

# **Explanatory Notes on the Draft Bill on Hydrocarbon Activities**

## **General notes**

1. The objective of the Bill is to provide a contemporary basis for initiating exploration and subsequently exploiting any hydrocarbon resources in the Faroese subsoil. The aim is to procure sufficient data to ascertain whether there are accumulations of oil and natural gas in the Faroese onshore and offshore territory, as well as on the Faroese continental shelf, in order to provide for prudent and appropriate exploitation of such accumulations for the benefit of the Faroese economy and employment situation.
2. The background for the Bill is the resolution passed by the Faroese Parliament on 24 September 1993 concerning oil and gas exploration in the Faroese area (Parliamentary Matter No. 5/1993). This resolution expressed the agreement of the Faroese Parliament with the Faroese Government that the legislative and investigative work that was initiated in spring 1993 should be carried on by drafting proposals for a new modern Subsoil Act and other necessary Parliamentary Acts, as well as licensing terms for exploration and extraction. The Faroese Parliament moreover established that within a few years, when the geological structure of the continental shelf has been determined by means of preliminary surveys, and the extent of the Faroese continental shelf has been clarified through negotiations with the United Kingdom, a First Licensing Round for the issuance of licenses for exploration and exploitation of oil and gas should be arranged.
3. At the same time as making the above-mentioned decision, the Faroese Parliament also passed the Parliamentary Bill on Preliminary Surveys, etc. of the Faroese Subsoil tabled by the Faroese Government (Faroese Act No. 179 of 21 October 1993). Under the authority of that Act, permits were granted to Western Geophysical Corporation in spring 1994 for extensive so-called regional seismic prospecting of the offshore territories east and south of the Faroe Islands in particular. These systematic surveys have since been followed up by additional prospecting financed by seismic surveying companies as well as oil companies. Subsequently, a group of oil companies, with Dansk Olie- og Gasproduktion A/S as operator, drilled an onshore test well (Lopra) in 1996 in order to accumulate additional geological data. Later the same year, the Hydrocarbon Planning Commission appointed by the Faroese Government on 22 April 1994 invited oil companies to submit proposals as to which areas on the Faroese continental shelf should be covered by an initial licensing round (nomination). The nominations received from the companies indicated keen interest in large areas both to the east and south of the Faroe Islands.
4. Against the above background, the Faroese Government considers the conditions, in terms of exploration, for implementing an initial licensing round in Faroese territory to be relatively favourable. The negotiations initiated with the United Kingdom regarding the delimitation of the continental shelf area are still ongoing. Thus, the clarification of shelf boundaries stipulated by the Faroese Parliament as a condition for a licensing round has not been provided. However, this Bill is presented with the aim of establishing the legal framework for initiating a licensing round as soon as this is warranted by the circumstances.
5. In addition to the above-mentioned Parliamentary Act on Preliminary Surveys, etc., current Faroese legislation includes Act No. 181 of 8 May 1950 on the Exploration and Recovery of Raw Materials in the Subsoil of the Kingdom of Denmark. The 1950 Act, which extends to the Faroe Islands under the provisions of section 11 subject to the limitation following from Act No. 137 of 23 March 1948 on Faroese Home Rule, came into force in the Faroe Islands on 5 February 1952. After the transfer of competence concerning "raw materials in the subsoil" to the Faroese Home Rule authorities under an agreement of 22 December 1992 between the Danish and Faroese Governments, the 1950 Act will

remain in force until amended or repealed by legislation enacted by the Faroese Parliament. Until that happens, established practice for the transfer of competence to the Faroese Home Rule authorities provides that the Act is to be interpreted to the effect that the Faroese Parliament and the Faroese Government hold the authority vested in the Danish Government and Parliament under the Act. The 1950 Act, which has been superseded in Denmark by Act No. 293 of 10 June 1981 on the Use of the Danish Subsoil, does not provide a suitable legislative basis for present-day and future oil and natural gas activities.

6. The Parliamentary Bill is based on the draft bill presented by the Hydrocarbon Planning Commission in its report of July 1997.

7. The Bill provides for the repeal of the Act on Preliminary Surveys of 1993 and proposes to replace it by corresponding provisions set out in Part 2 of the Bill. In addition, it lays down provisions governing future exploration and production, etc. of hydrocarbons. Subsequently, the 1950 Act will merely apply to raw materials other than hydrocarbons. According to s. 1 of the Act, this means raw materials other than hydrocarbons that were not subject to private-sector exploitation before 23 February 1932. It is difficult to say whether the old Act will have any practical sphere of application in future, as “mining operations”, as performed on the Island of Suderø for many years, have always been considered a special Faroese sphere of competence and are consequently not covered by the 1950 Act. However, in order not to leave a “legislative vacuum”, the Bill does not propose a repeal of the 1950 Act.

8. The Bill on Hydrocarbon Activities is a framework bill that regulates the granting of concessions, i.e. the issuance of the requisite licenses for oil companies to carry on exploration and to produce crude oil and natural gas, as well as all the phases of oil and gas activities, i.e. exploration and appraisal, field development and production, as well as decommissioning. In addition, the Bill includes special provisions on “offshore installations”, meaning the installations and facilities, as well as stationary vessels, used in the activities. These special provisions correspond to the statutory provisions governing working environment and safety on shore, and to the legislation governing the safety of ships. Finally, the Bill also includes provisions corresponding to those found in the Danish Continental Shelf Act.

The Bill combines provisions to be found in various Acts in Denmark and other North Sea countries. The aim of incorporating these provisions into one enactment is to provide as simple and transparent a legislative basis as possible for the activities, vesting all the powers in the Faroese Government usually vested in public authorities under contemporary legislation within this area, and making it as easy to administer as at all possible. In preparing the draft Bill, the Hydrocarbon Planning Commission strove to regulate all the matters that are subject to statutory control in the North Sea countries.

However, the Bill is not intended to define Faroese hydrocarbon policy, but to function as the permanent framework for hydrocarbon activities. It is assumed that the oil policy will be formulated in practice from licensing round to licensing round, whether concerning the selection of the areas to be offered for exploration, or the financial and other terms to be included in licenses granted to oil companies in accordance with Part 3 A of the Bill.

9. The *main points* regulated by the Bill on Hydrocarbon Activities are outlined below:

a) In accordance with existing law, s. 3 establishes that the hydrocarbons defined in s. 2(a) belong to the Faroe Islands and may only become subject to exploration or production by any third parties by virtue of a license granted in accordance with the provisions of the Bill. However, the Faroese Government itself may initiate such activities of its own motion, provided that the necessary funding has been obtained and any other statutory requirements are met. Therefore, the objective of the Bill is to provide a legal basis and stipulate the detailed terms and conditions for giving other parties, primarily foreign oil companies, access to oil exploration and production in Faroese territory.

b) The provisions of Part 2 of the Bill (ss. 4-5) on *prospecting etc.* correspond to the provisions of the existing Act on Preliminary Surveys of 1993, but are now restricted to hydrocarbons. Through such preliminary surveys, in particular seismic surveys, the intention is to clarify whether there is a basis for initiating actual exploration in a given area, with the high cost usually involved.

c) *The concession system* is regulated by Part 3 A (ss. 6-12). The procedure for holding licensing rounds and for granting licenses for exploration and production of oil and natural gas is of vital importance. The member of the Faroese Government who is responsible for this area has authority under the Bill to grant oil and gas licenses on behalf of the Faroe Islands. In accordance with s. 7, the general rule is that such licenses may only be granted following a public notice inviting applications, and after a statement has been submitted to the Faroese Parliament setting out the areas to be offered for licensing by the Faroese Government, as well as the general terms and conditions on which licenses are to be granted. When applications have been received, the relevant member of the Faroese Government is responsible for their further processing and for the negotiations that the petroleum administration carries on with applicants prior to the issuance of licenses.

The above-mentioned submission to the Faroese Parliament reflects the practice used in Norway and Denmark, among other countries, regarding Parliamentary insight into the executive's use of power in this important area. In both countries, much importance is attached to the decision to offer new areas for licensing, because - despite the uncertainty as to whether exploration will lead to commercial discoveries - it is a vital management tool for the overall activity level and the impact on society of this activity. Accordingly, it is considered to be in keeping with the division of powers between the Faroese Government and Parliament, as stipulated in the Act on the Faroese Constitutional System, that the statement on the proposed licensing procedure is submitted to the Faroese Parliament in order to establish whether there is parliamentary support for or acceptance of the proposal made by the Faroese Government. If a majority in the Faroese Parliament should oppose a licensing round on the basis presented, this will not render the licensing round unlawful, but the member of the Faroese Government in charge of this area will subsequently run the risk that a vote of no confidence is moved against him. However, if a majority are in favour of initiating the licensing round, the Faroese Parliament may take note of the statement.

Ss. 8-12 deal with a number of important issues (obligations to carry on exploration, fees, use of Faroese manpower, etc.) that must necessarily be regulated by the licenses issued, including the term of the individual licenses, which must be within the time limits stipulated in s. 8. The list is not exhaustive, as the Faroese Government may include terms and conditions in the licenses that regulate other matters. Thus, if it is decided that a Faroese state enterprise is to participate in the activities, the pertinent terms and conditions may be included in the licenses in pursuance of s. 6(2) of the Bill.

Apart from participation by state enterprises, the Bill also provides for other possible forms of direct cooperation between the Faroe Islands and international oil companies regarding the practical conduct of the activities. Thus, one option is "product-sharing contracts", according to which the Faroe Islands and one or more oil companies share the oil extracted, subject to the condition that the company/companies has/have their exploration and production expenses covered in advance. Another option that may be mentioned is the so-called "service contract", under which the private enterprise typically receives payment for its exploration and production activities by way of a right to buy a share of the hydrocarbons produced, possibly at a special price. In the developing countries and Latin America, the public partner is frequently a company that is wholly owned by the state.

Part 3 of the Bill has been drafted on the basis of the concession system widely used in the Western world, but it merely stipulates a few requirements as to the content of exploration and production licenses. The Bill is based on the premise that the actual decisions on the selection of foreign partners must always be made by the Faroese Government, and that the activities must always

be carried on under a license granted under s. 6, regardless of the legal form adopted for each individual licensing round.

The provision of s. 10 regarding *the policy promoting the use of Faroese manpower and undertakings* is founded on the view that the aim of establishing hydrocarbon activities for the benefit of the Faroese economy and employment opportunities in the Faroe Islands (s. 1(2), first sentence) should be supported, for one thing by enjoining the oil companies to commit themselves to this goal. Therefore, this provision places the Faroese Government under the obligation to lay down appropriate licensing terms and conditions in this respect. The wording of such terms and conditions in the exploration and production licenses issued is an essential element in the drafting of the statement describing the proposed licensing procedure that, pursuant to s. 7(2) of the Bill, is to be submitted to the Faroese Parliament prior to inviting applications from oil companies. Under that provision, the statement in question is to include an assessment of the ways in which the activities will contribute to stimulating the economy and employment opportunities. Finally, in the context of s. 10, s. 14(3) and (4) concerning the approval of field development plans should also be mentioned, which stipulate that a review is to be made of the impact of the development project on the Faroese economy and employment situation, and that orders may not be placed until the Faroese Government has approved the field development plan. In addition, the Faroese Government's power to grant exemptions from the duty to land any hydrocarbons produced in the Faroe Islands, as set out in s. 17, allows for the protection of business policy interests.

d) In the first place, the provisions laid down in Part 3 B (ss. 13-17) of the Bill regarding *the conduct of hydrocarbon activities* determine the common standard to be met in carrying on hydrocarbon activities on the Faroese continental shelf, cf. s. 13. The principal aim of this section is that the activities must be carried on in accordance with good oil field practice, with due consideration being given to safety and the environment and other interests involved, including fishing. The supervision of the licensees provided for in s. 31(1), in practice performed by the Faroese Petroleum Administration, which is responsible to the competent member of the Faroese Government, is to be based on the general guidelines laid down in s. 13 and the numerous, more detailed requirements included in specific regulations and in the terms and conditions of individual licenses. S. 14 contains the essential requirements as to the prior approval of drilling operations and of the establishment of production installations, etc. Such approval is considered necessary, partly because high-pressure drilling of deep wells is in itself a dangerous operation that requires considerable expertise and experience if it is to be performed safely, and partly because the wells drilled are of great interest in terms of exploration, and finally because the Faroese Government must naturally agree to the placing of permanent installations in Faroese territory. Ss. 15 and 16 regulate the coordination of production from accumulations extending into the license areas of several licensees, including into the continental shelf of other countries, as well as the coordination of production from several discoveries adjoining one another. Finally, s. 17 establishes the principle that all crude oil and natural gas produced must be landed in the Faroe Islands. In many cases, particularly as regards natural gas, there will be neither technical nor financial grounds for transporting the hydrocarbons produced to the Faroe Islands, and this provision therefore authorises the Faroese Government to consent to delivery elsewhere. However, in the long term, hydrocarbon activities on the Faroese continental shelf should preferably not become too unilaterally dependent on access to the neighbouring countries' pipelines and terminal facilities. Therefore, in order to safeguard the interests of the Faroe Islands in the best way possible, an arrangement is proposed according to which it will generally be the exception, subject to the consent of the Faroese Government, to land the produced hydrocarbons outside the Faroe Islands. Thus, the Faroese Government will also be able to stipulate terms and conditions aimed at achieving the favourable derivative effects on the Faroese business community which are not achieved when the production is landed abroad.

e) Parts 3 C and D (ss. 18-21) of the Bill contain provisions regarding the establishment and operation of *pipeline facilities* and *decommissioning* after the discontinuance of production. The prior approval by the Faroese Government of any measures in this respect is necessary for the same reasons that apply to field developments, as dealt with in s. 14(2). In this connection, the Faroese Government is

responsible for ensuring that, as far as possible, the pipeline contributes to the establishment of a transport infrastructure that is expedient from a general point of view, cf. s. 13(2). The provisions regarding pipeline facilities moreover authorise the Faroese Government to stipulate such terms and conditions as to prevent the abuse by a pipeline owner of any dominant position and control of the transport infrastructure to the detriment of other licensees and the interest of the Faroe Islands in initiating production from discoveries on ordinary financial terms. The provisions regarding decommissioning upon discontinuance of production or the expiry of a license are to ensure that the installations are disposed of in an appropriate way after use, both financially, technically and environmentally, and that the Faroe Islands are entitled to take over the installations if they can still be used for production or for other purposes. The Bill operates on the premise that the entire decommissioning issue is to be assessed from case to case on the basis of a decommissioning plan submitted by the licensee at the appropriate time. The decisions in this respect will have a considerable impact on the treasury, either in the form of tax allowances for the licensee or in the form of the costs incidental to the removal of the installations being taken over by the treasury.

f) In addition to vesting the usual authority in the public authorities, s. 22 in Part 4 of the Bill prescribes that special *environmental impact assessments* must be made, with a right for the affected public and other parties to comment on contemplated projects. When matters concerning, for example, field development and the routing of pipelines are processed, it is found appropriate to ensure, by virtue of the Act, firstly that the environmental aspects are considered as part of the Petroleum Administration's ordinary procedures, which is assumed to involve the environmental authorities, and secondly that both the general public and all organisations and authorities involved are given an opportunity to express their opinion before an approval is granted. Environmental impact assessments are generally used in our neighbouring countries, and are dealt with in more detail in the EU Council Directive on the Assessment of the Effects of Certain Public and Private Projects on the Environment (85/337/EEC). As this involves a special procedure of inviting comments from the public, which is implemented on the basis of a special impact assessment, it is proposed to give the Faroese Government authority to make exemptions from this requirement, particularly in cases where the requisite information is already available by virtue of environmental impact assessments previously carried out.

g) The aim of the special rules laid down in Part 5 of the Bill regarding *working environment, safety and emergency procedures, etc. for offshore installations* (ss. 23-28) is to provide a combined and transparent legal framework for all the installations and facilities used in hydrocarbon activities on the continental shelf. Without such rules, the Faroe Islands would have absolutely no safety and working environment regulations governing fixed offshore production installations and pipeline facilities, whereas mobile installations would be covered by the legislation governing the inspection of ships, which is administered by the Danish Maritime Authority. One option would then be to extend the application of onshore employment protection and fire protection legislation to fixed offshore installations according to the principle laid down in s. 3(2) of the Bill. However, all these sets of rules, differing from one another on numerous points, would still have to be supplemented by a number of special regulations. As the Faroese Government should be able to provide overall regulation of safety and working environment matters, regardless of the nature of the installations used, and as effective, public supervision requires that the risks involved can be assessed collectively, it is proposed to introduce special statutory provisions for "offshore installations", as defined in s. 2(b). Whether the installations and facilities used are fixed or mobile is frequently to be determined on the basis of purely technical and financial criteria, for which reason the same safety rules and principles should apply, regardless of whether the offshore installations used in the oil activities are fixed or mobile. These special rules will not be applicable on shore, because here the special combination of maritime and industrial risks characterising offshore activities does not exist. Moreover, it is not expected at present that exploration and production activities will be initiated on shore, with the requirements this would imply in terms of employment protection legislation and supervisory authorities. In addition to a general authority for the Faroese Government to draw up detailed rules and regulations, Part 5 of the Bill includes special provisions on manning and organisation for the protection of safety, emergency procedures, safety zones, and inquiries into accidents.

h) Part 6 of the Bill regarding *administration and supervision, etc. by the public authorities* (ss. 29-33) contains the provisions empowering the Faroese Government to act as a supervisory authority. The usual procedure is for such powers to be exercised via the Petroleum Administration, but on behalf of the responsible member of the Faroese Government. The role of the Faroese Government as the supreme supervisory authority requires impartial and professional administration, not least in terms of safety, which, as in other countries, is to be conducted concurrently with the Faroese Government acting as licensor and taxation authority, and safeguarding the commercial interests of the Faroe Islands. Part 6 also contains provisions concerning the licensees' obligation to refund the expenses paid out of the treasury for case administration and supervision by the public authorities and concerning the entitlement for representatives of the supervisory authority to attend meetings of the licensees' joint operating committees as observers.

i) Part 7 of the Bill regarding *compensation, including special provisions on compensation to fishermen* (ss. 34-37) attaches weight to establishing an appropriate and general basis of liability in the cases where third parties suffer damage or injury as a result of the oil activities, and to establishing a supplementary scheme for compensating fishermen suffering losses in situations where a licensee has not committed a tortious act. In the former cases, strict liability is proposed for damage or injury caused as a result of the activities. This means that the licensee must also pay compensation for accidental damage if the general conditions for incurring liability are met, for example, if it is substantiated that a specific licensee has caused the damage or injury, and that the relevant conduct gave rise to the damage in the course of the exercise of hydrocarbon activities as defined in the Bill. This general rule on the payment of compensation also applies where the injured party is a fisherman. The supplementary compensation scheme is akin to schemes established in Denmark and Norway, and, in part in the UK, where experience shows that fishermen may suffer losses that are not attributable to any specific licensee, but where the loss must be assumed to result from the oil activities. Such cases may concern abandoned objects on the ocean floor that cause damage to fishing gear, etc. Furthermore, these provisions regulate the situation where the installation of production facilities impairs usual fishing operations at the site in question, with an ensuing loss of earnings potential. The cases concerning compensation must be decided by a special *compensation board*, on which both parties are represented. In situations of the nature last mentioned, the decision may also be made by the Faroese Government, depending on the circumstances.

