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Legal and licensing framework

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Introduction

Act no 72 of 29 November 1996 pertaining to petroleum activities (the Petroleum Act) provides the overall legal basis for the licensing system which regulates petroleum operations in Norway. Regulations under the Act were issued by Royal Decree of 27 June 1997. The Act and its regulations authorise the grant of permits and licences to explore for, produce and transport petroleum and so forth.

Legal authority to tax this business is conferred by Act no 35 of 13 June 1975 relating to taxation of subsea petroleum deposits (the Petroleum Taxation Act).

The Norwegian offshore licensing system comprises a number of documents which go into more detail on the rights and duties of the various parties. These documents are briefly outlined below.

The European Union's directive 94/22/EC on granting and using licences to explore for and produce hydrocarbons (the licensing directive) was approved by the Council of Ministers on 30 May 1994.

A decision to incorporate this provision in Appendix IV Energy to the European Economic Area agreement was taken by the joint committee of the EEA on 5 April 1995, and came into effect on 1 September 1995. It applied to Norway as a member of the EEA from the same date. The Norwegian licensing system complies with the requirements of the directive.

Main features of the licensing system

Section 1-1 of the Petroleum Act specifies that the proprietary right to subsea petroleum deposits on the NCS is vested in the state.

This constitutes the legal basis for government regulation of the petroleum sector.

Under section 2-1 of the Act, companies can apply for a reconnaissance licence to make geological, petrophysical, geophysical, geochemical and geotechnical surveys, including shallow drill-

ing. This licence grants no exclusive rights in the areas covered and does not entitle the holder to conduct regular exploration drilling.

Before a production licence which permits such drilling can be awarded, the area in question must have been opened for exploration (section 3-1 of the Act). That can only happen after the environmental, economic and social impact of such operations on other industries and adjacent regions has been assessed.

Production licences are normally awarded through licensing rounds. The government invites applications for a certain number of blocks (section 3-5 of the Act). Companies can apply individually or in groups.

Production licences are awarded on the basis of objective, non-discriminatory and published criteria.

The announcement specifies the terms and criteria on which awards will be based. On the basis of applications received, the MPE puts together a group of companies for each licence or can make adjustments to a group which has submitted a joint application. The MPE appoints an operator for this partnership (section 3-7 of the Act), who is responsible for the daily conduct of operations in accordance with the terms of the licence.

From the award of the licence covering the Statfjord field in 1973 to the 13th licensing round in 1991, state participation was a minimum of 50 per cent in each licence. The state's average direct financial interest has declined from the 13th to the 16th round.

The Storting added a new chapter 11 to the Petroleum Act, which specifies the main features of the management system for the SDFI. On this basis, Petoro AS has been established as a wholly state-owned limited company to manage the SDFI. All the SDFI's assets belong to the state. Petoro's organisation, responsibilities and principal duties are described in Proposition no 36 (2000-2001) to the Storting, Recommendation no 198 (2000-2001)

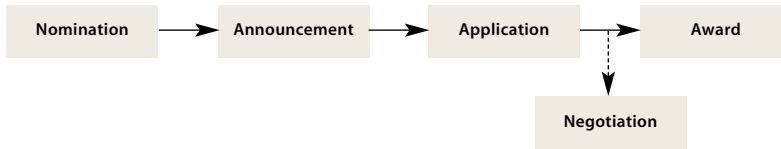


Figure 11.1 Licensing round.

to the Storting, Proposition no 48 to (2000-2001) to the Odelsting and Recommendation no 70 (2000-2001) to the Odelsting. See also chapter 3 on state organisation of petroleum operations.

Key documents and legal provisions in the licensing system

Production licence

The production licence regulates the rights and duties of licensees in relation to the state. This document supplements the provisions of the Petroleum Act and specifies detailed terms for each licence. A production licence entails an exclusive right to explore for and produce petroleum within its specified geographical area (section 3-3 of the Act). Ownership of the petroleum produced rests with the licensees.

Each licence is awarded for an initial exploration period, which can last up to 10 years (section 3-9 of the Act). A specified work obligation must be met during this period, including seismic surveying and/or exploration drilling and so forth (section 3-8 of the Act).

Providing the work obligation has been completed by the end of the period, the licensees are generally entitled to retain up to half the acreage covered by the licence for a period of up to 30 years.

An area fee is charged per square kilometre, as specified in detailed regulations (section 4-9 of the

Act). Providing all the licensees agree, a licence can be relinquished (section 3-13 of the Act).

Joint operating agreement

Section 3-3 of the Act makes the award of a production licence conditional on all the licensees concluding a joint operating agreement. Similar in many respects to company agreements made under civil law, this joint operating agreement regulates relations between the partners.

It forms the basis for day-to-day organisation and operation of the licence and for allocating any earnings, and requires the licensees to establish a management committee as their ultimate decision-making body. All licensees are represented on this committee. The agreement also regulates the operator's duties and obligations on behalf of the partnership, and specifies the group's voting rules.

Accounting agreement

The licensees are also required to conclude an accounting agreement with detailed provisions on the accounting and financial aspects of the partnership.

Offer letter

Before awarding production licences, the MPE will recommend to the government that specified companies receive interests in the acreage being offered. An offer letter is sent to each company

with details of the interests being offered and of possible operatorships. It also specifies the terms which will apply to the licence(s) on offer, and is accordingly regarded as a key document in the award process.

Various agreements

If a discovery extends across more than one production licence, the licensees are obliged to conclude a unitisation agreement which ensures appropriate utilisation of these resources (section 4-7 of the Act) and regulates rights to the discovery.

Interests in a unitised field are normally allocated in line with the way resources in the discovery divide between the production licences concerned. Licensee interests in a unitised field will thereby differ from their holdings in the separate production licences covering the field. A unitisation agreement requires the MPE's approval.

A licensee can also conclude a pass-through agreement with its foreign parent company which transfers interests in a licence to the Norwegian branch of the parent (section 10-5 of the Act).

Such agreements require the consent of the MPE.

Other key legal provisions

Section 4-2 of the Act requires licensees to submit a plan for development and operation (PDO) to the MPE for approval before they can start developing a petroleum deposit.

Under section 4-3 of the Act, the MPE is also authorised to approve plans for installation and operation (PIO) of facilities for transport and utilisation of petroleum.

Section 4-8 of the Act requires the MPE to approve any use of such installations by others.

Under section 4-10 of the Act, the King decides where and how petroleum is to be brought ashore.

The Petroleum Act's section 5-1 also requires licensees, as a general rule, to submit a cessation plan two-three years before a licence expires or the use of a facility is terminated. The MPE will then decide on the disposal of these facilities (section 5-3 of the Act).