

Production permits for oil and gas discoveries

Background

As will be known to those interested in the legal framework for oil and gas exploration and production in Denmark, the Danish government is currently considering its stance on the 8th licensing round in Denmark.

The official position of Danish governments over the last decade has been to continue to promote Danish oil and gas and in principle carry out licensing rounds every second year (although no round has been completed since 2016).

Uncertainty concerning 8th licensing round

However in 2019, the new Social Democratic minority government came under pressure from the socialist/liberal bloc which advocated for abolishment of further granting of oil and gas licences.

The 8th licensing was then suspended, although a number of companies had already handed in their applications, with some establishing new legal entities in Denmark in anticipation of licence award and the start-up of exploration. The minister for energy has since been on the fence and has postponed any decisions on the 8th licensing round for the autumn of 2020.

Last week the Danish Climate Council, an independent group established by the government, recommended that the 8th licensing round should not proceed.

One of the political questions that have been raised concerns permits for the extraction of new oil and gas discoveries, which may be the result of exploration permits granted in connection with the 8th oil and gas licensing round in Denmark - provided obviously that licensing round does go ahead and that one or more discoveries of oil and/or gas are made.

The Minister and the Danish Energy Agency has recently (27 May 2020) clarified the legal position under the Danish Subsoil Act, which governs oil and gas licences.

Production permits

In Denmark, licenses for exploration and extraction of hydrocarbons are granted in accordance with section 13 (1) of the Subsoil Act, with an exploration period of 6 years with the possibility of extension. The total exploration period can only as an exception exceed 10 years.

According to section 13 (1) of the Subsoil Act, the licensee has the right to prolongation of the permit for recovery if the terms thereof in the permit are met. The permit can only be extended for those parts of the area which include commercially recoverable deposits which the licensee intends to recover and for a maximum period of time of 30 years, cf. section 13 (2) and (3) of the Subsoil Act.

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In his clarification, the Minister underscores that the licensee's right to prolongation for the purpose of extraction follows directly from the Subsoil Act when the terms and conditions laid down in the law and the permit are fulfilled.

To complete the picture it should be noted that according to section 13 (4) the time period for extraction/production may be prolonged under special circumstances, and by consulting the parliamentary committee under section 6 of the Act, the Minister may prolong the duration beyond 50 years.

Pursuant to section 13 (5), the Minister may - provided special circumstances justify it – also grant permits with periods that are longer than those contained in section 13 (1) – (3).

This may be the case where an existing license with ongoing production is replaced by a new licence, and production is expected to continue for an extended period, e.g. due to technological advances.

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For questions or comments to this newsletter or energy and offshore in general, please contact Bo Sandroos on +45 4088 5422 or bos@wsko.dk.

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