## Notes on the individual sections of the Bill

(Section 1)

1.(1) This Bill shall apply to prospecting, etc., exploration, production and pipeline transportation of hydrocarbons in the land territory and territorial sea of the Faroe Islands and on the Faroese continental shelf. The Bill shall also apply to offshore installations, cf. section 2 b) below.

(2) The aim of this Bill is to provide for prudent and appropriate exploration and exploitation of hydrocarbon resources for the benefit of the Faroese economy and employment opportunities. The activities shall be planned with due consideration given to fishing, navigation, the environment, nature and other interests of society.

---

### Notes

The provision in s. 1(1) defines the scope of application of the Bill in terms of substance and geographical area covered, while s. 1(2) sets out the aim of the Bill.

In terms of substance, the objective of **subsection (1)** is that the Bill is to apply to all phases of an oil project, i.e. *prospecting, exploration and appraisal, development and production, as well as decommissioning*. In addition, the Bill applies to *pipeline transportation* and to *offshore installations*, cf. the notes on ss. 18 and 19, as well as s. 2(b).

The need for *prospecting* is most pronounced in areas whose geology has not been investigated very closely, such as the Faroese. Typically, the aim of preliminary surveys is to improve the understanding of the regional geological conditions, for example, by means of seismic surveys.

In the past few years, a number of preliminary surveys have been carried out in the Faroese area under Act No. 179 of 21 October 1993 on Preliminary Surveys, etc. of the Faroese Subsoil, which has increased the knowledge of geological conditions. However, the Act on Preliminary Surveys was only intended to remain in force while the work of establishing a code of laws for the hydrocarbon area was carried out. Consequently, it is proposed to reenact the provisions of the Act on Preliminary Surveys in the Bill on Hydrocarbon Activities, cf. ss. 4-5 in particular, and to repeal the Act on Preliminary Surveys, cf. s. 45(2). No changes are proposed to the current state of the law as far as prospecting is concerned.

In *the exploratory phase*, it is investigated whether oil and/or gas deposits exist, and if this is the case, whether such deposits are sufficiently large to warrant commercial exploitation. Generally, in this phase, more detailed seismic surveys, etc. are carried out and a number of deep wells drilled.

The exploratory phase frequently extends over a period of five to ten years, and perhaps even longer in areas where limited geological data are available.

If deposits of hydrocarbons in sufficient and exploitable amounts are found to exist, the next phase is *the development and production phase*. During this phase, it is planned how the field is to be exploited, how the production unit is to be designed, and where, how and when the oil or gas is to be transported to shore. Moreover, the time of production startup is to be determined.

When production has been carried on from the field for a number of years, the cost of its operation and maintenance will exceed the net income from the field, for which reason production is discontinued. This focuses the attention on decommissioning, including the measures to be taken in respect of the offshore installations. This issue is dealt with in the Bill under the provisions concerning production, and the Bill sets out the procedure for decommissioning in ss. 20-21.

**Subsection (1)** also defines the geographical scope of application, viz. the land territory and territorial sea of the Faroe Islands, as well as the Faroese continental shelf.

The territorial sea of the Faroe Islands comprises the outer and inner territorial waters, cf. section 1(1) of Executive Order No. 599 of 21 December 1976. The outer territorial waters extend for three nautical miles reckoned from straight baselines around the Faroe Islands, while the inner territorial waters consist of the waters, such as harbours, harbour entrances, roadsteads, bays, inlets, sounds and belts situated within the above-mentioned baselines.

Danish sovereignty over the continental shelf extending from the Danish coastline was proclaimed by Royal Decree No. 259 of 7 June 1963. This Decree also comprises the Faroese continental shelf. The Decree is rooted in international law, viz. the Convention on the Continental Shelf of 29 April 1958. According to this Convention, the sovereign rights of the coastal state may be extended, either to the 200-metre depth contour line, or, beyond that limit, to a depth that is technically capable of exploitation.

The Danish Prime Minister's Department inserted a notice in the Danish Official Gazette on 7 May 1985, announcing the preliminary extent of the continental shelf area of the Faroe Islands. The northeastern part coincides with the 200-mile fishing zone, but does not quite extend to the fishery limit; nor does it extend to the areas where the fishery limit overlaps the UK fishery limit and Iceland's exclusive economic zone. The southwestern part of the designation is that section of the Faroe-Rockall Plateau that Denmark, on behalf of the Faroe Islands, considers a natural extension of the Faroese continental shelf, but which duly observes the 200-mile limits of the neighbouring countries. For the United Kingdom, the 200-mile limit is calculated from the island of St. Kilda, and not from Rockall. Towards the deep ocean floor, the boundary has been fixed provisionally and conservatively, based on the rules laid down in Article 76 of the Law of the Sea Convention. A final delimitation cannot be expected until negotiations or any third-party decisions determine the continental shelf boundaries vis-à-vis Iceland, the United Kingdom and, on the Rockall Plateau, possibly vis-à-vis Ireland.

The boundary of the continental shelf between the Faroe Islands and Norway was determined in a treaty concluded between Denmark and Norway on 15 June 1979. The boundary agreed upon is a median line, which also constitutes the fishery limit. The continental shelf of each country has been determined provisionally, extending only to a point that is 200 nautical miles from each country's coastline.

*The aim* of the Bill on Hydrocarbon Activities appears from **the first sentence of subsection (2)**, which provides for prudent and appropriate exploitation of hydrocarbon resources for the benefit of the Faroese economy and employment situation.

With the words *prudent* and *appropriate*, this provision, which is aimed at both public authorities and licensees, focuses on proper resource management, which means that in the production of hydrocarbons, weight must be attached to appropriate extraction and prudent exploitation of the resources, both from a private enterprise and socio-economic point of view, in order that the maximum amount of hydrocarbons may be extracted from each individual accumulation. This requires in-depth knowledge of reservoir geology and production techniques. Oil fields may vary considerably with regard to such factors as porosity and pressure conditions, and the production strategy chosen is not without significance for the recovery factor of a reservoir.

It is considered appropriate that a licensee is obliged already from the outset to ensure that the resources of an individual field are exploited prudently, as the goals pursued by the public authorities and licensees in the activities are thus drawn closer to each other, which must be assumed to facilitate, for example, the planning of the course of production, cf. s. 14(2). The interest in exploiting all hydrocarbon resources should be safeguarded by the public authorities in connection with initiating

licensing rounds and approving field development plans, pipeline facilities, etc. and, in special situations, amending production plans as provided for in s. 14(5).

Moreover, the provision defining the aim of the Bill stresses that the exploitation of hydrocarbon resources must be for the benefit of *the Faroese economy and employment opportunities*. This is in accordance with the decision made by the Faroese Parliament on 24 September 1993 (Parliamentary Matter No. 5/93), which attaches special importance to promoting business policy interests.

In a possible development and production phase, Faroese participation, even on a moderate scale, in terms of the supply of manpower and services, may have a relatively large impact on the Faroese business sector and economy.

To a certain degree, the oil companies will recognise the advantage of buying goods, services and manpower in the Faroe Islands, while, in other cases, they will only be assumed to do so if this is stipulated by the public authorities as a condition for the companies' activities in Faroese territory. The authority to stipulate such terms and conditions is contained in s. 10 of the Bill. Conditions stipulated in this respect must reflect the potential existing in the Faroe Islands for offering the services required by the companies, and must be adapted to the needs of the Faroese community and to the duties that can reasonably be imposed on the oil companies in view of the international competitive situation in the oil and gas sector.

Experience from other countries that have developed an oil industry shows that the national economy may be affected dramatically, both directly through the business sector and indirectly through the public revenue, which may, in turn, result in growth in public expenditure. This impact may have a negative influence on the competitiveness of other parts of the business sector. The most important task of the Faroese authorities in this context is therefore to control the impact of the oil activities on the Faroese community and economy through economic policy measures, in order that the Faroe Islands will still have a business community that can hold its own in international competition when the oil industry begins scaling down its activities.

In addition, the second sentence of subsection (2) establishes a general duty for both public authorities and licensees to plan the activities with due regard for a number of specified interests.

Thus, fishing interests must be protected. For instance, seismic survey vessels must make due allowance for ongoing fishing operations in the area surveyed, and pay due attention to all other vessels in the area. For example, when approvals are granted for drilling in pursuance of s. 14(1), seasonal restrictions and other special conditions protecting fishing interests may be stipulated.

Due consideration must be given to environmental interests and the protection of nature. This is a "bolt on" provision to the provisions concerning the preparation of specific statements and assessments of an environmental nature, cf. s. 7(2) and s. 22. In addition, the licensee has a duty to carry on exploration and production in an environmentally safe and appropriate manner, cf. s. 13. Furthermore, environmental interests, including rules on the discharge of substances into the sea, will be provided for through the relevant authorisations contained in the Act on the Protection of the Marine Environment (currently Royal Decree No. 318 of 26 June 1985). The interests of nature to be protected include the impact of the activities on the population of sea birds.

Both the provision defining the aim of the Bill and s. 7(2) regarding the statement to be submitted by the Faroese Government to the Faroese Parliament prior to offering new areas for licensing provide for the protection of the interests of society. There is assumed to be a need for clarifying the impact of a possible future oil industry on society, and generally to ensure that the activities are planned so as to avoid any possible detrimental effects.

(Section 2)

2. For the purposes of this Bill,

a) *hydrocarbons* shall mean mineral oil, condensate, natural gas and other hydrocarbons found naturally in the subsoil which can be produced in a gaseous or liquid form.

b) *offshore installations* shall mean:

- (i) platforms, pipelines and other fixed installations and facilities in the territorial sea and on the continental shelf which are used for exploration and production activities referred to in section 1 above.
- (ii) mobile units such as drill ships and drilling rigs, production and storage vessels, accommodation vessels and similar vessels, when such units are in a stationary mode and are used for exploration and production activities referred to in section 1 above.

---

#### Notes

**S. 2(a)** defines the hydrocarbons comprised by this Bill.

**S. 2(b)** uses the term *offshore installations* as a generic term for fixed installations and facilities in the territorial sea and on the continental shelf as well as for mobile units when used in a stationary mode for hydrocarbon activities carried on in the territorial sea and on the continental shelf.

The object is to ensure effective public supervision of the conditions of safety, health and working environment related to the offshore activities, cf. also ss. 23-27 and the notes thereon. It is assumed that, although they may vary in respect of outward appearance, the installations covered by s. 2(b) involve the same types of risk, and that there is a great need for effective safety regulation, control and coordination in offshore activities. It has therefore been found appropriate to recommend that the safety, health and working environment aspects of the key functions of the hydrocarbon activities should be regulated by the same code of law. This, in turn, makes it relevant, in consideration of the safety of the overall activities in an area, to broaden the definition of *offshore installations* to include installations not in physical contact with the seabed, cf. immediately below. For practical reasons, the rules laid down in Part 5 of the Bill are assumed to apply to an offshore installation from the time it is placed at the designated position, but not yet put into service, and until it has left the position, has been removed or otherwise disposed of after use.

As already mentioned, the mobile units listed in s. 2(b)(ii) are within the scope of the Bill when used in a stationary mode for the activities described in s. 1. Installations being towed or navigating under their own power are outside this provision. This means that, for example, drill ships, production ships, storage facilities, flotels, on- and off-loading devices, etc. are covered by the definition when used in hydrocarbon activities, whereas, for example, support vessels, standby and supply ships, pipe-laying barges, seismic survey ships and tankers, which are not more firmly and permanently associated with the activities, are not. Moreover, such ships and vessels are subject to other, from a safety point of view, quite adequate legislation, particularly Act No. 98 of 12 March 1980 on the safety of ships, as amended. Drill ships are subject to merchant shipping law in respect of safety matters, but it has been found desirable for such ships to be regarded as offshore installations when they are used for drilling, as this will allow the Faroese Government to issue all the necessary safety regulations. Furthermore, it is considered expedient, cf. the above comments on the need to co-ordinate safety measures etc., to vest the Faroese Government with the powers necessary to exercise supervisory authority.

The definition of mobile installations, ships and vessels further implies that, in matters where they are comprised by this Bill, limitation of liability is not available under the rules in this respect laid down in the Merchant Shipping Act, cf. s. 41 with notes hereon.

Geographically, the application of this Bill is limited to offshore installations placed within the territorial sea, i.e. the inner and outer territorial waters, cf. the notes on s. 1, and on the Faroese continental shelf. In territorial waters, The Faroe Islands/Denmark, cf. the division of powers provided for in the Home Rule Act, have full sovereignty under international law, while sovereign rights in the continental shelf outside the territorial sea are limited to exploration and exploitation of the natural resources of the continental shelf. The scope of the authority to explore and exploit the natural resources of the continental shelf pursuant to international law has been a matter for discussion, but as in Danish and Norwegian practice, it is maintained that the Continental Shelf Convention of 1958, which Denmark ratified in May 1963, grants the coastal state jurisdiction in respect of any activity related to the exploration and production of resources, including hydrocarbons, on and in the continental shelf. Thus, the Faroe Islands have authority under international law to regulate offshore installations established for the above-mentioned purposes, as well as to impose and enforce sanctions against any person who unlawfully carries out exploration or production on the shelf, or in the course of his activities fails to comply with any rules or terms and conditions applying thereto.

The Bill applies to both Faroese- and foreign-owned offshore installations operating in the territorial sea and on the continental shelf. This scope of application is based on the need to regulate all exploration and production activities in the area, for purposes of safety and other matters.

---

(Section 3)

3.(1) The hydrocarbons referred to in section 1 above belong to the Faroe Islands and may only become subject to prospecting, exploration or production by any third party by virtue of a licence granted in accordance with the provisions of this Bill.

(2) Unless otherwise provided by other legislation or by rules or regulations laid down by the Faroese Government, Faroese law shall apply to any offshore installations on the continental shelf and safety zones established around such installations.

---

#### *Notes*

**Subsection (1)** establishes that hydrocarbons are the property of the Faroe Islands. According to international law, this means that on the continental shelf the Faroe Islands have the sole competence to explore for and exploit mineral resources, including hydrocarbons.

Hydrocarbons are one of the mineral resources to which the Danish state has the proprietary rights according to Act No. 181 of 8 May 1950 on the Exploration and Recovery of Raw Materials in the Subsoil of the Kingdom of Denmark, as hydrocarbons were not subject to private-sector exploitation prior to 23 February 1932.

Under the agreement of 22 December 1992 between the Danish Government and the Faroese Government, the Faroese Home Rule authorities took over the legislative and administrative competence concerning “mineral resources in the subsoil”, i.e. the mineral resources comprised by the above-mentioned Subsoil Act of 8 May 1950. Following its approval by the Faroese Parliament, the agreement was printed in "Kunngerðarblaðnum" (the Faroese Legal Gazette) as Executive Order No. 96 of 13 May 1993. Against this background, it is considered safe to establish that hydrocarbons are the property of the Faroe Islands, and that the activities listed in s. 1 may only be carried on by parties other than the Faroe Islands, i.e. third parties, subject to a license being granted under the Bill. Exploration and production licenses granted under a concession system operate on the premise that the hydrocarbons produced will become the property of the licensee.

A license granted under this Bill does not exempt the licensee from obtaining licenses or permits prescribed by other legislation.

Under the provision of **subsection (2)**, the application of other Faroese law is extended to offshore installations on the continental shelf, cf. s. 2(b), and in safety zones established around offshore installations, cf. s. 27. This provision is expected to achieve significance in the sense that Faroese private law and conflict of laws rules will become applicable. In many situations, it must be assumed that special public law rules will become applicable to the oil activities, such as this Bill and special environmental rules and regulations.

The term *Faroese law* means all Faroese Parliamentary Acts as well as Danish Parliamentary Acts applicable to the Faroe Islands. In addition, the term comprises executive orders and the like, including unwritten law.

Faroese law does not extend to offshore installations and the safety zones established around them in the cases where legislation provides otherwise, whether expressly or by implication, for example, if the relevant Act either directly defines another scope of application, or if it follows from an interpretation of the Act that it is to apply to Faroese land territory exclusively (e.g. the Faroese Parliamentary Act on Hare Hunting). Moreover, based on a *lex specialis* point of view, the provisions concerning the safety of offshore installations etc. (ss. 23-28) of the Bill on Hydrocarbon Activities will replace the provisions of the Faroese Employment Protection Act, the Faroese Fire Protection Act and other parliamentary acts dealing with safety and working environment.

However, situations may also occur where it is not considered appropriate, even if permitted by legislation, to extend the territorial application of Faroese law beyond the territorial sea. Therefore, it is proposed that the Faroese Government be granted administrative powers to determine that certain parts of Faroese law shall not extend to offshore installations on the continental shelf and shall not apply in the safety zones established around them.

One example where it would be practical to exempt offshore installations from the general provisions of Faroese law is pipelines for transporting hydrocarbons in transit, cf. s. 19, even though such pipelines are offshore installations for the purposes of the Bill. Another example is where hydrocarbons are extracted from border-straddling structures. In the latter situation, an agreement concerning exploitation is frequently made with a neighbouring country, and in this connection it will often be appropriate for the offshore installations used to be subject to the same jurisdiction, whether located on one or the other side of the continental shelf boundary.

Particularly concerning activities in the safety zones, there is reason to recommend some restraint in applying Faroese law. The coastal state competence is not assumed to be as far-reaching in the safety zones as for the actual installations, as international law merely empowers the coastal state to initiate the measures necessary to protect the relevant offshore installations, cf. Article 5(2) in the Continental Shelf Convention. Therefore, it is the protective aim that is stressed by s. 27 of the Bill regarding safety zones, for example, the right to prohibit unauthorised vessels from entering the zones. Conflicts between the flag state and coastal state competence are conceivable in particular when vessels or installations registered abroad are permitted to enter the safety zones because they have work to perform there. Such vessels etc. and their crew, must naturally comply with the rules established by the coastal state concerning navigation, anchoring and work in the zones, etc. However, when Faroese law other than that directly concerning the protection of (other) offshore installations, is to be applied, there may be good cause for showing restraint. In this connection, weight must be attached to the function of the relevant foreign vessel, etc. in relation to the offshore installations and the associated activities. A foreign vessel in the safety zones is comparable to a foreign vessel in the *inner territorial waters*, e.g. a Faroese harbour: According to customary international law, the Faroe Islands have jurisdiction, but in practice this jurisdiction is not exercised in respect of "internal disputes" relating to the vessel. Thus, in the safety zones, it is recommended only to apply Faroese law - especially if it is contrary to the law of the flag state - to foreign vessels etc. if the aim is to afford protection of the activities carried on in the

zone, or if the vessel or installation stays in the safety zone for an extended period and is closely involved in the activities carried on in the zone.

