*

(2) The Governor and Secretary of State in deciding whether to consent to an assignment of this Licence shall act, and each of them shall act, in his unfettered discretion and no appeal shall lie from any such decision to any court, tribunal or authority whatsoever and the question as to whether such consent is or is not reasonably withheld shall not in any manner be justiciable before any court, tribunal or authority whatsoever.

7.(1) For the purposes of clause 6 the Licence shall be deemed to have been assigned - *Significant change of ownership.*

(a) in the case of a Licensee who is a body corporate, if more than twenty-five per cent of the number or value -

(i) of the capital of the Licensee authorised or issued; or

(ii) of the capital of the Licensee issued to bearer,

is assigned to or transferred to or is held by any person who did not hold the same on the date borne by the Licence; or

(b) in the case of a Licensee who is not a body corporate, if any of the persons constituting the Licensee changes or his share of or interest in the Licence varies by more than fifteen per cent.

(2) Where more than one person constitutes the Licensee, paragraph (1) shall apply in respect of every such person as if he were the only person constituting the Licensee, and in such a case this paragraph shall have effect in respect of both a natural person and a body corporate who, together with any other person or persons, constitutes the Licensee.

8. The right to search for petroleum conferred by this Licence is a right to search or explore for it by - *Prospecting methods.*

(a) field observations, geological and geophysical investigations and the use of remote sensing techniques;

(b) the obtaining of any sample from the sea floor.

9. This Licence unless sooner determined under any of its provisions shall be and continue in force for the term of three years from the date of this Licence but may be extended for a further term of one year, if the Governor sees fit and the Licensee has at least three months before the expiry of the said term made a written request for its extension. *Term of Licence.*

10. Without prejudice to any obligation imposed by or incurred under the terms and conditions hereof the Licensee may at any time determine this Licence by giving to the Governor not less than six months' previous notice in writing to that effect. *Right of Licensee to determine Licence.*

11. The Licensee shall not carry out any operations authorised by this Licence in or about the exploration area in such manner as to cause disruption of fishing operations, to interfere unjustifiably with navigation, to prejudice the conservation of the living resources of the fishing waters, or cause pollution or other damage to the marine environment contrary to internationally agreed rules and standards. *Fishing, navigation, pollution and environmental damage.*

12.(1) The Licensee shall furnish to the Governor and to the Secretary of State on or before the fifteenth day of every third month in which this Licence is in force, reckoned by reference to the date of this Licence, a return in a form from time to time approved by the Governor of the progress of his operations in the exploration area. Such return shall include a statement of the areas in which any field observations, geological investigation or geophysical investigation or remote sensing technique has been performed undertaken or used. *Returns and information.*

(2) The return shall be accompanied by a copy, in such form as may be required by the Governor, of the data or results obtained by the Licensee by reason of, or by reason of the analysis of, any observation, investigation or technique and obtained or received by the Licensee during the preceding three months, and whether in relation to observations, investigations or techniques undertaken during the preceding three months or earlier undertaken.

(3) The Licensee shall furnish to the Governor and to the Secretary of State -

(a) a copy of reports, analyses, or collection of data, prepared or collated by the Licensee by virtue of its operations under the Licence;

(b) such other information, including information in the form of maps and plans as the Governor may from time to time require.

13. Without prejudice to the Licensee's obligations under clause 12, the Licensee shall supply to the Governor, the Secretary of State and to the Hydrographic Department of the Ministry of Defence in the United Kingdom all bathymetric data or other hydrographic information the Licensee acquires in the course of its operations under this Licence. *Bathymetric data or other hydrographic information.*

14.(1) It shall be sufficient compliance with the Licensee's obligations under clause 12 and 13 to furnish or supply to the Governor anything to which either of those clauses relate if the Licensee sends or delivers them to the Falkland Islands Government's consultants at the address and marked for the attention of the person or persons specified in the column 2 of Schedule 3 to this Licence, and unless the Licensee is notified by the Governor to the contrary it shall in that manner comply with those obligations. *Places to which returns and information bathymetric and other hydrocarbon information are to be sent.*

(2) The Licensee shall furnish or supply everything to which the Licensee is obliged by clause 12 or by clause 13 to furnish or supply to the Secretary of State by sending it or delivering to such addressee at such address in the United Kingdom as the Secretary of State may from time to time notify to the Licensee.

