



## OGA release new guidance on ISPs and ISCs



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In February 2014, the Wood Maximising Recovery Review was published, setting out recommendations to maximise economic recovery from the UK Continental Shelf. One of its key findings was that the oil and gas industry in the UK relied heavily upon high quality data to create value, and it was therefore vital to ensure that data could be accessed in a timely manner to help create and maintain a more competitive market.

The Energy Act 2016, which was enacted to implement the recommendations of the Wood Review, requires licence holders to:

- prepare information and samples plans (ISPs) in connection with licence events; and
- appoint individuals to the newly created role of information and samples coordinators (ISCs).

These provisions are due to commence on 21 October 2017. In advance of this the OGA has published guidance to explain in further detail the obligations these new requirements place on licence holders, and its expectations with regard to the preparation and content of ISPs and what it expects from its interactions with ISCs.

### Information and Samples Plans

An ISP is a plan setting out how petroleum-related information and samples held by a responsible person (usually the licensee) will be dealt with in connection with a 'licence event'. A licence event is defined as being:

- a transfer of rights under an offshore licence (whether in relation to all or part of the area in respect of which the licence was granted);
- a surrender of rights under an offshore licence (either in relation to the whole area in respect of which the licence was granted, or the portion of that area in respect of which the licence continues to have effect);

- the expiry of an offshore licence; or
- the revocation of an offshore licence by the OGA.

The main objective of an ISP is to ensure that any risks associated with the transfer of information and samples between outgoing and incoming licensees (for example loss or corruption of data) are minimised.

The OGA's guidance sets out the information that an ISP must cover, including details of the information and samples that exist, where they are currently located and under whose control they are held, which information and samples are to be transferred and which are to be retained, whether there are opportunities exist for rationalisation, and when and how the transfer will take place. It also specifies that where more than one licensee is affected by a licence event, then all will be designated as the 'responsible person' with the obligation to prepare an ISP.

Once prepared, ISPs must be agreed with the OGA, either before the licence event takes place (in the case of a transfer, surrender or expiry of the licence) or within a reasonable period after the revocation of the licence. Once agreed, any changes to the ISP may only be made if agreed with the OGA in accordance with section 32 of the 2016 Act.



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In the event that an ISP is not agreed with the OGA, the Act gives the OGA power to itself prepare an ISP in connection with the licence event, and impose this on the responsible person. Such an ISP will have effect as if it had been prepared by the responsible person and agreed with the OGA.

The guidance acknowledges that not all licence events will incur the same risks in relation to data loss: transfers of licences between companies in the same group would for example present a relatively low risk of data loss, compared with the transfer of an operator and large equity holders share in a licence to a new entity.

Whilst the requirements to prepare ISPs are new, the OGA is keen to stress that if parties are already using the commonly accepted industry best practice when transferring information and samples between parties, then they should be no more onerous than existing plans.

### Information and Samples Coordinators

The sections of the Energy Act coming into force on 21 October 2017 will also require licensees to appoint an individual to the new role of information and sample coordinator. That individual will have responsibility for monitoring the licensee's compliance with its obligations in relation to ISPs (as detailed above).

The OGA has deliberately not specified a mandatory skills set for an ISC, but instead suggests that licensees are best able to determine who would be most suitable for the role themselves, based on the obligations they will have and the tasks they will have to perform, which

it is recognised comprises several different existing organisational roles, such as compliance manager, audit manager and information manager. Whilst appointment of an ISC is not subject to approval for the OGA, the name and contact details for the individual acting as ISC will need to be notified to the OGA by 21 October 2017 (being the date the relevant section of the Energy Act comes into force), together with details of a shared email mailbox for ISC correspondence that can be monitored by more than one authorised individual.

The ISC will be the main point of contact between the OGA and the licensee in relation to these obligations, and it is anticipated that communications will cover routine reporting of petroleum-related information and samples, development and agreement of ISPs, and also follow up and one-off queries from the OGA in relation to information and samples. The ISC is therefore expected to be accountable for the development and agreement with the OGA of any ISPs prepared in connection with a licence event.

### Action to be taken by licence holders

Failure to comply with the obligations imposed by these new provisions of the Energy Act is sanctionable in accordance with the OGA's [sanction procedure](#). License holders should therefore ensure that they have appointed an ISC and notified the OGA of their details by 21 October 2017, and in relation to any planned licence transfers, given consideration to developing and agreeing an ISP in advance.



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