---

(Section 4)

4. (1) The Faroese Government may grant licences for prospecting with a view to exploration for and production of hydrocarbons in the subsoil as well as licenses for scientific investigations of the subsoil of importance hereto.

(2) Licences shall be granted for a term of three years, unless a shorter term is fixed in the individual licence. The licence shall indicate the areas encompassed by it.

(3) A prospecting licence shall entitle the holder to perform geological, geophysical, geochemical and geotechnical surveys. The licence shall not entitle the holder to drill for or produce hydrocarbons and shall not give the holder any preferential right to subsequently being granted an exploration and production licence.

---

#### *Notes*

The objective of **subsection (1), first limb** (*prospecting*) is to make it possible for interested companies to carry out preliminary surveys to establish whether there is a basis for initiating actual exploration activities. Thus, the purpose of prospecting activities is to survey a given area with a view to making a preliminary assessment of any potentially recoverable mineral resources.

Prospecting includes such investigatory work as geophysical surveys, including seismic measurements and geochemical surveys. Normally, a prospecting license entitles the holder to drill so-called shallow wells, i.e. wells drilled to a depth of a few hundred metres, but, depending on the circumstances, such licenses may also incorporate a right to drill stratigraphic wells to deeper-lying geological formations.

The objective of **s. 4(1), second limb** (*scientific investigations*), is to gain insight into scientific investigations of the Faroese subsoil that may be of importance to the exploration for and extraction of mineral resources in the subsoil. Such investigations can contribute substantially to mapping geological formations and structures with a view to exploitation. For the purposes hereof, "scientific investigations" means field surveys and measurements requiring the use of technical equipment, such as gravimetric, magnetic or seismic surveys, radiometric measurements, heat flow measurements, etc., as well as the drilling of wells. Scientific investigations aimed at identifying mineral resources other than hydrocarbons, as well as investigations based on more traditional methods, such as taking samples and cores from the surface, are not comprised by this provision.

**S. 4(1)**, according to which scientific investigations are subject to a license, has the additional objective of ensuring that scientific investigations, including any drilling operations in particular, are carried out safely. Finally, the purpose is to prevent evasion of the provisions and procedures that apply to licenses issued in pursuance of the Bill, in order to ensure that all scientific investigations that have a commercial value are subject to the license requirement.

Under the provisions of **s. 4(1)** the Faroese Government is the issuing authority of prospecting licenses as well as licenses to conduct scientific investigations, and is entitled to lay down the guidelines herefore, cf. the notes on s. 5(1) and s. 2 of the current Preliminary Surveys Act. In practice, the Faroese Government has delegated its powers in this respect to the Petroleum Administration, cf. Executive Order No. 10 of 15 February 1996. The Petroleum Administration has drawn up standard prospecting licenses as well as standard licenses for scientific investigations.

Up to now, such licenses have been issued under Faroese Act No. 179 of 21 October 1993 on Preliminary Surveys, etc. of the Faroese Subsoil. In 1994 and 1995 only one company was allowed to

shoot seismics, in order to conduct a regional study of the Faroese continental shelf area within the 200-mile limit, but now it is normal practice to grant virtually all applications, unless there are arguments to the contrary.

According to **subsection (2)**, licenses may be granted for up to three years, although less than three years will frequently be sufficient to carry out the desired investigations. Till now, the Faroese Government has issued standard licenses for a term of one year, to allow adjustments of the license conditions in light of experience gained. In our neighbouring countries, it is common practice to issue standard prospecting licenses for a term of two to three years, generally against payment of a fixed fee. This gives the holder of the license considerable freedom in planning the investigations on the basis of practical and commercial considerations. The Faroese Government (Petroleum Administration) should be notified in advance of any contemplated investigations. Licenses for scientific investigations are usually granted exclusively for specific, planned investigations.

The indication of the areas comprised by the license is often held in general terms, for example, the land territory with internal waters, or the whole or parts of the continental shelf area. Similarly, special consideration is paid to areas affected by any negotiations ongoing with neighbouring countries about the delimitation of the continental shelf.

The surveys referred to in **subsection (3), first sentence**, are discussed in the notes on subsection (1). Actual exploration activities, such as the drilling of deep wells, in order to establish the presence of hydrocarbons that can be exploited commercially, do not fall within the scope of this provision. Nor does it extend to any measures aimed at determining the extent of discoveries made or preparing the exploitation of such discoveries.

Pursuant to this Bill, the exclusive right to exploit an accumulation of hydrocarbons can be acquired under an exploration and production license, cf. s. 6(1) of the Bill, which also entitles the holder to perform preliminary surveys in the license area. The definition in subsection (3), first sentence, above, of the investigations that may be performed under a prospecting license is supplemented by a clarification in the **second sentence of subsection (3)** to the effect that a prospecting license does not incorporate an exclusive right to drill for or produce hydrocarbons. However, a prospecting license may entitle the holder to drill wells, typically shallow or stratigraphic, with the sole purpose of collecting data about subsoil conditions. According to subsection (3), second sentence, last limb, of the provision, it is proposed that a prospecting license may not give the holder any prior right to obtain an exploration and production license at a later stage. The background for this provision is that granting preferential rights would lessen other oil companies' interest in submitting applications in a subsequent licensing round, and thus adversely affect the conditions obtainable by the Faroese Government.

Prospecting licenses incorporating a preferential right are used in areas where oil companies consider the prospects to be so poor that they would not even be interested in prospecting, unless they were guaranteed the above-mentioned preferential right. Thus, the adoption of the 1993 Act on Preliminary Surveys was based on the assumption that oil companies would display such interest in the Faroese area that the Faroese Government might launch survey work on the same scale as in the North Sea area. The oil companies are still interested, and there seems to be no need to change the rules.

---

(Section 5)

**5.(1)** The Faroese Government may lay down terms and conditions for the award of a prospecting licence or a licence for scientific investigations, including the payment of charges and fees, reporting on the progress and results of such prospecting and investigations, as well as confidentiality obligations with respect hereto.

(2) The Faroese Government may lay down general provisions on charges and fees payable for the

award of licences.

---

### *Notes*

In order to ensure that the public authorities gain an insight into the surveys (timing, method, equipment and results, etc.) and obtain the best possible knowledge about the conditions in the subsoil, the licenses mentioned in **subsection (1)** or general regulations, cf. s. 29, will specify the reports to be prepared and the way in which the licensee is to report to the authorities on his activities. The licenses or regulations will also stipulate which samples, cores, raw data, processing results, interpretations, etc. are to be submitted, as well as a time limit for such submission. So far, both the reporting and the submission of data are only regulated by the standard terms and conditions set out by the Faroese Petroleum Administration in prospecting licenses and licenses for scientific investigations, cf. the notes on s. 4.

The existing Act on Preliminary Surveys, which is proposed to be repealed according to s. 45(2) of the present Bill, stipulates in s. 5 that offshore surveys are to be arranged with due regard to fishing operations. It is not proposed to reenact the relevant provision in this Bill, but the state of the law will remain unchanged, as the provision defining the aim of the Bill stipulates that due consideration must be given to fishing and navigation, cf. s. 1(2) and the notes thereon.

The Faroese Government will continue to include a condition in prospecting licenses to the effect that seismic surveying vessels may be required to have an observer on board who is a fishing expert.

To date, the parties carrying out investigations under a permit granted in pursuance of the Act on Preliminary Surveys have had a fishing expert on board as an observer. The observer has a purely advisory function. The observer's main responsibility is to maintain contact with any fishing vessels in the area surveyed, in order to avoid interference between the two activities.

As the provision laid down in s. 1(2) is aimed not only at the public authorities, it involves a general obligation for the surveying companies to pay regard to any ongoing fishing operations in the area surveyed. If it proves necessary to supplement this obligation by more detailed rules, this may be done by issuing general regulations or incorporating conditions in this respect into the individual licenses granted under this provision.

Moreover, it may be mentioned that the liability imposed on the licensee under s. 4 of the Act on Preliminary Surveys is upheld in s. 34 of the present Bill on Hydrocarbon Activities, which liability applies to all activities carried on under the Bill. In this connection, reference is made to s. 34 and the notes thereon.

The purpose of the last limb of subsection (1) is to protect the data received for a certain period of time, as, firstly, they may have the nature of commercial secrets, and, secondly, they may be of value to the licensees with a view to sale or exchange. After the expiry of the period, typically five years, these data could be made accessible to interested private individuals - possibly against payment - according to the practice used in other countries. In Executive Order No. 10 of 15 February 1996, the Faroese Government has laid down that data submitted to the Faroese Petroleum Administration in pursuance of the Act on Preliminary Surveys are to be exempt from the Act on Public Access to Documents in Administrative Files during the confidentiality period fixed in the permit.

The fees covering the costs of administration and any charges should be fixed in such a way that they do not weaken the interest in preliminary surveys in the Faroese area. It is definitely in the public interest to have third parties perform preliminary surveys in order to obtain more knowledge about the subsoil. The intention of **subsection (2)** is to authorise the Government to draw up general rules on the nature and amount of any fees and charges payable. The above-mentioned Executive Order No. 10 of

15 February 1996 fixes the application fee at DKK 10,000.00 and the annual charge for a license at DKK 75,000.00.

---

(Section 6)

6.(1) For a specific area and subject to more specific terms and conditions, the Faroese Government may grant a licence with an exclusive right for the exploration for and production of hydrocarbons. Such a licence may only be granted to applicants which are considered to have the requisite expertise, experience, resources and financial capacity. In determining to whom a licence is granted the Faroese Government shall have regard to the extent to which the Faroe Islands will gain insight into and benefit from the activities carried on by virtue of the licence.

(2) A licence granted in pursuance of subsection (1) above shall incorporate provisions about the matters referred to in sections 8 to 12, and may include such other terms and conditions as deemed necessary by the Faroese Government.

---

#### *Notes*

It is established in **subsection (1)** that licenses granting exclusive rights for the exploration for and production of hydrocarbons from the subsoil are to be granted by the Faroese Government. As stated in the notes on s. 3 of the Bill, the exclusive right will usually mean that the licensee becomes the owner of any hydrocarbons produced in the license area.

Exploration involves detailed investigations, such as the drilling of deep wells, within an area where appraisals based on prospecting indicate the possible existence of hydrocarbon deposits.

Production activities comprise all activities necessary to carry on production from a proven hydrocarbon deposit, cf. the notes on s. 1(1).

Licenses granted in pursuance of s. 6 are combined exploration and production licenses. The reason is that companies cannot be expected to invest the substantial amounts required to drill deep exploration wells and to carry out other similar cost-intensive activities, unless they are secured a right beforehand to produce and own (for the purpose of resale) any hydrocarbons discovered, and have some certainty as to the financial conditions associated with such production activities.

Subsection (1) also provides that licenses are to be granted for a specific area to be determined in the license. Typically, the whole concession area is divided into a system of blocks, and a license is granted for one or more blocks, indicated by coordinates. In addition, the area for which a license is granted may be delimited in terms of depth.

It follows from subsection (1), second sentence, that in granting a license, the Faroese Government will attach weight to the applicant's financial capacity and expertise, as well as technical know-how and experience. Another important factor is that the applicant's organisational structure should meet the need for public insight into and supervision of the activities. In this connection, the licensee may be required to establish and/or maintain such organisational ties to the Faroe Islands as to make it possible to effectively enforce rules and regulations on taxes and duties, control, supervision and liability relative to the activities.

**Subsection (2)** stipulates that as a minimum, the licenses must incorporate provisions on the matters referred to in ss. 8-12, i.e. term of exploration, conditions for extending it, working obligations, use of Faroese manpower, services, etc., submission of data, and confidentiality, as well as the obligations surviving the expiry of a license.

As it is not possible at present to predetermine all the terms and conditions that it may be relevant for the Faroese Government to incorporate into a license, it is stipulated at the end of s. 6(2) that the Faroese Government may include other terms and conditions considered necessary. For example, there is nothing to prevent the license from including provisions on research and investment matters or provisions on the participation in the activities by a Faroese oil company, including any state enterprise.

---

(Section 7)

7.(1) As a general rule, licences for exploration and production of hydrocarbons shall be granted following a public notice inviting applications.

(2) Prior to inviting applications, the Faroese Government shall submit a statement to the Faroese Parliament indicating the areas to be offered for licensing and the general terms and conditions on which licences are to be granted. The statement shall include an assessment of the possible impact of the hydrocarbon activities on navigation, fishing and other commercial activities, and on nature, environment and any other effects on the community, as well as an assessment of the contributions of the activities to stimulating the economy and employment opportunities.

(3) The Faroese Government may decide not to grant any licences on the basis of the applications submitted following a public notice inviting applications.

(4) The Faroese Government may stipulate payment of fees for the consideration of applications and the award of licences pursuant to section 6.

---

#### *Notes*

According to **subsection (1)**, the usual procedure for granting exploration and production licenses is an invitation to the public to submit applications, a so-called licensing round. The background for this procedure is the wish to involve as many companies as possible in exploration and production activities in Faroese territory. This is assumed to be the best way to ensure that several, different exploration concepts and strategies are pursued, which is a prerequisite of efficient mapping of resources. Licensing rounds in which oil companies are invited to submit applications for specific license areas incorporate a competitive element that does not exist to the same extent in other licensing systems.

However, the provision of subsection (1) does not prevent the Faroese Government from issuing licenses without inviting the public to submit applications where this is warranted by the circumstances. For example, for areas which do not hold major prospects, the Government may publish a notice to the effect that licenses may be granted on an ongoing basis, possibly over a limited period of time (the so-called open-door procedure), so that licenses may be granted in response to applications submitted. In such circumstances, applicants need not await the announcement of a licensing round. Another situation in which it may be expedient not to hold a licensing round is when an accumulation or a potential discovery already licensed extends into an unlicensed area. In such cases, it may prove more sensible to use the so-called “neighbouring block procedure”, by which the border-straddling accumulation or potential discovery is explored together with the accumulation already licensed. In many cases it will only be commercially viable to carry on joint exploration and production. A third situation may be the re-issuing of a license for which all possibilities of extension under s. 8 have been exhausted, but where it has not proved possible to fully exploit the hydrocarbon deposit.

The statement referred to in **subsection (2)** will set out the reasons for selecting the areas (blocks) to be offered for licensing, as well as a description of the most important standard terms and conditions that

will apply to the licenses to be issued when the selection has been made. Based on the experience and the data accumulated about the areas, it must be expected that the general terms and conditions will have to be adapted to reflect the experience gained.

The terms and conditions of a more general and standardised nature will be set out in a model license accompanying the statement. The model license will also indicate which of the terms and conditions are not usually finalised until after consultation with the applicant. Therefore, the final content of the individual license will be determined by negotiations with the applicants, where the main issues will include the geological conditions in the relevant area and the assessments of these conditions by the public authorities and the applicant.

Further, the statement will assess the possible impact of the oil activities on navigation, fishing and other business activities, as well as on nature and the environment. An account will also be given of the contribution of the activities towards promoting the Faroese economy and employment opportunities, including any other impact on the Faroese community. Thus, the statement will mainly address the issues mentioned in the notes on s. 1(2), to which reference is made.

As stated in paragraph 9 *c*) of the general notes, the background for proposing that the statement “be submitted” to the Faroese Parliament is the importance of ensuring that the Faroese Government acts in a manner acceptable to a Parliamentary majority, in a matter as vital as the granting of oil concessions. The reason for not proposing that the Faroese Parliament or a parliamentary committee is to approve the statement is, firstly, that this would presumably be incompatible with the aim of the rule laid down in s. 34, second sentence, of the Act on the Faroese Constitutional System, according to which the authority for the Faroese Government to lay down statutory provisions of a general nature cannot be made subject to approval by representatives of the Faroese Parliament. Secondly, it might prove highly inexpedient for the Faroese Government, when subsequently negotiating with applicants, to be legally bound by, perhaps, highly detailed preconditions for the Faroese Parliament's formal approval of the statement from the Faroese Government.

In Denmark and Norway, a similar tradition has been established for submitting proposals for licensing rounds. The Danish Subsoil Act of 1981 moreover provides that the Minister for Environment and Energy is to grant licenses for the exploration for and production of mineral resources after submitting the matter to the Danish Energy Committee. This procedure is also of a political nature, testing whether the licenses to be issued will meet with any objections from a majority of committee members. A subsequent submission to the Faroese Parliament of the outcome of negotiations with the applicants is not contemplated in the Bill, as this procedure is deemed contrary to the principle underlying s. 34 of the Act on the Faroese Constitutional System. However, in the opinion of the Faroese Government, this rule will scarcely prevent the Government from informing the Faroese Parliament about the matter in an appropriate manner.

As mentioned above, the content of the licenses will not be finally determined until a number of issues have been negotiated between the Faroese Government and the applicants, particularly concerning the applicants' proposed work programme and use of Faroese manpower, etc. Generally, some restraint should be shown, however, in making too many license conditions subject to negotiation, as this is likely to hamper and delay the procedure for granting licenses.

**Subsection (3)** provides that the Faroese Government may decide not to grant licenses, even following a public notice inviting applications.

**Subsection (4)** authorises the Faroese Government to charge a fee for the processing and subsequent granting of applications for licenses under s. 6, for example in the licensing material. Similar fees are charged for the processing and granting of applications for permits pursuant to the Act on Preliminary Surveys, cf. the notes on s. 5.

(Section 8)

8.(1) A licence granted in pursuance of section 6 above shall be issued with a view to exploration for a term of up to 12 years, which term may be prolonged for up to two years at a time. However, the total term of exploration may not exceed 16 years.

(2) When the pertinent terms and conditions stipulated in a licence have been fulfilled, the licensee shall be entitled to an extension of the licence with a view to production for a period to be fixed in the licence, which may not exceed 30 years. The licence thus extended shall apply, as a minimum, to those parts of the area that include commercially exploitable deposits from which a licensee intends to carry on production. As a condition for extending the licence, the Faroese Government may stipulate that within a specified, reasonable time limit, an application shall be submitted for approval of a field development plan in accordance with section 14(2) below.