(3) The Licensee shall supply everything which the Licensee is obliged by clause 13 to supply to the Hydrographic Department of the Ministry of Defence by sending or delivering it to such addressee at such address in the United Kingdom as the Governor may from time to time notify to the Licensee.

(4) Everything to which the preceding paragraphs of this clause relate -

- (a) shall be sent or delivered at the cost and risk in all respects of the Licensee;
- (b) shall be sufficiently and securely packaged; and
- (c) shall be adequately marked, labelled or indexed so as sufficiently to identify its nature or contents.

15.(1) If the Licensee shall during the course of his operations under this Licence acquire any samples of the sea-bed or of any stratum of the subsoil of the sea-bed or of any mineral, he shall correctly label and preserve the same for a period of five years. *Licensee to keep samples.*

(2) Any sample so preserved shall be kept at an address in the United Kingdom to be notified in writing by the Licensee to the Governor.

(3) The Licensee shall not dispose of any sample after the expiry of the said period of five years unless -

- (a) he has at least six months before the date of the disposal given notice in writing to the Governor of his intention to dispose of the sample; and
- (b) the Governor or the Secretary of State or any person authorised by either of them has not within the said period of six months informed the Licensee in writing that he wishes the sample to be delivered to him.

(4) Without prejudice to the preceding paragraphs of this clause, the Governor, the Secretary of State or any person authorised by either of them shall be entitled at any time -

- (a) to inform the Licensee in writing that he wishes part of any sample preserved by the Licensee to be delivered to him at an address in the United Kingdom; or
- (b) to inspect and analyse any sample preserved by the Licensee.

(5) The Licensee shall forthwith at its own cost comply with any request for the delivery of the whole or any part of any sample which is made in accordance with the preceding provisions of this clause.

16.(1) The Falkland Islands Government may, subject to paragraph (2) of this clause, at its own cost, produce for sale and distribution, and, if for sale, so that any revenue derived from sales is entirely for the benefit of the Falkland Islands Government, an interpretation report in relation to any data communicated by the Licensee under any preceding provision of this Licence. *Interpretation reports on behalf of the Falkland Islands Government.*

(2) If any interpretation report to which paragraph (1) of this clause relates is produced, it shall not without the prior consent of the Licensee contain illustrated examples of more than fifteen per cent of the total line lengths of the surveys undertaken by the Licensee, but this restriction shall cease to have effect at such time as clause 17(2) ceases to have effect so as to restrict the disclosure of any of the specified data referred to in clause 17(1).

(3) Nothing in clause 17 shall have effect so as to preclude or inhibit the exercise by the Falkland Islands Government of its rights under paragraphs (1) and (2) of this clause.

17.(1) For the purposes of this clause "the specified data" means all records, returns, plans, maps, samples, accounts and information which the Licensee is obliged under any provision of this Licence to furnish or supply to the Governor or to the Secretary of State. *Confidentiality of reports etc.*

(2) The specified data shall not, except with the written consent of the Licensee, which shall not unreasonably be withheld, be disclosed to any person not in the service of or engaged by the Crown:

Provided that -

(a) the Governor shall be entitled at any time to make use of the specified data for the purpose of preparing and publishing such returns and reports as may be required by law;

(b) the Secretary of State shall be entitled at any time to make any use of the specified data -

(i) for any purpose for which the Governor may use it under (a) above; or

(ii) for any non-commercial purpose related to the international relations of the United Kingdom or the Falkland Islands as he sees fit;

(c) the Governor may at any time, under such conditions he may consider necessary to protect the commercial confidentiality of the information, disclose any of the specified data to any elected member of the Legislative Council of the Falkland Islands;

(d) the Governor or the Secretary of State may at any time, under such conditions as the Governor or the Secretary of State, as the case may be, may consider to be necessary to protect the commercial confidentiality of the information, disclose any of the specified data to -

(i) the British Geological Survey; and

(ii) the British Antarctic Survey;

(e) at the expiration of a period of five years (or such greater period as is specified in the Licence) from the date on which any particular item of specified data is received by the Governor that item of specified data may be published or disclosed by the Governor to any person;

(f) nothing in this paragraph applies so as to prohibit or inhibit the disclosure of anything to which clause 13 relates.