---

*Notes*

A license granted in pursuance of section 6 gives the holder an exclusive right to explore for and produce hydrocarbons in the relevant area. According to the notes on s. 6, the combined exploration and production licenses are necessary in order for oil companies to be prepared to invest the substantial capital required for exploring for hydrocarbons. However, the right to carry on production is not unrestricted, but is conditional upon discoveries of oil or gas being made in the exploration period. In other words, the license covers two stages, the second stage being implemented only if discoveries are made during the first stage.

According to **subsection (1)**, exploration licenses are granted for a term of up to 12 years and may be extended for up to two years at a time, subject to a maximum period of 16 years in total.

However, it will scarcely be the typical situation to operate with an initial term of 12 years, but a great demand may arise for long exploration periods in the Faroese area, which is unbroken ground in terms of oil exploration, and where oil companies will be facing difficult climatic, oceanographic and geological conditions.

An extension in pursuance of subsection (1) will usually only be granted where warranted by special circumstances, for example, if the licensee can satisfactorily substantiate that it was not possible within the initial term to establish whether any discoveries of hydrocarbons made are commercially exploitable. As a general rule, the license will include terms and conditions regarding the working obligations (work programme) to be complied with by the licensee during the period of exploration, cf. the notes on s. 9. An extension of the term of exploration may be made conditional upon an expansion of the scope of the work programme; also, the extension may be limited to comprise parts of the initial license area only.

**Subsection (2)** entitles the licensee to an extension of the license term, provided that the terms and conditions stipulated in the license have been fulfilled. In such case, the extension will, as a minimum, apply to the areas in which commercially exploitable discoveries of hydrocarbons have been made. As in our neighbouring countries, the extension may also be granted for larger areas, depending on the wording of the license in this respect. However, the term of production is not to exceed 30 years.

The license will specifically state the conditions to be fulfilled and the procedures to be observed in order that the license term may be extended. For example, it may be made a condition that the licensee submits technical and financial information when filing a declaration to the effect that the discovery can be exploited commercially, and that the licensee intends to exploit the deposits discovered.

The aim of the provision laid down in subsection (2), second sentence, is to prevent commercially exploitable deposits from not being exploited. To help achieve this aim, an area rental may be introduced, cf. the notes on s. 9.

---

(Section 9)

9. A licence granted in pursuance of section 6 shall stipulate the work obligations that the licensee shall fulfil within the term of exploration referred to in section 8(1) above, as well as the charges payable by the licensee to the Faroese authorities. In this connection, it may be stipulated in the licence that a periodic charge shall be payable on the basis of the size of the area comprised by the licence (area rental), as well as a charge based on the amount or value of hydrocarbons produced (royalty).

---

#### *Notes*

The purpose of stipulating in a license granted in pursuance of s. 6 which *working obligations* the licensee must fulfil during the term of exploration is to ensure efficient exploration. Usually, such working obligations will appear from the so-called “work programme” incorporated in the license.

The obligations may take the form of a specific volume of work to be carried out or a minimum amount to be spent on exploration activities within the area for which the license is granted. As a rule, the work programme will also stipulate that the work must be performed or the investments made within specified periods of time in the course of the exploration period.

The work programme will usually include an obligation for the licensee to carry out seismic surveys covering a specific number of kilometres and to drill a predetermined number of exploration wells penetrating specific geological strata. The work programme may also stipulate which supplementary investigations the licensees must carry out upon making discoveries, in order to establish whether such discoveries are commercially exploitable. Moreover, it may be stipulated that the supervisory authorities may order the licensee to carry out additional investigations for this purpose. Normally, the scope of the work programme will reflect the expectations held in respect of an area prior to the granting of a license. Thus, it may be determined when drawing up a work programme for a relatively attractive area that the licensee must also carry out an exploration programme within less promising areas for which a license is granted at the same time.

In addition to fulfilling the work programme, the licensee must pay any *charges* to the Faroe Islands provided for in the license.

It will scarcely be possible to introduce charges that are generally applicable, as such charges must be assumed to be fixed in the course of each individual licensing round in light of the expectations from the areas offered for licensing, existing market conditions, etc.

*The area rental* is a periodic charge calculated on the basis of the size of the area comprised by the license, normally at a fixed price per square kilometre. The rental may be fixed for the whole term of the license, but may also be made progressive, so that it is charged at a basic rate during the initial term and subsequently increased if the term of the license is extended, cf. s. 8(1), and possibly increased even further if an extension is granted with a view to production, cf. s. 8(2). Such progressive area rentals may help ensure that (i) the licensee will only apply for an extension of the term of exploration for areas which the licensee has a genuine intention to explore, and that (ii) commercially exploitable discoveries are actually exploited.

*Royalty* is a tax amounting to a certain proportion of the value of the hydrocarbons produced.

For the Faroese authorities, royalty has the advantage that it secures them a share of the income from the production of hydrocarbons immediately upon commencement of production.

Royalty may be defined as a fixed percentage, regardless of the volume of production, but a progressive scale, relative to production, may also be used.

The charges mentioned in the provisions of s. 9 should merely be considered illustrative examples, as they do not prevent the Faroese authorities from imposing other charges, e.g. fees and non-recurrent payments (bonuses) in various forms.

In addition to fixing the amount of the charges payable, the licenses will also stipulate the dates and terms of payment and the basis on which the value of the hydrocarbons produced is to be determined.

Charges imposed under the provisions of s. 9 will not supersede ordinary income tax, including any special taxes on income from oil and gas production activities.

---

(Section 10)

**10.** Licences granted in pursuance of section 6 above shall incorporate provisions on the licensee's use of Faroese manpower and the supply of goods and services by Faroese undertakings on training and educational measures, etc., as well as on the location of the licensee's activities.

---

#### *Notes*

This section provides for exploration and production licenses to include terms and conditions on matters that are likely to influence the benefit derived by the Faroese community from oil activities, apart from any taxes and charges imposed. The benefits considered here are the impact on training and education and the employment of Faroese manpower, as well as the supply of goods and services from Faroese undertakings. It is not considered expedient to incorporate specific provisions in this respect into the Bill, as such provisions would still have to be supplemented by detailed rules in the licenses granted in order to have any practical effect. This also makes it possible for the relevant obligations to be drafted following negotiations with the oil companies applying for licenses. In addition, the consideration for the Faroe Islands' trade policy agreements with neighbouring countries and any amendments to such agreements, e.g. in case of altered relations with the EU, makes it recommendable not to incorporate specific requirements into the Bill.

In applying the provision laid down in s. 10 and drafting the detailed terms and conditions of exploration and production licenses, as well as the administrative procedures (supervision, etc.) relating to the promotion of employment and trade under the Bill, regard will be had to the above-mentioned international agreements, the Home Rule Act and any subsequent agreements, such as the agreement of 22 December 1992 on mineral resources in the subsoil.

It should be stressed when administering the provisions of s. 10, that the licensees' activities result in *economic activity in the Faroe Islands in real terms*, in the form of new jobs and genuine growth in the economy, i.e. a positive contribution to the Faroese national product. Combined with the exploration effort, the elements listed in s. 10 may constitute a determining factor in choosing between several applicants for an exploration license for the same area. Therefore, negotiations with applicants prior to the issuance of licenses will frequently be focused on this type of issue.

Below, some of the potential requirements that may *conceivably* be imposed on the licensees are discussed:

As far as the use of Faroese manpower is concerned, a provision may be included in the license or in general regulations, cf. s. 29, requiring the licensee to recruit Faroese manpower to the extent possible. Further, the licensee may be required to report to the public authorities on the number of employees, including the number of Faroese employees, and on the measures taken by the licensee to train and increase the qualifications of his workforce. The objective should be to raise the level of competence among Faroese employees, thereby enabling them to occupy positions at all levels of the business carried on by the operator. The licensee may also be required to ensure that contractors and subcontractors file similar reports with the public authorities.

It is important that licensees, contractors and subcontractors offer the Faroese labour force job openings, but it is equally important to ensure that Faroese undertakings have genuine opportunities to be awarded contracts and obtain orders for goods and services in competition with foreign undertakings. For example, the licensee may be required to comply with procedures drawn up by the Faroese Government concerning the invitation of tenders and the publication of information about activities planned. Another possibility is to impose a duty on the licensee, when selecting contractors, to attach weight to the relevant contractors' willingness to use Faroese goods and services, in addition to considering usual competitive parameters, such as quality, service level, delivery time, and price. As most Faroese undertakings have a moderate size and a limited financial base, it may also be appropriate to attach weight to a foreign supplier's willingness to enter into an alliance with Faroese undertakings. The Faroese Government is also able to test the licensee's willingness to make use of Faroese goods and services in connection with approving a field development plan, cf. s. 14.

Neighbouring countries have focused their training and education measures on upgrading the qualifications of the personnel employed by oil administrations and geological institutions, such as legal advisers, business economists, geologists and engineers. Naturally, such measures would also be highly relevant for upgrading the skills needed by the appropriate Faroese authorities and institutions "Oljufyrisingin" (the Faroese Petroleum Administration), "Føroya Jarðfrøðisavn" (the Faroese Department of Geology) etc.). However, another option might be to offer on-the-job training to employees in specific undertakings, and to draw up provisions requiring licensees to give Faroese students in relevant areas of study the opportunity for special studies in the oil and gas sector. It should also be possible to require licensees to give Faroese institutions of higher education and research institutes the opportunity to participate in research projects carried out in connection with the activities comprised by the license.

It is of major importance that the hydrocarbon activities should be based in the Faroe Islands, to the extent possible. Therefore, the final wording of the licenses may include an obligation for the licensee to submit a plan to the Faroese Government, within a specified time limit, for the organisation and location of the activities on shore during the exploration period. The licensee may also be required to submit an additional plan in connection with starting up production.

---

(Section 11)

**11.(1)** The terms and conditions of licences granted in pursuance of section 6 above, or the rules and regulations issued by the Faroese Government under section 29 below, shall incorporate more specific provisions about how the licensee is to report financial and accounting data, as well as information about its exploration and production activities, including samples and other data about the subsoil collected in the course of such activities.

(2) Licences granted in pursuance of section 6 above may lay down provisions on confidentiality with regard to the data and information referred to in subsection (1) above.

---

### *Notes*

The provision of **subsection (1)** enjoins the Faroese Government to stipulate in licenses or rules and regulations issued how geological and financial data are to be reported. The objective of this provision, which is customary within supervisory legislation, is to enable the supervisory authorities to ensure compliance with the provisions of the Bill and terms and conditions stipulated in pursuance of the Bill.

Any serious or persistent breach of the licensee's duty to provide information may result in revocation of the license, cf. s. 39, or punishment in pursuance of s. 43.

Financial and accounting data include annual reports and accounts, budgets and plans for future activities. In addition to providing the public authorities with information about the licensee's situation and financial position, budgets and outlines of future plans will help the authorities assess the oil company's level of activity, which is of relevance to the national economy.

Information about exploration and production activities will include results of geophysical, geological and geochemical surveys. Reference is made to the notes on s. 30.

The provision laid down in **subsection (2)** on confidentiality stipulates that the information mentioned in subsection (1) should be subject to the same safeguards as mentioned in the notes on s. 5, as such information may have the nature of commercial secrets.

It is not considered necessary to lay down rules on confidentiality, as in s. 7 of the Act on Preliminary Surveys, or to refer to the provisions of the Penal Code on the duty of confidentiality for public-sector employees and other parties involved. The reason for not including this provision in the Bill is that all issues relating to confidentiality are regulated by Faroese Act No. 132 of 10 June 1993 on Public Administration, which in turn refers to the Penal Code. Therefore, it is considered sufficient for the licenses to include references to the above-mentioned Act and the Penal Code and to specify the period of confidentiality for geological information submitted, cf. s. 30, as well as to include detailed rules on the authorities' use of the data submitted by the licensee for information purposes, i.e. for public statements, annual reports, etc.

In the event that an Executive Order is issued regarding the submission of information, see above, it may include a provision in pursuance of s. 3(1) of Faroese Act No. 133 of 10 June 1993 on Public Access to Documents in Administrative Files, according to which the data etc. reported are exempt from the provision on public access. Such an exemption has already been introduced for information relating to preliminary surveys, cf. Executive Order No. 10 of 15 February 1996.

---

### (Section 12)

**12.** Subject to the provisions laid down in sections 20 and 21, licences granted in pursuance of section 6 above shall stipulate the extent to which the licensee's obligations shall continue to exist after the expiry, relinquishment or revocation of the licence. Further, it may be stipulated that if a work obligation or other obligation is not fulfilled, the Faroese Government may demand that the licensee shall pay the amount, in whole or in part, that it would have cost to fulfil the relevant obligation.

---

### *Notes*

The aim of the provision laid down in the first sentence is to ensure that prior to termination of a license, regardless of the cause of termination, a decision is to be made regarding the licensee's financial obligations, for example, the obligation to pay fees or charges or any compensation for which the licensee is liable according to the provisions of the Bill or any terms and conditions fixed in pursuance of the Bill.

The steps to be taken in respect of the offshore installations established by the licensee after discontinuance of the activities are subject to special regulation, cf. ss. 20-21. Any onshore installations will be covered by the terms and conditions regarding decommissioning stipulated in the license, cf. the notes on ss. 20-21.

The provision laid down in the second sentence concerns the situation where the licensee fails to fulfil specific exploratory obligations or other obligations stipulated in the license, in whole or in part. In such a situation, e.g. upon the termination of a license, it will frequently be impossible or inexpedient to have the licensee carry out the obligation in practice, and therefore the Faroese Government is authorised to demand payment by the licensee of an amount equivalent to the costs involved in fulfilling the obligation.

This provision operates on the premise that if the Faroese Government consents to, for example, the non-performance of a drilling obligation if there are no indications that discoveries of hydrocarbons will be made or for other reasons, the Faroese Government *may* refrain from demanding payment of an amount corresponding to the drilling expenses not defrayed.

---

(Section 13)

**13.(1)** Exploration and production shall be carried on in a safe and appropriate manner in accordance with good international practice, as established for activities carried on under similar conditions. The activities shall be carried on with due consideration given to safety and the environment, such that any waste of hydrocarbons is avoided. Appropriate measures shall be taken to avoid damage to flora and fauna and any other pollution of the environment. The activities may not pose unnecessary risk or hindrance to shipping, aviation, fishing or other commercial activities; nor may they cause damage to or pose risk of damage to pipelines, cables or other installations.

(2) Processing facilities, pipelines and other transportation facilities should be designed and constructed having due regard for the efficiency of the overall infrastructure.

---

#### *Notes*

This provision describes the overall factors to be considered in connection with exploration and production activities, with special emphasis on the requirement for such activities to be carried out in a safe and appropriate manner. The reference to international practice means that any assessment of the scope of “safe and appropriate” is to be based on technical, resource- and safety-related criteria generally accepted in the oil industry under similar conditions.

It follows from the second sentence of this subsection that the responsibility for establishing, maintaining and developing a fully acceptable safety level, including responsibility for avoiding any waste of resources and pollution of the environment, lies with the person in charge of the activities (the licensee), cf. also s. 23. The safety provisions laid down in this Bill or any executive order issued pursuant hereto, or in connection with public authority supervision and enforcement, are only intended to supplement the Bill and provide guidance in achieving the aim of this Bill, viz. to ensure that hydrocarbon activities are carried out with due consideration for safety and appropriateness. This is one of the reasons why s. 24(b) empowers the Faroese Government to require the licensee to establish a quality system (safety management system).

The third sentence of subsection (1) requires the licensee and other contracting parties to implement suitable measures to protect the environment, including flora and fauna, while the fourth sentence enumerates several other activities and installations to which the hydrocarbon activities may not involve any unnecessary risk or hindrance, or, in the case of installations, cause any damage. The objective of this provision is to prevent any unnecessary or unreasonable displacement of fishing

operations. Hydrocarbon activities may be said to pose an unnecessary hindrance to fishing operations or any other commercial activity, if they might be carried on from another location, at another time or in another manner without involving the licensee in burdensome financial, legal or practical problems. Whether an activity may be deemed unnecessary or not, for example, relative to fishing operations, will depend on a weighing of facts in any given situation.

The provision is aimed mainly at the licensee and other contracting parties, but it also requires the authorities to ensure, for example when issuing approvals pursuant to the Bill, that the considerations specified in the provision are satisfied. For this reason, among others, the notes on s. 14(2) that deal with the Faroese Government's approval of the envisaged course of production and of the facilities contain a reference to s. 13. In order to facilitate the Faroese Government's enforcement of s. 13, s. 14(3), which provides for the field development plan, imposes a duty on the licensee to describe the matters regulated by s. 13.

**Subsection (2)** should be correlated to s. 18, which makes the establishment and operation of pipeline facilities subject to a license being granted by the Faroese Government. S. 13(2) provides for due consideration to be given to the efficiency of the overall infrastructure in connection with the establishment of processing facilities and pipelines. The objective of this provision is to make allowance for the considerations mentioned in the notes on s. 18, among these that processing facilities and pipelines are to be constructed in a manner conducive to the appropriateness of the overall transport infrastructure and processing facilities of which they form part.

How an installation should be designed and constructed in order to make due allowance for the overall structure will be determined on a case-to-case basis. The provision is therefore worded as a recommendation to the licensee ("*should* be designed and constructed"), so that the practical effects of the provision will depend on the decisions made by the authorities pursuant to s. 14(2) and s. 18.

---

(Section 14)

**14.(1)** Exploration wells and other wells in the subsoil may only be drilled following prior approval by the Faroese Government of equipment, programme and mode of operation.

(2) Offshore installations as well as onshore installations and facilities for the production of hydrocarbons and the initiation of production may only be established by the licensee following prior approval of a field development plan by the Faroese Government, as referred to in subsection (3) below, including approval of the envisaged course of production and of the facilities for this purpose.

(3) Where a licensee decides to develop and initiate production from a hydrocarbon accumulation, such licensee shall draw up a plan for these activities (field development plan), and shall submit it to the Faroese Government for approval, as stipulated in subsection (2) above. The plan shall contain information and assessments regarding the hydrocarbon discovery and the associated production activities, including technical, financial, safety, environmental, navigation and fishing information, as well as a review of the impact of the development project on Faroese economy and employment. Finally, an account shall be given of a proposed plan for decommissioning installations and facilities. If the field is to be developed in two or more stages, the plan should comprise the overall development activities insofar as possible.

(4) The Faroese Government shall have granted its approval of the field development plan, including any subsequent approval of separate development stages and of individual installations or parts thereof in accordance with the rules and regulations laid down in pursuance of section 24, before the licensee enters into any major contractual obligations, unless the Faroese Government consents to the entering into of such contractual obligations beforehand.

(5) Where warranted by concern for safe, appropriate or efficient production, or necessitated by weighty considerations for society, the Faroese Government may make changes in approved production plans and regulate production.

---

#### *Notes*

According to this provision, a variety of activities, such as well drilling, field development and production startup, are subject to approval by the Faroese Government. In addition, the Faroese Government is empowered, in extraordinary circumstances, to require changes to be made to production plans after their approval. While subsection (1) hereof covers all types of drilling operation, including the drilling of exploration wells, subsections (2)-(5) are only relevant where the licensee has discovered a commercial deposit and contemplates production from it.

**Subsection (1)** provides for approval by the Faroese Government of drilling operations related to activities within the scope of this Bill. Thus, a licensee wishing to drill a well under a license (concession) in the area for which the license has been granted is under an obligation to apply for approval to do so. It is assumed that the need for supplementary provisions on other activities, including various types of surveys, will be covered by way of regulations issued in pursuance of s. 29.

The processing of any given application will include equipment, programme and mode of operation. The provision implies that the Faroese Government is entitled to stipulate any modifications of the project described in the material submitted, as well as any necessary safety measures in respect of the activities to ensure that the activities are performed in a safe and appropriate manner, and to prevent any harm to persons or property, the immediate environment or equipment. It is emphasised that the Faroese Government is to make an overall assessment of the contemplated activities, which is to include safety- and reservoir-related aspects as well as other aspects described in s. 13. Thus, a drilling approval may be made subject to seasonal restrictions, in order to protect the fishing industry, cf. the notes on s. 1. Similarly, conditions aimed at protecting the environment may be stipulated.

Approval pursuant to this provision does not release the licensee from his obligation to obtain any permits prescribed under other legislation, e.g. a permit to discharge drilling chemicals in accordance with the Act on Protection of the Marine Environment.

Pursuant to **s. 14(2)**, the licensee is to obtain approval from the Faroese Government prior to initiating *production* of hydrocarbons. Furthermore, both the course of production and the production facilities are subject to approval by the Faroese Government. Before granting its approval, the Faroese Government will ensure that due consideration has been given to the matters described in s. 13, and that existing or planned processing or transportation systems are utilised in an appropriate manner. This may be relevant especially when the production rate has reached a level where, for example, field-to-shore pipelines have been installed, and onshore processing facilities may have been established.

According to **subsection (3)**, licensees applying for approval under subsection (2) are required to prepare a plan for the development and operation of the hydrocarbon deposit discovered, and to submit the plan to the Faroese Government for approval.

The second sentence of this subsection specifies the information and assessments to be contained in the plan. In addition to providing the basis for a separate public assessment of the reservoir-related aspects of the production, this provision allows the Faroese Government to ensure that the licensee's activities are carried on in compliance with the considerations underlying s. 13. The plan must further contain information and assessments of the impact of the project on the Faroese economy and employment, thus enabling the Faroese Government to judge whether the

development project is in compliance with the general aim of this Bill, cf. s. 1(2) and the notes thereon. The requirement specified in the third sentence to the effect that the plan must suggest options for disposing of installations and facilities in connection with decommissioning of the activities is based on the wish to encourage the licensee to consider this aspect of the activities already at the field development stage. Guidelines for the removal of offshore installations, platforms, etc. after use are found, for example, in the UN International Maritime Organisation (IMO) Resolution adopted on 19 October 1989, according to which offshore installations should be designed and constructed with a view to ultimate removal. Reference is also made to the notes on ss. 20 and 21.

Subsection (3), last sentence, provides that where a field is to be developed in stages, the plan should comprise the overall development activities, insofar as possible. It follows naturally from this provision that the Faroese Government is entitled to restrict its approval to the relevant part of the plan.

The provision in **subsection (4)** seeks to prevent a situation where the licensee has already entered into contracts for the most important supplies when he submits the field development plan, thus presenting the authorities with a *fait accompli* in respect of the development model to be chosen. Field development involves extensive obligations, and it is therefore important that the authorities' approval of the plan should be available as early as possible, in order that the licensee may be reasonably confident that his capital investment is based on assumptions acceptable to the authorities. In order to allow an early approval of the development plan, it is important that the authorities and the licensee open an informal dialogue already at the stage when the licensee is preparing the plan, so as to avoid wasting the very extensive preliminary efforts because of formalities.

It is emphasised that the Faroese Government's approval will normally apply only to the main principles for development and operation (the development concept) outlined in the plan submitted. The approvals will presumably be granted, cf. also the reference to s. 24, on condition that, at a later stage, when the project has been worked out in detail, the licensee submits new assessments and analyses which support, carry on and update the approved field development plan. It is to be expected that the safety rules and regulations to be issued pursuant to s. 24 will include requirements to the effect that the commissioning of the installations is subject to a separate permit/approval being granted by the authorities.

It should also be mentioned that subsection (4) may help ensure effective control by the Faroese Government that the licensee meets the requirements stipulated in the license pursuant to s. 10 hereof on the use of Faroese supplies and services.

The provision in **subsection (5)** deals with situations where the existing knowledge regarding the deposit dictates an immediate change of the production profile approved under subsection (2), for example, in order to avoid permanent damage to the reservoir.

The interests of society referred to in this subsection include the need that may arise in an international crisis to change the existing production patterns by fixing either maximum or minimum production rates.

---

(Section 15)

**15.(1)** Where an accumulation of hydrocarbons extends into the areas of several licensees, the relevant licensees shall coordinate exploration and any subsequent production activities. Agreements in this respect shall be approved by the Faroese Government. Where the parties fail to reach an agreement on coordination of such activities within a reasonable time limit, the Faroese Government may order such

coordination and lay down the applicable terms and conditions.

(2) Where an accumulation of hydrocarbons extends into another country's continental shelf or territory, the Faroese Government may order, provided that an agreement on the coordination of exploration and production is concluded with the relevant country, that the holder of the licence for the Faroese part of the accumulation shall take part in such coordination, and may lay down the applicable terms and conditions.

---

#### *Notes*

The provision in **subsection (1)** ensures that an accumulation of hydrocarbons that extends over or into areas to which several licensees hold an exclusive license will be exploited as a single area, with the advantages in terms of lower construction and operating costs normally achieved through such coordination.

Agreements on coordination of exploration and production activities are normally fairly comprehensive, and include rules on the allocation of the deposits among the licensees. In the second sentence of subsection (1), such agreements are made subject to approval by the Faroese Government, which may thus ensure that they do not include elements that conflict with the interests of society. Normally, the licensees' own financial interest in exploiting the accumulation in an appropriate manner will cause them to coordinate their activities. According to subsection (1), third sentence, the Faroese Government is entitled to order coordination of activities where the licensees themselves are unable to reach an agreement. The term *within a reasonable time limit* means that agreement has to be reached in time to allow the production facilities to be constructed with a view to coordinated exploitation of the area. The provision also applies where a company holds the right to exploit a deposit under more than one license.

**Subsection (2)** relates to accumulations of hydrocarbons extending into the continental shelf or territory of another country. Such circumstances may also call for coordination of exploration and production activities to ensure appropriate exploitation of the deposit. The provision entitles the Faroese Government to order coordination of activities in such cases also. Such unitisation agreements are normally concluded separately for each accumulation discovered, subject to negotiation between the relevant countries, with participation of the licensees involved. Usually, the licensees also negotiate separate, mutual agreements of the nature described in subsection (1).

---

(Section 16)

**16.** Where two or more accumulations of hydrocarbons should be exploited together from a resource point of view or due to economic considerations or in the interests of society, the Faroese Government may issue an order in this respect upon consultation with the licensees. In this connection, a licensee may be ordered, against payment, to make processing and transportation facilities available for the purpose of such coordination. In the absence of agreement between the licensees about the amount of such payment, the amount shall be fixed by the Faroese Government.

---

#### *Notes*

This provision implies that s. 15 may also be applied where two or more accumulations should be exploited together from a resource point of view or due to economic considerations or in the interests of society. Thus, the exploitation of minor accumulations might be advantageously coordinated, for example, by the sharing of processing facilities. The provision also allows hydrocarbons from one deposit to be processed using the facilities of another with surplus capacity, including facilities belonging to another licensee. It is assumed that the owner's own planned use of the facilities is not unreasonably prevented or impeded.

As far as possible, it is to be left to the parties involved to negotiate the details of such coordination agreements.

---

(Section 17)

17. Any hydrocarbons produced under a licence granted in pursuance of section 6 that have not been utilised in the course of production activities, reinjected, flared or lost shall be landed in the Faroe Islands, unless the Faroese Government consents to delivery elsewhere. The Faroese Government may stipulate conditions for such consent.

---

#### *Notes*

This provision lays down a duty to land in the Faroe Islands any hydrocarbons produced on the Faroese continental shelf, except hydrocarbons which are reinjected into the reservoir, flared or lost in the course of production. The Faroese Government may grant exemption from this duty and, pursuant to the second sentence of the provision, stipulate the conditions on which exemption will be granted.

Even if commercial hydrocarbon accumulations are discovered on the Faroese continental shelf, the decision on whether or not to land oil and/or gas in Faroese land territory is not expected within a foreseeable future. A typical time for a decision on the landing issue would be in connection with the approval of a field development project, cf. s. 14, and the landing issue would normally be treated as an integral part of the development and exploitation of the hydrocarbon accumulation. However, obtaining the approval by the hydrocarbon authorities of a field development plan, including permission to land the oil/gas in the Faroe Islands, does not relieve licensees from their duty to obtain other approvals and permits from the authorities. Thus, in connection with establishing onshore terminals etc., licensees may have to obtain permits from the local building authorities, nature conservancy authorities, environmental authorities, etc. Furthermore, dealing with the landing issue in connection with the overall development and exploitation of the field implies the advantage that the licensee is required, under s. 22, to carry out an environmental impact assessment before the Faroese Government will consider the plan.

Isolated and limited accumulations of hydrocarbons, which may even be located far from the Faroese coast, will scarcely justify the establishment of pipelines to Faroese land territory, either from a financial or technical point of view. In such cases, the hydrocarbons would have to be transported by tanker (to the Faroe Islands or other countries) or via neighbouring countries' pipelines (to other countries). Until production on the Faroese continental shelf has reached a certain level, a specific assessment may be expected to prove it more profitable to convey the hydrocarbons direct to the export market or an existing foreign-owned oil or gas terminal.

It should also be expected that different situations may apply to oil and gas, respectively, due to financial and technical factors.

However, in order to provide the public authorities with the tools necessary to ensure, as far as possible, that exploration and, especially, production activities are developed independently on the Faroese continental shelf, and to avoid unnecessary dependence on the infrastructure and transport facilities on the continental shelves of neighbouring countries, it is considered to be in the best interest of the country to regard the landing of hydrocarbons outside the Faroe Islands basically as an exception that requires the consent of the Faroese Government. The reason for this point of view is that allowing oil companies to land hydrocarbons at their own discretion involves the risk that the hydrocarbon activities on the Faroese continental shelf may, in time, become too dependent on its neighbours in respect of access to pipelines and terminals, or become subject to any restrictions in

the volumes accepted for transportation through their pipelines, or to their tariffs or requirements for product specifications, etc. Furthermore, if the hydrocarbons were to be landed abroad, Faroese trade and industry would lose the important development opportunities and their derivative effects on employment, tax revenue, etc., that would otherwise be associated with establishing and operating terminal facilities for oil and gas.

In other words, the requirement for hydrocarbon production to be landed in Faroese territory gives the Faroese Government control of the transport of oil and/or gas from fields on the Faroese continental shelf. The effect of incorporating this requirement into the Bill is that future licensees will be aware when initiating exploration activities that, in principle, any resulting hydrocarbon production will have to be landed in the Faroe Islands. It is expected that the field development plans submitted by the licensees will reflect this requirement, and that consent to delivery elsewhere will depend on sound technical and financial reasons being given.

The second sentence of this provision authorises the Faroese Government to stipulate conditions for any exemption from the landing requirement. The object of the provision is two-fold: *firstly*, to place the Faroese Government in a better position when negotiating delivery elsewhere, and, *secondly*, to enable the Faroese Government to negotiate conditions that provide development and employment opportunities for Faroese trade and industry in return for establishing terminals etc. The conditions on which the Faroese Government will grant exemption from the landing requirement are therefore likely to focus on the promotion of Faroese trade and industry.

---

(Section 18)

**18.(1)** The establishment and operation of pipeline facilities for use in the activities comprised by this Bill may only take place pursuant to a licence from the Faroese Government.

(2) A licence may be granted subject to conditions regulating the routing, dimensions and ownership of the pipeline, as well as the right for other parties to use the pipeline, payment therefor, charges payable to the Faroe Islands, etc.

(3) Subsections (1) and (2) shall not apply to local pipelines that form part of installations used in the production from an individual field.

(4) Where the pipeline extends into another country's continental shelf or territory, the Faroese Government may order, provided that a cooperation agreement regarding the establishment and operation of the pipeline is concluded with the relevant country, that the party holding the rights to the Faroese section of the pipeline shall take part in such cooperation, and may lay down the applicable terms and conditions.

---

*Notes*

As mentioned in the notes on s. 17, the crude oil from small, isolated fields will probably be conveyed to shore by tanker. When production reaches a certain level, the issue of whether to establish pipelines becomes relevant. Constructing a pipeline for landing oil offers environmental advantages as well as a possibility to exploit minor fields which would scarcely be put into production unless pipeline facilities were available. Natural gas is taken ashore via pipeline. Only in the case of very remote or very large fields will condensing the gas and taking it ashore in specially-built tankers constitute a viable alternative.

Pumping oil from a loading buoy or storage vessel into a tanker is considered more hazardous from an environmental point of view than conveyance via pipeline, the risk of oil spillage being higher in this type of transfer than the risk of leakage from a pipeline. Furthermore, transferring oil from a

loading buoy to a tanker is a weather-dependent activity, which means that production will have to be suspended in certain circumstances. If pipelines are used, there is virtually no need to suspend operations.

According to **subsection (1)**, the establishment and operation of pipeline facilities for use in activities for which a license has been granted hereunder requires permission from the Faroese Government. This provision may be said to have been included to regulate the routing of pipelines, as free access to establishing pipelines on the continental shelf may easily interfere with other activities, such as the laying of communications cables, bottom trawling, etc. It should be noted that pipelines are offshore installations, cf. s. 2(b)(i), and are consequently subject to the requirements in respect of safety and supervision laid down in Part 5 hereof.

According to **subsection (2)**, a license to build a pipeline may be granted subject to certain conditions with regard to routing, dimensions, ownership, user payment, etc. The requirement for approval of the routing of the pipeline by the Faroese Government makes it possible to avoid causing the inconvenience often associated with pipelines, cf. the notes on subsection (1), for example, by keeping out of certain bottom trawling areas or installing special protection for communications cables etc.

The conditions concerning dimensioning, ownership, rights for other parties to use the pipeline and payment for such use may help ensure that pipelines are designed, constructed and operated in such a manner that further development and use of these typically very large facilities may take place, to the extent possible, in a coordinated and reasonable manner with due consideration being given to the efficiency of the overall infrastructure, cf. s. 13(2).

Just as it is in the interest of society that hydrocarbon activities on Faroese shelf territory should not become too dependent on pipeline systems in adjacent shelf territories, cf. the notes on s. 17, it is essential that, for example, a *de facto* monopoly situation in respect of pipelines on the Faroese continental shelf should not be used by the owners to gain unfair advantages over other licensees.

At worst, payment of unreasonably high fees for access to pipelines could make minor fields unprofitable and thus unexploitable. It is therefore considered expedient to allow that licenses granted pursuant to subsection (1) are made subject to conditions in respect of the capacity of the pipeline with a view to use by third parties, provided that this does not involve unreasonable cost.

**Subsection (3)** excludes local pipelines forming an integral part of production facilities from the scope of the provision, as they are assumed to be dealt with by the Faroese Government when considering the application for approval of the field development plan, cf. s. 14, whereas interfield pipelines are not exempt from the requirement for a separate license pursuant to subsection (1) hereof. It should be noted in this connection that s. 18 does not apply to transit pipelines in the continental shelf territory, such pipelines being separately regulated under s. 19.

The object of **subsection (4)** is really the same as that of s. 15(2) on unitisation, in that it authorises the Faroese Government, in cases where an agreement has been concluded with a neighbouring country on the establishment and operation of a cross-boundary pipeline, to order the holder of the license to the Faroese section of the pipeline to participate in the cooperation agreed upon. Usually, the oil companies establishing the pipeline will also have concluded comprehensive agreements on its establishment and operation with partners in the neighbouring country. This provision authorizes the Faroese Government to stipulate conditions for the Faroese licensees' participation in such cooperation. The provision therefore gives the Faroese Government power to exercise territorial jurisdiction in matters concerning bilateral agreements on supervision and other regulatory issues concluded at government level.

(Section 19)

**19.** The establishment and operation by another country of subsea pipeline facilities for transporting hydrocarbons in transit across the Faroese continental shelf shall be approved by the Faroese Government. The approval shall cover the routing of such pipelines and shall be granted on terms and conditions that provide for reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources, and the prevention, reduction and control of pollution from pipelines.

---

*Notes*

The right to lay submarine cables and pipelines is counted among the freedoms of the sea, but when this right is exercised in the continental shelf territory of another state, the interests of the coastal state should be weighed against the interests of the state wishing to lay the cables or pipelines. Rules establishing an obligation to weigh the interests of the parties involved are laid down in international law: Article 4 of the Continental Shelf Convention, Articles 2 and 26 of the Convention on the High Sea, and Article 79 of the Convention on the Law of the Sea. Point 1 of the last-mentioned article establishes a general right for other states to lay submarine cables and pipelines on the continental shelf of the coastal state subject to the rules laid down in points 2-5.

S. 19 reflects the framework set out in international law for the jurisdiction of the coastal state over cables and pipelines established by other countries across the shelf territory of the coastal state. Transit pipelines are typically defined as pipelines connecting two countries across the shelf territory of a third country. It is difficult at the moment to imagine the existence of such pipelines on the Faroese continental shelf, but considering the present rate of development in transport technology, it is deemed appropriate for the Bill to incorporate a provision that reflects Article 79 of the Convention on the Law of the Sea.

According to s. 19 hereof, the routing of the pipelines is subject to approval by the Faroese Government. In addition, the Faroese Government is to make sure that the pipelines do not cause inconvenience, especially to oil, gas and fishing operations in the shelf area. The Faroese Government may also take reasonable steps to prevent, limit and control pollution caused by the pipelines.

It is noted that the provision only applies to transit pipelines on the continental shelf, i.e. pipelines that do not enter the territorial sea of the Faroe Islands. In cases where pipelines are routed across the territorial sea, and perhaps terminate on shore, the coastal state has an extended right under international law to lay down rules for such cables and pipelines, for example, pursuant to s. 18 of this Bill.