(3) In paragraph (2) of this clause, "person engaged by the Crown" includes any person engaged by the Crown to advise the Crown in relation to the presence or exploitability of any petroleum which is or may be present within the area or areas to which this Licence relates or as to the operations of the Licensee under this Licence.

18. Any person authorised by the Governor or by the Secretary of State may at all reasonable times inspect and make abstracts or copies at the cost of the Licensee of any records, returns, plans or maps which the Licensee is required to keep or make in accordance with the provisions of this Licence and, for the better fulfilment of the objects of this clause, the said records, returns, plans and maps shall be kept at an address in the United Kingdom to be notified in writing by the Licensee to the Governor and to the Secretary of State.

Power to inspect records.

19. The Licensee shall at all times keep -

Indemnity against third party claims.

- (a) the Governor and the Falkland Islands Government; and
- (b) the Secretary of State and the United Kingdom Government,

effectually indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever which may be made or brought against any of them by any third party in relation to or in connection with the Licensee's operations under this Licence or any matter or thing done or purported to be done by the Licensee or any person on its behalf in pursuance of this Licence.

20.(1) Without prejudice to the generality of his powers under the Ordinance to revoke the Licence, it is specifically declared that if any of the events specified in the following paragraph shall occur then and in any such case the Governor may revoke this Licence and thereupon the same and all the rights hereby granted shall cease and determine but subject nevertheless and without prejudice to any obligation or liability incurred by the Licensee or imposed on him by or under the terms and conditions of this Licence.

Power of revocation.

(2) The events referred to in paragraph (1) of this Clause are -

- (a) any consideration specified in Schedule 2 hereto or any part thereof being in arrear or unpaid for two months next after any of the days whereon the same ought to have been paid;
- (b) any breach or non-observance by the Licensee of any of the terms and conditions of this Licence;
- (c) the bankruptcy of the Licensee;
- (d) the making by the Licensee of any arrangement or composition with its creditors;
- (e) if the Licensee is a company or other body corporate, the appointment of a receiver or any liquidation whether compulsory or voluntary, or any equivalent event under the law of the country under which it is incorporated in the case of a body corporate which is not a company incorporated in any part of the United Kingdom or in the Falkland Islands.
- (f) the Licensee ceasing to have its central management and control in the country it was on the date borne by this Licence;

and where two or more persons are the Licensee, any reference to the Licensee is a reference to any of those persons.

(3) For the purposes of paragraph (2) -

(a) the "central management" of the Licensee is in the place in which for the purposes of taxation of the profits of the Licensee the Licensee is to be regarded as being resident;

(b) "control" shall be construed in accordance with the provisions of subsections (2), (4) and (6) of section 416 of the Income and Corporation Taxes Act 1988 of the United Kingdom which, unless they would otherwise apply in respect of the Licensee, shall apply in respect of the Licensee for that purpose only.

21.(1) If at any time any dispute, difference or question shall arise between the Governor and the Licensee or the Secretary of State and the Licensee as to any matter arising under or by virtue of this Licence or as to their respective rights and liabilities in respect thereof then the same shall, except where it is expressly provided by this Licence that the matter or thing to which the same relates is to be determined, decided, approved or consented to by the Governor or the Secretary of State, be referred to arbitration as provided by the following paragraph. *Arbitration.*

(2) The arbitration referred to in the foregoing paragraph shall be in accordance with the Arbitration Act 1950 by a single arbitrator who, in default of agreement between the Governor and the Licensee as to his appointment, shall be appointed by the Chief Justice of the Falkland Islands for the time being.