---

(Section 20)

**20.(1)** Cessation of the operation and maintenance of an offshore installation for production purposes may only take place following prior approval from the Faroese Government. Within the time limits set out in subsection (3) below, the licensee shall submit a decommissioning plan to the Faroese Government, which shall include the necessary technical, safety, environmental, fishing, navigation and financial information, as well as assessments and proposals for the measures to be taken in respect of the offshore installation.

(2) In due observance of existing international standards, the offshore installation shall either continue to be used for hydrocarbon activities under the provisions of this Bill, be used for other purposes or be removed in whole or in part. The licensee shall implement the decommissioning plan within a time limit fixed by the Faroese Government in accordance with the terms and conditions laid down by the

Faroese Government for its approval of the plan. In the event that the time limit starts to run when the use of the offshore installation is discontinued, the licensee shall notify the Faroese Government of the discontinuance of use.

(3) The licensee's decommissioning plan shall be submitted no later than two years before the use of an offshore installation is expected to be discontinued. This provision shall also apply upon the expiry of a licence granted to a licensee under the provisions of sections 6 and 18 of this Bill, in the event that the licence expires before the anticipated date of termination. Where warranted by the circumstances, the Faroese Government may demand that a decommissioning plan be submitted at an earlier date, and the Faroese Government may at any time order the licensee to substantiate its ability to finance the implementation of a decommissioning plan or to furnish requisite security hereof, if the Faroese Government has reason to presume that the licensee does not have the necessary financial resources for this purpose.

---

### Notes

As already mentioned, offshore installations to be established on the continental shelf are subject to approval by the Faroese Government pursuant to s. 14(2). The same applies to their decommissioning. This is dictated not only by consideration for fishing and navigation, but also by the fact that the Faroese public authorities are responsible under international law for the removal, in whole or in part, of such installations. Yet another factor is the interest of the public in the manner in which any scrapping, re-use, abandoning etc. of such installations take place. **Subsection (1)** therefore defines an obligation for licensees to obtain the approval of the Faroese Government before finally discontinuing the operation and maintenance of the installation for production purposes. According to this provision, a temporary suspension of production, for example, to allow repairs, does not require the approval of the Faroese Government.

The requirement for a decommissioning plan to be submitted relates to *offshore installations* as defined in s. 2(b) of this Bill. Production vessels and platforms, production facilities on the seabed or pipelines exemplify offshore installations for which a decommissioning plan is to be submitted. A licensee wishing to replace parts of an offshore installation, e.g. a process unit, or plug a well does not have to submit a decommissioning plan. However, the plugging of wells does require the consent of the authorities, in accordance with the conditions stipulated in s. 14(1) for obtaining drilling approval and/or under the safety rules applying to drilling operations. In this connection, it should also be noted that having obtained approval by the Faroese Government of a field decommissioning plan does not release the licensee from the obligation to apply for permits and approvals according to other regulatory instruments, e.g. environmental legislation.

The obligation to submit a decommissioning plan to the Faroese Government ensures that the decommissioning of a field is dealt with according to the same procedures as its development, cf. s. 14. With regard to the time limits for submitting a decommissioning plan, see the notes on subsection (3), cf. below.

In addition to providing for the Faroese Government's power of approval and the licensee's duty to submit a decommissioning plan, subsection (1) of this provision also regulates the content of the plan. It is emphasised that the licensee should cover the same aspects in the decommissioning as in the field development plan. The requirement for the licensee to include financial information in the decommissioning plan is due to the assumption that costs incurred by the licensee in disposing of the installation are expected to be deductible under tax law. For fiscal purposes, the authorities are therefore interested in ensuring that a financially favourable method of decommissioning is chosen. Naturally, the financial advantages of any given decommissioning model will have to be weighed against the other considerations (technical, environmental, fishing, etc.) specified in the provision.

With regard to the general technical aspects, it should be borne in mind that approvals of field development projects under s. 14 are based on the assumption that installations and facilities are, as a main rule, designed with a view to removal. Nevertheless, the situation might arise where removing an offshore installation, e.g. a pipeline, is likely to involve substantial cost as well as safety or environmental risks that bear no proportion to the inconvenience caused by an abandoned pipeline. From this point of view, and despite its inclusion among the methods of disposing of the installation listed in subsection (2), removal does not seem to be a very suitable alternative in such cases. Instead, the usual procedure is to remove certain parts of the offshore installation and abandon the major portion (*partial removal*). In this connection, it should be noted that international law does not place coastal states under any obligation to remove pipelines, as these do not normally hinder navigation. Furthermore, abandoned pipelines are not considered to pose any significant risk to the environment, provided that they are drained of oil, filled with seawater and sealed.

In choosing a method of disposal among the options provided in subsection (2) it is important, both in the decommissioning plan and the government approval thereof, to decide on one that is optimal from an environmental and fishing point of view, while at the same time having regard to technical, safety and financial aspects.

It should be noted that s. 20 applies to offshore installations only. This is because exploration and any ensuing production activities are expected to take place at sea. In connection with any future land-based production or processing facilities (terminals etc.), similar decommissioning requirements may be stipulated in the relevant licenses or field development approvals.

**Subsection (2)**, first sentence, specifies the options available for disposing of an offshore installation, the operation and maintenance of which have been discontinued: They may *continue to be used for hydrocarbon activities* pursuant to this Bill, be used for *other purposes* or *be removed* in whole or in part. Which option to choose in any given case is to be decided on the basis of an assessment which is to include the considerations mentioned in subsection (1). The weight to be attached to each of these considerations will depend on the method of disposal contemplated. The Faroese Government may always require additional information to be made available for the approval procedure.

In practice, it may be relevant in a great many cases to let an offshore installation *continue to be used for hydrocarbon activities*, for example, if the license expires before production from the field has ceased, or if the offshore installation provides services to neighbouring fields. If production is still going on when the license expires, it would be natural for the licensee to apply for a new production license, possibly when submitting the decommissioning plan for approval. In such cases, the license is likely to be renewed, and decommissioning is consequently postponed for a number of years.

For offshore installations designed to be re-used in another field, which applies especially to mobile units, re-use would seem the most relevant solution. Re-use basically implies removing the offshore installation from the field being decommissioned.

*Other purposes* could be use as man-made fishing reefs or in research. Such uses of the installations may often be an alternative to removal and ensure a longer economic life for the installations. The conditions stipulated by the Faroese Government in its approval of the use of an offshore installation for other purposes are likely to include removal of any hazardous substances and detachable parts. The Faroese Government may also require the licensee to specify how responsibility - for example, in respect of damage, marking and maintenance - is to be allocated between the licensee and any future users.

According to this provision, *removal* may be total or partial. Methods of removal usually include dumping, taking ashore or re-using (for hydrocarbon activities or other applications). Often, a

combination of two or more of these options is chosen. In the case of partial removal, it is important that the decommissioning plan describes the arrangements the licensee intends to make for the part of the installation that is not to be removed. As mentioned above, in their consideration of field development plans, the authorities attach importance to installations and facilities being designed so as to, technically, allow removal.

The methods of disposal described in subsection (2) enable the Faroe Islands to comply with international obligations and guidelines, including the IMO resolution of 19 October 1989, which sets out guidelines on the removal of offshore installations established on the continental shelf. Reference is made to Schedule 5.1.-1 to Part 5.1, *fishery and marine aquaculture*, in the Report of the Faroese Hydrocarbon Planning Commission.

The options for disposal described in the provision are future-oriented, inasmuch as they are to be in compliance with the requirements from time to time laid down in international law. Should the Faroe Islands accede to international treaties, according to which only certain methods of disposal are accepted, such requirements can be met within the scope of s. 20.

According to subsection 2, second sentence, the licensee is required to complete the decommissioning of the installation within a time limit to be fixed by the Faroese Government, and in accordance with any conditions stipulated by the Faroese Government for approving the decommissioning plan, for example, that decommissioning operations may not pose any environmental or safety risk. The licensee should be allowed a certain flexibility regarding the time limit within which to complete decommissioning, especially in connection with removal. The last limb of subsection (2) addresses cases where a decommissioning plan has been approved, subject to the time limits provided for in subsection (3), before production has been discontinued. In such cases, the Faroese Government will approve the plan on condition that it is implemented within a certain time limit to be reckoned from the date on which production is discontinued, the licensee being under an obligation to notify the Faroese Government accordingly.

**Subsection (3)**, first sentence, stipulates the time limit within which the licensee is to submit the decommissioning plan to the Faroese Government, viz. not later than two years before the use of the offshore installation is expected to be discontinued. It may be difficult to fix the exact date, but the wording of the provision refers to the licensee's plans in this respect. A two-year limit for submitting the decommissioning plan is assumed to allow the authorities sufficient time for proper consideration of the plan.

If a license granted pursuant to s. 6 or s. 18 expires before the anticipated date of discontinuance, the licensee is required under subsection (3), second sentence, to submit the decommissioning plan not later than two years before the expiry of the license.

According to subsection (3), last sentence, the Faroese Government may, if necessary, demand earlier submission of the decommissioning plan, for example, if production has actually been discontinued without the licensee having notified the Faroese Government accordingly. It has also been found expedient, in cases where the licensee is presumed to lack the financial capacity to implement the decommissioning plan, to authorise the Faroese Government to demand documentation or security in this respect.

---

(Section 21)

**21.(1)** When a licence granted to a licensee in pursuance of sections 6 or 18 of this Bill has expired or has been relinquished or revoked, or when the use of an installation intended for operation solely within the relevant area has been discontinued, the Faroese authorities shall be entitled, free of charge, to take over, in whole or in part, such installation.

(2) The Faroese Government exercises the rights established in subsection (1) above. The Faroese Government shall inform the licensee of its decision in connection with considering the licensee's decommissioning plan in accordance with the provisions of section 20 above, and such decision shall become effective not later than six months after the time referred to in subsection (1) above.

(3) The licensee shall ensure that the installation, complete with facilities, necessary equipment and materials, is transferred to the Faroese authorities in a properly maintained condition, free from any claims from third parties and other encumbrances. Any such claims and other encumbrances shall have no effect against the Faroese authorities.

---

### *Notes*

This provision establishes the right of the Faroese Government to take over certain installations without charge in specific circumstances. It is not an automatic right of escheat, but rather an option that the Government *may* exercise if, in a given situation, it finds it desirable to do so.

**Subsection (1)** defines the above-mentioned right to take over installations. The right may be exercised in respect of installations for which a production license granted under s. 6 or a pipeline license granted under s. 18 has either expired, or been relinquished or revoked, or when the use of the installation has been discontinued.

Whereas the scope of s. 20 is limited to offshore installations, the right to take over installations in pursuance of s. 21 applies to offshore and onshore installations alike. However, it should be borne in mind that the right to take over an installation applies only if the installation is to continue to be used within the same area. In the case of offshore installations this means that the right of take-over relates mainly to the fixed installations and facilities listed in s. 2(b) (i), whereas mobile units, such as drill and production ships designed for re-use in other fields, are outside the scope of this provision. In certain situations, it may be difficult to distinguish between fixed installations with ancillary facilities and mobile units. Technically, certain installations that would count as fixed installations in the production phase may be removed or relocated. The expression “intended for operation solely within the relevant area” is used in order to emphasise that when deciding whether to exercise its right to take over a certain installation, the Faroese Government should consider whether the installation is intended for use in the exploitation of more than one field, and whether its technical design makes relocation and continued use in oil-producing activities foreseeable and likely, technically as well as financially, so that, in other words, only minor modifications of the installation will be needed for relocating it from one field to another.

Drilling rigs etc. used in the exploration phase are typically designed for non-localised application, and are thus outside the scope of this provision.

As a general rule, onshore installations are assumed to be designed for localised use only. The provision is therefore not likely to cause any problems in this connection.

**Subsection (2)**, first sentence, vests the right to take over installations provided for under subsection (1) in the Faroese Government. According to the second sentence of the provision, the Faroese Government is to notify the licensee of its decision in this respect when deciding on the decommissioning plan submitted by the licensee under s. 20. As s. 20 applies to offshore installations only, as already mentioned, any license granted for the establishment of a shore-based installation will include conditions for the decommissioning of the installation. In the case of shore-based installations, the Faroese Government will therefore communicate its decision on the take-over issue to the licensee in connection with considering the decommissioning plan described in the license. The decision becomes effective six months after the license has expired, been relinquished or revoked, or when the use of the installation has been discontinued in accordance with s. 20(1).

**Subsection (3)**, first sentence, places the licensee under an obligation to ensure that the installation with ancillary facilities is in a proper state of repair, and to discharge any encumbrances, including third party claims, thereon. According to the second sentence of the provision, any such encumbrances have no effect as against the Faroese authorities. It is therefore the duty of the licensee and other contracting parties to act with proper consideration for the provision, for example, by discharging any mortgage obligations in respect of the installation before the license expires.

---

(Section 22)

**22.** Licenses or approvals in pursuance of sections 14, 18, 19 or 20, regarding projects assumed to have a major impact on the environment, may only be granted in the light of an assessment of the effects on the environment and after the affected public, authorities and organisations have been given an opportunity to express their opinion.

(2) Where warranted by circumstances the Faroese Government may grant exceptions from the requirement in subsection (1) above.

(3) The Faroese Government may lay down rules on notification and hearing of the affected public and the affected authorities and organisations.

---

#### *Notes*

In main outline, this provision corresponds to s. 28 a of the Danish Subsoil Act, which implements EU Council Directive 85/337/EEC of 27 June 1985 on the Assessment of the Effects of Certain Public and Private Projects on the Environment (the Environmental Impact Directive) in respect of offshore projects that come within the scope of the Subsoil Act.

In addition to the requirement for due consideration for the environment laid down in this provision, the Bill provides for all activities pursuant hereto to be organised with due regard for fishing and environmental interests, cf. the aim of the Bill as defined in s. 1(2). In connection with each licensing round, the Faroese Government is furthermore under an obligation to submit a statement to the Faroese Parliament, cf. s. 7(2) which is to include an assessment of the impact of the hydrocarbon activities on the fishing industry and interests related to nature and the environment. Moreover, in connection with establishing installations etc. the licensee is to ensure that the work is carried out in accordance with a field development plan approved by the Faroese Government, cf. s. 14(2). This plan is to include information and assessments of importance to fisheries and the environment, cf. s. 14(3). The same applies to the field decommissioning plan, cf. s. 20.

**Subsection (1)** ensures that environmental impact assessments are carried out before the Faroese Government grants a license or approval relating to the field development/decommissioning or the construction of pipelines, in cases where the consideration of a given project application has led to the conclusion that the project concerned will have a major impact on the environment of the area in question, including its animal species and fish stocks, and that a separate environmental impact assessment is needed, for example, to provide information not available in the original project application.

Due to their limited effect on the environment, prospecting activities, such as seismic surveying etc., are not within the scope of this provision. Provision for any measures necessitated by seismic and other preliminary surveying may be made by stipulating conditions in the prospecting license, cf. s. 5. The drilling of exploration wells is subject to this provision, but does not normally call for an environmental impact assessment, as such wells do not interfere significantly with the

environment. However, where warranted by the circumstances, a licensee may be required to make an environmental impact assessment before he begins to drill exploration wells.

The assessments will to a certain extent rely on existing knowledge, but are also likely to be based on the regional basic surveys often carried out jointly by oil companies in new oil areas.

**Subsection (2)** allows the Faroese Government to grant exemptions from the requirement laid down in subsection (1), subject to an evaluation of the given case. This provision is only intended to be applied in cases where adequate knowledge already exists, for example, in the form of data collected in previous surveys, or where the information given by companies in their applications for a license or approval pursuant to ss. 14, 18, 19 and 20 is deemed satisfactory.

**Subsection (3)** authorizes the Faroese Government to lay down rules specifying the authorities, organisations or other interested parties to be notified and consulted in connection with environmental impact assessments.

---

(Section 23)

**23.** The licensee, operator, offshore installation manager, contractors, subcontractors and other employers shall, within their respective scopes of activities, ensure that the working conditions are fully satisfactory from a safety and health point of view, and that effective supervision of the work ensures that it is being carried out properly.

---

#### *Notes*

This provision sets out the general health and safety standard (“fully satisfactory”) to be observed in the exploration and production activities. This standard will be applied to the rules and regulations to be issued under s. 24, whereas s. 23 governs all aspects of the activities, including works and operations for which no such rules and regulations are issued.

Reference is made to the notes on s. 13, according to which the person in charge of the activities (the licensee) is responsible for establishing, maintaining and developing a fully satisfactory safety level. This implies that the main responsibility is with the licensee, as represented by the operator, but separate responsibility may also, according to circumstances, cf. the wording “within their respective scopes of activities”, be allocated to the offshore installation manager, contractors, subcontractors or other employers.

A similar requirement for safety and effective supervision is provided for in the Danish Act on Certain Marine Installations, which applies to offshore hydrocarbon activities, and the Danish Working Environment Act, cf. ss. 15 and 16, whereas Faroese Act No. 58 of 24 May 1974 on Employment Protection is less stringent in this respect, cf. the wording “due protection” and “reasonable supervision” in s. 5 of that Act.

The supervisory duty provided for in the last limb of the provision involves monitoring the work performance of all employees and ensuring that the work process is carried out in a safe manner, including that work schedules are met and any errors in such schedules corrected on an ongoing basis.

Non-compliance with this provision is punishable by a fine or simple detention, cf. s. 43(iii).

---

(Section 24)

24. In order to ensure health and safety and protection of the environment in connection with the exploration for and production and transportation of hydrocarbons, the Faroese Government may lay down more detailed rules and regulations for offshore installations, including rules and regulations on

- a) the general duties of employers, managers and employees as well as suppliers;
- b) health and safety documentation, controls in the form of safety management systems and similar schemes, certification schemes, etc. as well as overall safety management;
- c) the construction of an installation and its equipment, as well as the approval of and consent to the design, building, installation, commissioning and removal of the installation;
- d) the health, safety and environmental conditions under which the work is carried out;
- e) training and instruction, rest periods, 24-hour periods off, age requirements and medical examinations.

---

#### Notes

This provision authorizes the Faroese Government to lay down detailed rules and regulations covering several areas of particular relevance to safety, health, the working environment and the physical environment, in connection with exploration, production and transport operations. Rules are expected to be issued on drilling equipment, production and processing facilities, the marking of equipment, accommodation facilities, cranes, the transportation of persons and goods, loading systems, fire protection and fire-fighting, life-saving appliances, electrical plant and equipment, as well as on drilling and production works, health and safety at work, safety management, etc.

A great deal of safety and protective legislation already exists, such as the Faroese Employment Protection Act, the Faroese Fire Protection Act and the Act on the Safety etc. of Ships. However, no provision was made in the drafting of that legislation for the special conditions inherent in offshore exploration and production activities. As mentioned in the notes on s. 2(b), there is a great need for effective regulation, control and coordination of health, safety and working environment in the offshore industry, for which reason it is desirable that these matters are generally subject to the same legislative act. Further, it was specified in the notes on s. 3 above that the safety provisions of this Part of the Bill are to replace the Faroese Employment Protection Act, the Faroese Fire Protection Act, etc., based on a *lex specialis* point of view. However, this does not prevent the Faroese Government from issuing an executive order in pursuance of s. 24, particularly in a startup phase, that refers to, and thus extends, the scope of application of certain provisions of the above-mentioned Acts to offshore activities.

It should be noted that s. 24 may be used to issue regulations on matters other than those stated in paragraphs (a)-(e), so long as the regulation aims at safeguarding health, safety and environmental interests connected with the exploration, production and transportation of hydrocarbons. However, the examples listed must be considered the core area to be regulated by safety requirements. As the offshore industry generally undergoes rapid technological development, it has been found more appropriate to authorise the Faroese Government to regulate these matters by way of executive orders, rather than laying down detailed provisions on safety issues in the Bill. Executive orders may be adapted to reflect technological development, as well as bilateral and multilateral cooperation on safety between oil and gas authorities within the UN's International Maritime Organisation (IMO) etc.

Generally, it must be expected that the rules and regulations to be issued in pursuance of s. 24 will, to a wide extent, be drafted on the basis of internationally adopted recommendations. This applies in particular to the construction, etc. of offshore installations, where mobile drilling rigs are engaged to work on the continental shelves of different countries. The safety requirements to be met by the drilling rigs should therefore be fairly uniform, for which reason the IMO urged its member countries in a

resolution of 1989 to use the so-called MODU code, which contains rules on the construction and equipment of “Mobile Offshore Drilling Units”. The use of or references to the code will facilitate the administrative work considerably.

Ss. 13 and 23 of the Bill are based on the fundamental principle that the party in charge of the activities (the licensee) is responsible for ensuring that the activities are carried on in a safe and appropriate manner and in compliance with the requirements contained in the Bill or stipulated by the Faroese Government in pursuance of safety regulations. According to current practice, this principle also involves a duty for the licensee to set up a quality system (safety management system), even though the Faroese Government does not exercise the authority contained in s. 24(b) to draw up detailed requirements as to the elements of the safety management system. Thus, under the authority of the Bill, the licensee may be required, for example, in connection with drilling an exploration well, to document the establishment of such a system.

The licensee’s safety management system is assumed to be set up and organised as a control and verification system for the licensee’s exploration and production activities that protects the personnel, the environment, equipment and facilities, etc. Documentation must exist for the distribution of responsibilities, reporting procedures, operating and control procedures, and all procedures etc. should be subject to regular and systematic revision. The licensee’s safety management system should also incorporate the safety management systems of other parties involved in the activities, such as contractors, subcontractors, shipowners, etc. Basically, it will be up to the licensee and other parties involved to determine the setup of the safety management systems. However, as part of its supervisory activities, the Faroese Government may demand changes to the systems, if and when considered appropriate.

Moreover, reference is made to the notes on s. 13, in which it is established that safety regulations issued in pursuance of the Bill, as well as the public authorities’ supervision and enforcement, are merely to be considered supplements and guidelines for the purpose of achieving the objectives of the Bill, in terms of the safety and appropriateness of the activities.

---

(Section 25)

**25.**(1) On manned offshore installations, the owner or user shall appoint a manager who shall have supreme authority in all matters.

(2) The owner or user of any offshore installation shall prepare a manning and organisational chart. The chart shall name the manager and the persons responsible for the individual main tasks connected with the safe operation of the installation, and shall set out the guidelines for cooperation between the persons in charge.

(3) In the interests of safety, the Faroese Government may require that the chart referred to in subsection (2) above shall be submitted for its approval before the installation is commissioned, and may lay down more detailed rules and regulations on the manning of the installation.

---

*Notes*

The provision in **subsection (1)** is intended to establish who is to have supreme authority of the installation at any given time during its operation as an offshore installation. Therefore, the organisational chart to be prepared by the operator pursuant to subsection (2) should name the person responsible in any given situation.

The manning and organisational chart described in **subsection (2)** is to allow for all activities on the installation. The installation is to be viewed as a whole, including a personnel accommodation platform/ship, processing platforms, tank facilities, etc. According to the provision, the manning

and organisational chart is to state the persons responsible for each of the main tasks related to the safe operation of the installation, whereas a full manning chart comprising all personnel will scarcely be relevant. However, in connection with submitting a manning and organisational chart for approval under subsection (3), or in rules and regulations issued under s. 24, it may be necessary, for safety reasons, to make requirements with regard to the qualifications of the persons responsible for the main tasks, for example, in the manning of communications equipment, helideck, fire and evacuation equipment, etc. In this connection, it could also be relevant to stipulate requirements with regard to the number of personnel to be engaged in each main task, including certain requirements regarding training and education to be met by such personnel.

Under **subsection (3)**, the Faroese Government is entitled to require submission of the chart referred to in subsection (2) for approval. However, the approval procedure is not likely to be very comprehensive in cases where the manning and organisational chart has been prepared in accordance with any general rules laid down by the Faroese Government pursuant to s. 24. Until such general rules have been issued, any approval of manning and organisational charts will be given on a case-by-case basis.

---

(Section 26)

**26.(1)** The owner or user of an offshore installation shall maintain efficient emergency procedures in case of accidents or hazardous situations that could involve the loss of human lives or bodily injury, pollution of the environment or property damage, and shall provide for the necessary evacuation and life-saving equipment, as well as adequate warning and communication systems. In such situations, the owner or user shall take the necessary measures to prevent or reduce any risks to persons and any harmful effects.

(2) The Faroese Government may decide upon or lay down more detailed rules and regulations on emergency procedures, including the manpower or equipment that shall be available to the owner or user in case of accidents on the offshore installation, and may order several licensees to coordinate their emergency procedures. In case of accidents or hazardous situations, the Faroese Government may decide to initiate rescue, fire-fighting or control operations, and may stipulate that other parties make the resources needed in emergencies available, for the owner's or user's account.

---

*Notes*

Subsection (1) of this provision imposes a duty on the licensee, cf. the words “owner or user of an offshore installation”, to maintain effective emergency procedures, while subsection (2) authorizes the Faroese Government to specify certain requirements for such procedures etc. The licensee is to organise his emergency procedures in a manner that allows coordination with the national emergency procedures.

**Subsection (1)** imposes a duty on the licensee to establish, maintain and further develop effective emergency procedures, in order to ensure an adequate safety level for people, the environment and property. This duty includes ensuring the availability of the necessary evacuation and life-saving equipment, as well as adequate warning and communication systems. According to subsection (1), first sentence, the licensee is also under an obligation to take the measures necessary to prevent or reduce any risks of personal injury or any harmful effects. This includes a duty not only to evacuate personnel from the installation in the event of a safety risk, but also to clean up any oil spills that have caused or may cause pollution of a sea or shore area. The duty to take the necessary measures implies a duty to immediately notify the relevant emergency authorities of any major incidents, and to keep the authorities informed and provide information on request, cf. s. 32.

The emergency procedures adopted by the licensee should be based on methods and equipment for effective control of hazards or accidents that could involve the loss of human life, bodily injury, pollution or substantial damage to property.

**Subsection (2)** authorizes the Faroese Government to lay down detailed rules and regulations for establishing and maintaining an emergency organisation with the necessary manpower and equipment.

It is assumed that, as long as no general requirements have been laid down for such emergency organisations, detailed requirements will be laid down in a contingency plan to be prepared by the licensee and submitted to the authorities, for example, when he applies for a drilling permit. In this connection, particular requirements may be specified for the contingency plan, for example, that the life-saving and emergency control equipment must be directly available at the site of the accident, or can be made available within a certain time limit.

The Faroese Government may order several licensees to coordinate their emergency procedures. Such coordination is practised by our neighbouring countries, and is advantageous from a resource point of view, for example, in the event of oil and/or gas blowouts.

The Faroese Government may also determine, in any given accident or hazardous situation, the life-saving or emergency control measures to be initiated by the licensee in order to prevent the hazard, limit and control the incident, and relieve any consequent damage. The type of accident or hazardous situation envisaged in the provision includes fires, explosions, sabotage or blowouts, which, when taking place at sea, pose a particularly high risk of loss of human life, severe pollution of the environment and heavy financial losses, to the relevant installation and to society at large. It has therefore been deemed necessary to entitle the Faroese Government to determine the emergency measures to be initiated by the licensee, should the licensee fail to take such measures himself.

In the event that he is held liable under s. 34 for damage or injury caused to a third party in connection with measures taken in accordance with an order issued by the Faroese Government under this provision, the licensee may have a right of compensation from the Faroe Islands, provided that the general conditions are met, i.e. if the damage is the result of a tortious act.

In addition to the need for the Faroese Government to determine the measures to be initiated by the licensee in any given situation, a need may also arise in connection with major accidents for the authorities to be able to take simultaneous and coordinated action to perform a variety of tasks. An administrative action committee, set up by the Faroese Government for this purpose, would ensure coordination of public authority life-saving and control measures. The action committee would make it possible to establish an order of priority for all the tasks involved and to define the individual tasks according to the demands of the situation. In the form used in Denmark and Norway, the action committee has no authority to make decisions. However, decisions are likely to be made under its auspices by the authorities represented, in accordance with their respective powers.

Finally, the Faroese Government may order other parties to make the necessary resources available in an emergency, for the account of the owner or the user (the licensee). Like the Faroese Government's right to determine the life-saving or emergency control measures to be initiated by the licensee, this right may only be exercised in a given accident or hazardous situation. The expression "other parties" does not only refer to other licensees, but to all owners of equipment that may be useful in an accident or hazardous situation. However, this right should only be exercised in respect of parties other than the licensees if absolutely necessary. Owners of equipment made available according to an order issued by the Faroese Government are entitled to compensation.

(Section 27)

27.(1) Safety zones shall be established around offshore installations, with the exception of pipelines. The Faroese Government shall determine the extension of the safety zones in view of existing international standards, and may draw up regulations for navigation, fishing and aviation in the zones, in which connection unauthorised vessels and aircraft may be prohibited access to the zones.

(2) For safety reasons, the Faroese Government may lay down rules and regulations restricting the right of vessels to anchor at and fish in the vicinity of subsea pipelines.

---

*Notes*

**Subsection (1), first sentence**, provides for a duty to establish safety zones around offshore installations. The safety zones will be established by the Faroese Government, and in this connection, the Government will also determine the breadth of the zones, cf. the second sentence, with due consideration to existing international standards. In addition, the Faroese Government may issue regulations for navigation, fishing and aviation in the zones.

Safety zones are necessary to protect platforms and other installations from damage by collision, and because accidents involve considerable danger to the personnel manning the installations and a major risk of hydrocarbon leakage. An additional consideration is the often massive, oil-related traffic in the area around an offshore installation of support vessels and other ships. It is therefore essential from a safety point of view that vessels with no relation to the activities should be kept at a distance.

International law permits coastal states to establish safety zones around offshore installations, cf. Article 5(2) of the Continental Shelf Convention which authorizes the establishment of safety zones around “installations and other devices” necessary for its exploration and the exploitation of its natural resources. Article 60(4), cf. Article 80, of the Convention on the Law of the Sea provides for a similar right to establish safety zones around “artificial islands, installations and structures”. International law discusses the real difference, if any, between the two expressions, but despite these discussions, they are both assumed to allow a relatively wide scope for interpretation, provided that the establishment of safety zones is based on fact and does not cause any “unjustifiable interference” with navigation, fishing, etc., cf. Article 5(1) of the Continental Shelf Convention. It is assumed to be beyond doubt that offshore installations, as defined in s. 2(b), are comprised by the terminology used in the two conventions.

International law further provides that safety zones are to be respected by ships of all nationalities, and authorizes coastal states to implement any measures in the zones considered necessary to the safety of the installations.

In respect of the breadth of the safety zone, a maximum limit of 500 m from the periphery of the installation is fixed in the Continental Shelf Convention and the Convention on the Law of the Sea alike. However, the Convention on the Law of the Sea allows broader safety zones, provided that this is in compliance with generally recognised international rules, or recommended by the relevant international organisation (IMO). In the light of future developments in this area, it is more appropriate for the maximum zone breadth to be fixed by the Faroese Government than by the Bill.

The Faroese Government may issue general regulations determining the breadth of safety zones and prescribing rules for fishing, navigation and aviation in the zones, from which exemption may be granted in specific cases. After issuing such regulations, the Faroese Government only needs to announce the position of the installation once, viz. when it is first placed at the site of the activities. The position should be announced well in advance of the placement of the installation.

For the application of Faroese law in safety zones, see s. 3(2) with notes.

**Subsection (2)** authorizes the Faroese Government to restrict the right to anchor or fish near submarine pipelines.

It is generally considered that international law does not allow coastal states the same scope for establishing genuine safety zones around pipelines as around offshore installations. On the other hand, international law does not prohibit other measures found necessary in the interest of safety.

As a general rule, restrictions in or prohibition against fishing near submarine pipelines are to be regarded as temporary measures necessitated by the construction of the pipelines. Once the pipelines are in place, fishing operations may often be resumed.

Reference is made to the notes on ss. 18 and 19.

---

(Section 28)

**28.(1)** Where a serious accident has occurred in connection with the activities comprised by this Bill or where other events have occurred involving danger thereof, or in case of major property damage or pollution of the marine environment, the Faroese Government may appoint a special commission for the purpose of preparing a report, which shall incorporate an investigation and assessment of the events occurred. The Faroese Government may lay down more detailed rules and regulations on the activity of the special commission.

(2) The special commission shall be entitled to examine the offshore installation or its remains.

(3) The special commission may demand that books and other documents of importance to the investigation be submitted to it, and may question the owner or user of the offshore installation and its personnel, as well as any other person assumed to be able to provide information of importance to the investigation.

(4) The special commission may demand a judicial enquiry in accordance with the provisions of the Administration of Justice Act.

---

#### *Notes*

**Subsection (1)** provides for the appointment of a special commission in the event of serious accidents or hazardous situations occurring in connection with activities covered by this Bill. The wording shows that the provision is aimed especially at serious accidents and hazardous situations that may occur on offshore installations. Thus, it will scarcely be relevant to set up a special commission in connection with ordinary industrial accidents, even where they involve the loss of human life or serious personal injury. Industrial accidents are expected to be investigated by the police in cooperation with the relevant safety authority, and it is not the objective of the special commission to replace such investigations.

Police investigations will normally focus on detecting any criminal offences, while the work of the special commission is targeted at the underlying causes of major accidents. In addition, the special commission will try to establish the course of events, including the actions and efforts of the licensee, operator, contractors and others to prevent or limit the damage or hazard caused. The tasks of the special commission also include evaluating these aspects in the light of regulatory supervision, applicable rules and regulations, the licensee's safety management system, etc., and recommending any improvements. But it is not for the special commission to decide on any criminal liability that may fall on any of the involved parties.

The investigations made and conclusions drawn by the special commission therefore do not have any probative value, and the prosecution service, courts, administrative bodies and others that may refer to a special commission report do so only because it may be convincing. Thus, commission reports merely express a technical/ professional opinion on a course of events.

It has not been found appropriate to suggest a permanent special commission at this point. The serious accidents and hazardous situations that may occur are of a highly differing nature, including blowouts, fires, explosions, structural failures, etc. The expertise required to assess the circumstances of an accident or hazardous situation therefore depends on the nature and extent of the accident. However, the commission will presumably include expertise on drilling technology, geology, navigation and aviation.

Moreover, it is recommended to empower the Faroese Government to lay down more detailed rules and regulations on the activity of the special commission.

According to **subsections (2) and (3)**, the Faroese Government is entitled to make the necessary investigations, for example, of an offshore installation, and to interview anyone assumed to be able to provide information of importance to the investigation.

**Subsection (4)** entitles the commission to make a request for evidence to be given at a court hearing, as it has been found appropriate that the commission should have authority to do so, cf. ss. 10-18 of the Administration of Justice Act, although the usual procedure is presumed to be hearings of a more informal nature before the commission.

---

(Section 29)

**29.** The Faroese Government may draw up more detailed regulations on the performance of the activities comprised by licences granted in pursuance of sections 4, 6, 18, 19 and 20.

---

*Notes*

It is considered appropriate to give the Faroese Government general authority to lay down detailed regulations for the performance of the hydrocarbon activities under ss. 4, 6, 18, 19 and 20. This provision supplements the special authority given elsewhere to draw up special-purpose rules and regulations, such as in s. 5(2) and s. 24. Thus, s. 29 has been drawn up for the specific purpose of filling gaps in and specifying the Faroese Government's authority.

---

(Section 30)

**30.** The Faroese Government shall compile all the information provided about the subsoil in the course of the activities comprised by this Bill.

---

*Notes*

The objective of this provision is to ensure that all information about the subsoil of the Faroe Islands, such as the data collected in pursuance of s. 11 in connection with activities comprised by this Bill, is submitted to the Faroese Government so as to enable the Government to maintain and continuously add to a data bank concerning the subsoil. After a certain period of time, the general public will usually be granted access to the information stored in the data bank. The period involved will typically be five years after submission of the information.

(Section 31)

**31.(1)** The Faroese Government shall supervise compliance with the provisions of this present Bill and with the rules and regulations, terms and conditions drawn up in pursuance of this Bill.

(2) The Faroese Government may lay down more detailed rules and regulations regarding performance of the supervision and regarding the acceptance of tests and other documentation substantiating compliance with health, safety and environmental regulations.

(3) The Faroese Government may authorise governmental and other public institutions to exercise powers vested in the Faroese Government by this Bill.

(4) The licensees shall pay the expenses incurred by the authorities in connection with the administration of matters regarding licences and approvals, etc. for activities carried on under this Bill and in connection with the supervision referred to in subsection (1) above, in accordance with rules and regulations laid down by the Faroese Government.

---

*Notes*

Supervision is an important part of the duties assigned to the Faroese Government by this Bill and by the rules and regulations, terms and conditions drawn up in pursuance of the Bill. The supervisory authorities are responsible for monitoring the licensees' activities to ensure that prospecting, exploration and production activities are carried on in a safe and appropriate manner, cf. s. 13, particularly in respect of safety and working environment. In addition, the Faroese Government is to ensure that the terms and conditions stipulated in the individual licenses are complied with by the licensees.

By giving the Faroese Government the authority provided for in **subsection (2)** to lay down rules and regulations on the acceptance of tests and other documentation substantiating compliance with health, safety and environmental requirements, it is ensured that documentation from classification societies, among others, may be incorporated into the supervisory authorities' procedure for granting approvals. Thus, approval by public authorities may be subject to requisite documentation from such societies substantiating compliance with safety requirements.