22. The Licensee appoints the person specified in paragraph 1 of Schedule 5 to this Licence as its agent for the purpose of service and receipt of service of all notices, notifications and proceedings whatsoever required to be or authorised to be served upon the Licensee under or in connection with this Licence, under the Ordinance or any of the provisions of this Licence but nothing in this paragraph shall preclude the same being served additionally or instead upon the Licensee in the manner provided by clause 24 of this Licence. *Appointment of Agent of Licensee.*

(2) The Licensee shall not while any of the terms and conditions of this Licence remain in force revoke the appointment of the Agent nor shall any such revocation be effective unless at the same time the Licensee appoints another person resident in the Falkland Islands as its agent in place of the Agent and forthwith notifies that appointment to the Governor in writing whereupon the provisions of this paragraph and of paragraph (1) of this clause shall apply in relation to the person so appointed as if that person had been appointed under paragraph (1) of this clause.

23. Such of the provisions of this Licence as by their tenor are capable of surviving the expiration or sooner determination of this Licence shall, notwithstanding such expiration or sooner determination, remain in full force in effect and be enforceable in accordance with their terms. *Continuance in force of terms and conditions of this Licence.*

24.(1) Notices and notifications to the Governor under the provisions of this Licence shall be sent or delivered to him at the address specified in relation to such notices and notifications in Schedule 5 to this Licence and shall additionally be sent or delivered in the like manner to the Attorney General, Falkland Islands Government, at the address specified in relation to him in that Schedule. *Notices.*

(2) Notices or notifications to the Secretary of State shall be sent by the quickest available postal means or delivered to the Secretary of State addressed to him as follows : The Secretary of State, Foreign and Commonwealth Office, London SW1A 2AH.

(3) Notices or notifications to the Agent under the provisions of this Licence shall be sent addressed to the Agent at the address specified in relation to the Agent in the said Schedule 5.

(4) Notices to or notifications to the Licensee under the provisions of this Licence to the Licensee shall be sent addressed to the Licensee at the address specified in relation to the Licensee in the said Schedule 5.

(5) Where any notice or notification is sent by telephonic facsimile transmission to any person under any of the foregoing paragraphs of this clause, a copy of it shall be sent on the same day to the same addressee by the quickest available postal means which copy shall be deemed to have been received on the day on which, in the ordinary course of the post, it would ordinarily have been received if sent by that postal means to the addressee in question on that day.

25.(1) This Licence represents the entire agreement of the parties as to its subject matter as at the date of this Licence. *Entire agreement.*

(2) No variation in the provisions of this Licence shall have effect unless it is in writing and is signed by the Governor.

26. The Schedules immediately following form part of this Licence and shall have effect for the purposes of this Licence. *Schedules.*

SCHEDULE 1
Areas to which the Licence extends

[To be specified by a sufficient description to appear here in the Licence]

SCHEDULE 2
Licence fees to be paid by the Licensee

Annually and on each anniversary of the date of this Licence while it continues in force and effect, the sum of £ *[To be completed in the Licence]* sterling.

SCHEDULE 3
Particulars as to the Falkland Islands Government's Consultants

[This Schedule is to be appropriately completed in the Licence]

<p>(1) <i>Name of consultants</i></p>	<p>(2) <i>Address of consultants and person or persons for attention of whom communications are to be marked</i></p>
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SCHEDULE 4
**Seismic surveying and gravity and magnetic surveying work to be performed
by the Licensee**

PART II
Gravity and Magnetic Surveying work

[This is to be specified here in the Licence]

SCHEDULE 5

1. Agent appointed by the Licensee -

(a)	(b)
<i>Name</i>	<i>Address</i>

[To be completed appropriately in the Licence]

2. Address for notices and notifications to the Governor -

[To be completed appropriately in the Licence]

(and, if sent by telephonic facsimile transmission to (International Access Code + 500 where applicable) 27434

3. Address for notices and notifications to the Attorney General, Falkland Islands -

[To be completed appropriately in the Licence]

(and, if sent by telephonic facsimile transmission to (International Access Code + 500 where applicable) 27276

4. Address for notices and notifications to be sent to the Licensee -

[To be completed appropriately in the Licence]

Made this 27th day of October 1992.

D. E. TATHAM,
Governor.