**Subsection (3)** authorizes the Faroese Government to delegate the responsibility associated with supervision to other public institutions.

**Subsection (4)** stipulates that the licensees must pay the expenses incurred by the public authorities in connection with the administration of matters regarding licenses and approvals, and in connection with the above-mentioned supervision. The public authorities may demand a refund of such expenses where they can be attributed to individual licensees.

---

(Section 32)

**32.(1)** The licensees as well as owners or users of an offshore installation shall submit any information the Faroese Government deems necessary for its supervision of the activities carried on under this Bill.

(2) For the purpose of its supervision, the Faroese Government may order a licensee to submit samples, raw data, processing results, interpretations and assessments as well as technical and financial information.

(3) To the extent required to carry out their duties, the staff of the supervisory authority shall at all times have access without a prior court order, to all parts of the licensee's business used for activities

carried on under this Bill against duly showing proof of their identity.

(4) The owner or user of an offshore installation as well as any party acting on their behalf shall be under an obligation to grant the staff of the supervisory authority all the assistance required for their investigations.

(5) The representatives of the supervisory authority shall be entitled to participate as observers in meetings of the joint committees set up by licensees to which a licence has been granted jointly in accordance with the provisions of section 6 above.

---

*Notes*

The objective of section 32 is to enable the supervisory authority to verify that the provisions of the Bill and terms and conditions drawn up under the Bill are complied with in practice.

Under the provision of **subsection (2)**, the supervisory authority may issue notices specifying the information to be submitted, the time at which it is to be submitted, and the persons to whom it is to be submitted. Failure to comply with such notices is punishable by a fine or simple detention, cf. s. 43(1)(d).

**Subsection (3)**, which supplements the provisions laid down in subsections (1) and (2), gives the supervisory authority access, without a prior court order, to all parts of an undertaking where activities are carried on under this Bill, to the extent required for carrying out supervision. This provision is aimed primarily at entitling the supervisory authority to inspect the installations covered by the Bill and to pay control visits in situations where supervision is not possible on the basis of information submitted alone. The right to be granted access to administrative premises and the like is only likely to be enforced in exceptional cases.

In keeping with the provision laid down in s. 13(4) of the Act on the Safety etc. of Ships, **subsection (4)** provides that the owner or user of an offshore installation, as well as any party acting on their behalf, is required to grant the staff of the supervisory authority any assistance required for their investigations.

The aim of **subsection (5)**, which supplements the other provisions of s. 32, is to ensure that the public authorities are granted insight into the exploration and production activities, as well as to establish and maintain close contact with licensees. The term "joint committees" means the joint operating committees etc. set up by the joint ventures formed by oil companies.

---

(Section 33)

**33.(1)** The supervisory authority may order that any matter that is contrary to this Bill or rules and regulations or decisions made in pursuance of this Bill shall be rectified immediately or before the expiry of a specified time limit.

(2) Where deemed necessary by the supervisory authority in order to avoid grave, imminent risk to the health or safety of the employees and other parties, or to the environment, the supervisory authority may order that such risk be countered immediately, and may also order stoppage of the work.

---

*Notes*

The supervisory authority may issue notices requiring any non-compliance with the Bill or rules and regulations or decisions made in pursuance of the Bill to be remedied immediately or within a specified time limit. However, in view of the risks associated with exploration and production activities, it has

been found appropriate for the supervisory authority to be empowered to put a complete stop to the work in the instances described in subsection (2). Any failure to comply with such notices is subject to punishment in the form of a fine or simple detention, cf. s. 43(1)(d).

---

## **Part 7**

### **Damages including special provisions on compensation to fishermen**

This Part contains a general provision on liability in damages, according to which the tortfeasor is to pay damages when a basis of liability has been established, as well as provisions on compensation of a more discretionary nature.

S. 34 imposes strict liability on licensees for any loss, damage or injury caused by the activities carried on under a license. Any damages payable may be reduced or lapse if the injured party contributed to the loss, damage or injury, either intentionally or through gross negligence. In cases where the tortfeasor can be identified, pollution damage is also subject to the rule on strict liability, but any damages payable may be reduced or lapse in case of *force majeure*.

In the event that the tortfeasor and the injured party fail to agree on the amount of damages payable, the issues falling within s. 34 are to be brought before the ordinary courts.

Experience shows that hydrocarbon activities may interfere with fishing operations in certain respects, without it being possible to identify the specific tortfeasor. This applies in particular in the situations where fishing vessels get objects deriving from the hydrocarbon activities entangled in their fishing gear. Therefore, it is proposed in s. 35 that the licensees should be held jointly and severally liable for paying compensation for the loss of or damage to fishing gear and fishing vessels, as well as for lost hauls and lost fishing time. Payment of compensation under this provision is subject to the condition that the loss is assumed to be attributable to the hydrocarbon activities, based on the information available. Compensation payable according to this provision will be determined by a special fisheries compensation board, cf. s. 37.

In addition to any actual loss or damage, the hydrocarbon activities may interfere with fishing, as they can be expected to encroach upon areas that have traditionally been used for commercial fishing. The fishermen's right to carry on their trade does not enjoy protection under the general law of tort in those instances where the fishing opportunities in traditional fishing grounds are affected. Therefore, it is proposed in s. 36 that before granting approval for field developments, the establishment of pipelines or decommissioning, the Faroese Government must *either* have made a decision on the issue concerning payment of compensation *or* have referred the issue to the compensation board, cf. s. 37. When decisions are made on the matters mentioned in s. 36, it is to be taken into account whether the hydrocarbon activities constitute a hindrance or an inconvenience to the commercial fishing operations usually carried on, and whether the fishermen's earnings potential will be reduced as a result.

S. 37 governs the composition of the fisheries compensation board and authorizes the Faroese Government to draw up rules and regulations regarding payment of compensation, the business to be conducted by the fisheries compensation board, as well as procedural rules. This provision operates on the premise that the licensees are to pay the actual compensation as well as the costs incidental to the proceedings of the compensation board.

---

(Section 34)

**34.(1)** A holder of a licence granted under the provisions of this Bill shall be liable to pay damages for any loss, damage or injury, including pollution damage, caused by the activities carried on under the

licence, even though such loss, damage or injury was caused accidentally.

(2) In the event that the injured party contributed to the loss, damage or injury, either intentionally or through gross negligence, the damages payable may be reduced or lapse.

(3) The damages payable for pollution damage may be reduced or lapse, in the event that it is substantiated that an unavoidable natural event, war or terrorist action or a similar case of force majeure was a major contributor to the damage or scope of damage in circumstances that could not be foreseen and were beyond the licensee's control.

(4) For the purposes of this Bill, pollution damage shall mean any loss, damage or injury caused by pollution as a consequence of an escape or leakage of hydrocarbons from an installation, including a well, and the expenses for reasonable measures to prevent or reduce any such loss, damage or injury, as well as any loss, damage or injury resulting from such measures. Pollution damage shall also be considered to include any loss or damage suffered by the owners and crew of fishing vessels due to reduced fishing opportunities.

---

#### *Notes*

**Subsection (1)** corresponds to s. 4(1) of the Act on Preliminary Surveys, but with the added stipulation that pollution damage, cf. s. (4), is also covered by the provision. In line with the provisions of s. 10 of the Subsoil Act of 1950, the provision imposes strict liability for any loss, damage or injury caused by activities performed in compliance with licenses issued under this Bill. However, as appears from the formulation chosen, it is proposed that in addition to liability for any loss of or damage to a third party's property or injury to a third party, the liability should also extend to persons who cannot be considered outsiders (employees, joint contractors, etc.).

A licensee cannot disclaim liability under this provision through agreements made with contractors, suppliers, etc. The provision on strict liability protects the injured party, so that such party may also advance a claim against the licensee in cases where the damage was caused by a subcontractor or another party. In other words, this provision means that the licensee is jointly liable with his contractors, etc., even though the damage is not directly attributable to the licensee. However, this provision does not prevent the institution of subsequent proceedings by the licensee for the purpose of claiming contribution or indemnification from the actual tortfeasor. Naturally, such proceedings must be instituted in observance of any agreements made between the parties and/or the general law of tort.

The strict and unlimited liability imposed on the holder of a license cannot be limited according to the maritime law on limitation of liability in the cases where the operations are carried on from a mobile installation comprised by the Danish Merchant Shipping Act, typically mobile drilling rigs.

The liability to pay compensation pursuant to s. 34 is based on the assumption that the usual conditions for paying compensation have been fulfilled, such as the condition to the effect that the injured party must prove that the loss or damage was caused by the tortfeasor. This provision also comprises damage to fishing gear and fishing vessels, if the relevant fisherman has identified the tortfeasor and proved that the damage was caused by the activities carried on under the Bill.

**Subsection (2)** corresponds to the provision of s. 4(2) of the existing Act on Preliminary Surveys.

According to **subsection (3)**, the damages payable for pollution damage, cf. s. (4), may be reduced or lapse in case of force majeure. The general principles of tort law would presumably lead to a reduction of the liability in such situations, but considering that the Bill introduces strict liability and that pollution damage may potentially lead to large claims for damages, it has been considered natural, out of consideration for the licensee, to provide for a reduction of the liability in damages in the instances mentioned in subsection (3).

By the term “unavoidable natural event” is meant an occurrence or act resulting in a loss that the licensee (operator) could in no way have prevented or reduced or that the licensee (operator) could not be expected to prevent or reduce, even where this had been possible. In this connection, strict requirements must be set up in respect of the licensee’s (operator’s) emergency procedures.

In addition to ordinary acts of war, “war” includes civil war, while “terrorist action” includes sabotage and other acts that are performed intentionally to harm the licensee and/or the licensee's installations. “A similar case of force majeure” means other unavoidable occurrences or acts that are comparable to those mentioned above.

The provision of subsection (3) may be applied even though force majeure was merely one of the factors contributing to the loss or the scope of the loss. However, it is a condition that force majeure was a major contributor to the occurrence of the loss, and that the relevant event was beyond the licensee’s (operator’s) control.

**Subsection (4)** specifies which pollution damage is comprised by the provision of subsection (1).

Pollution damage is considered to include loss, damage or injury that is assumed, based on reasonable foreseeability, to result from an escape or leakage from an installation. The term “installations” comprises all installations used in connection with the production of hydrocarbons, e.g. offshore installations, cf. s. 2(b), pipeline facilities, cf. s. 18, as well as any onshore installations and facilities, cf. s. 14(2). For the purposes of this subsection, “installations” includes wells, for which reason an escape direct from a well is comprised by the term “pollution damage”. Wells are also taken to mean wells in the process of being drilled.

In this provision, the term “hydrocarbons” has the same meaning as in s. 2(a). Thus, the leakage of an oil product, such as bunker oil from a drill ship, is not pollution damage for the purposes of the Bill, but *ordinary* damage comprised by the strict liability imposed by subsection (1). Consequently, subsection (3) regarding the reduction or lapsing of liability in cases of *force majeure* does not apply to such a leakage. As mentioned above, any leakage of bunker oil or drilling chemicals is subject to the ordinary strict liability imposed by subsection (1), provided that the leakage occurs from a vessel or platform falling within the definition of offshore installations, cf. s. 2(b). Therefore, the provisions of the Danish Merchant Shipping Act providing for limitation of liability are of no relevance, as long as the vessel or platform is engaged in activities comprised by this present Bill.

Typical pollution damage consists of damage to the marine and terrestrial fauna and flora, as well as the pollution of coastal areas and of fishing gear, etc. Usually, it will be a condition that the damage or loss falls within the scope of the usual tort law principles with regard to causation and foreseeability, and that the injured party’s interests are of such a nature that they enjoy protection under tort law. However, it should be added that the expenses incurred by the public authorities and other parties (e.g. private landowner) in connection with cleaning coastal areas are comprised by this provision, even though the cleaning of the coast may have no economic value. Here, the interest in protecting the natural environment and rehabilitating the area where the damage occurred must carry more weight than the traditional tort law concept of what represents an economic loss.

Expenses incidental to measures taken to prevent or reduce pollution damage must be treated on a par with actual pollution damage as far as the payment of damages is concerned. However, the right to have such expenses reimbursed is conditional upon the measures taken being *reasonable*, meaning that they were objectively suitable for preventing or reducing the damage or loss in the given situation, and that the costs involved bore a reasonable proportion to the values to be protected. It is of no relevance whether the measures taken actually had a positive effect or were ineffective. Measures taken to prevent or reduce pollution damage to birds, or to reduce the suffering of birds polluted by oil are also comprised by this provision.

It is proposed that any loss or damage arising because of the above-mentioned measures should also be comprised by this provision. For example, it is not an indispensable requirement that the loss or damage must be caused directly by hydrocarbons (oil or gas), but it is sufficient for the loss or damage to be caused by, for example, the chemicals used to contain oil and gas pollution.

Finally, it is proposed that any loss or damage suffered by the owners and crews of fishing vessels due to reduced fishing opportunities should also be comprised by the provision on pollution damage.

---

(Section 35)

**35.** In the event that Faroese owners and crews of fishing vessels suffer losses that are assumed to relate to offshore hydrocarbon activities carried on under this Bill, but where the specific tortfeasor cannot be identified, cf. section 34, the licensees shall be jointly liable for paying compensation for any damage to or loss of fishing gear and fishing vessels, as well as lost hauls and lost fishing time, including fishing time lost in connection with buoying, retrieving and landing any objects deriving from the activities. The holders of licenses under this Bill may establish a compensation fund with primary liability for the settlement of claims under this section 35.

---

#### *Notes*

In some cases, hydrocarbon activities may hamper or interfere with fishing operations where it is not possible to identify the specific tortfeasor. Such situations may arise if fishing vessels get objects entangled in their fishing gear that have no owner or whose owner is unknown, but where it is safe to assume that the object derives from hydrocarbon activities.

It is considered desirable for the Bill to provide for the covering of such losses, even though it is not possible to hold the “tortfeasor” liable. Our neighbouring countries have introduced schemes aimed at compensating fishermen for losses that may be attributed to hydrocarbon activities with a large degree of certainty, without the specific tortfeasor being identified. In Norway, the compensation scheme is regulated by the Norwegian Act on Petroleum Activities, while Denmark and the UK have provided for agreements to be drawn up between offshore operators and fishermen’s associations. Considering the importance of fishing for the Faroe Islands, it is deemed to be warranted by existing conditions to insert a provision of this nature in the Bill on Hydrocarbon Activities, which is to be operative from the startup of activities.

S. 35 is aimed at commercial fishing operations. Therefore, the parties entitled to compensation under this provision are owners of fishing vessels registered in the Faroe Islands that have been granted permission from the Faroese Government to carry on commercial fishing operations, as well as the crews of such ships and vessels. It is assumed that the compensation for lost hauls and lost fishing time will be allocated between owners and crews on the basis of the collective agreements made between the shipowners’ association and the crews’ trade unions.

As s. 35 implies that compensation is to be paid in cases where the actual tortfeasor cannot be identified, it seems most consistent with the aim of this provision to introduce joint and several liability for the licensees. Moreover, it is proposed that the liability is to be unlimited, in accordance with the general provision laid down in s. 34. However, the last sentence of the provision allows the licensees to set up a compensation fund, in the same way as in our neighbouring countries, so that such compensation fund will be primarily liable for claims raised under s. 35. A compensation fund may either be established according to private law by the licensees themselves, or may, subject to negotiation with the licensees, be established pursuant to rules and regulations issued by the Faroese Government under s. 37(2). Such rules and regulations may require a party applying for compensation to first advance his claim against such a fund. However, the fund will not exempt the licensees from

their joint and several liability, which means that the party applying for compensation may advance his claim directly against one or more licensees if the fund has insufficient funds.

The compensation payable pursuant to s. 35 is an alternative to the compensation payable under s. 34. This means that the compensation board, cf. s. 37, should refer a party seeking compensation to the tortfeasor, where identifiable. Regardless of any procedural time limits fixed in rules and regulations issued under s. 37(2), parties seeking compensation that have been referred to the tortfeasor are not barred from resubmitting their claims for compensation if, after futile negotiations with the tortfeasor and after unsuccessful proceedings brought before the ordinary courts, it proves impossible to obtain compensation under the general rule laid down in s. 34. However, this is subject to the party seeking compensation substantiating that the conditions stipulated in s. 35 for paying compensation have been fulfilled.

The provisions of s. 35 extend to compensation for any loss, damage or injury caused in the Faroese territorial sea and/or the Faroese fishing zone, if it is assumed that the objects causing damage derive from hydrocarbon activities carried on within the area of application of the Bill, cf. s. 1(1). Compensation cannot be expected to be paid in the cases where the loss or damage arose in connection with a vessel navigating or fishing in prohibited areas, such as safety and work zones, areas where vessels may not anchor, or areas subject to a ban against using bottom trawls or the like.

According to this provision, compensation may be paid for damage to fishing gear and fishing vessels, as well as for lost hauls and lost fishing time, including for the time spent in buoying, retrieving or landing objects associated with the hydrocarbon activities.

By lost hauls is meant the fish caught at the time of the damage that are lost or deteriorate in value due to the occurrence of the loss.

Lost fishing time is the time reasonably spent until the damaged fishing vessel or fishing gear has been restored to a serviceable condition or spare fishing gear has been put into operation. In assessing the amount of compensation payable for lost fishing time, it must be taken into account whether the injured party usually has spare fishing gear on board or on land.

When claiming compensation for the time spent in buoying, retrieving and landing objects, the injured party must substantiate that the measures taken were necessary to avert any danger to safe navigation.

Pursuant to s. 37(2), the Faroese Government may lay down detailed procedural rules to be observed when applying for compensation. Therefore, reference is made to the notes on s. 37(2).

---

(Section 36)

**36.** A licence or approval under the provisions of sections 14, 18, 19 or 20 for activities in the Faroese territorial sea and on the continental shelf that will constitute a hindrance or an inconvenience to the commercial fishing operations usually carried on in the area by fishing vessels flying the Faroese flag may not be granted, unless the Faroese Government simultaneously makes a decision determining the question of payment of compensation by the licensee to the owners and crews of fishing vessels whose earnings potential will be reduced by the relevant activity, or unless the Faroese Government refers the issue to the compensation board mentioned in section 37 below for its decision.

---

*Notes*

This provision regulates the issue of compensation to fishermen whose earnings potential may be reduced by the hindrances or inconveniences caused by a field development/decommissioning project or the construction of a pipeline. Depending on the placement of such installations, they

may displace fishing operations in certain fishing grounds. This is not likely to affect the level of available fishing stocks, but may make it necessary for the operations to be relocated. Such relocation might, in certain cases, reduce catch rates, or make fishing more difficult, and thus more cost-intensive, or, at worst, make certain types of fishing impossible.

The wording of s. 36 is based on the fact that this provision is necessary, because the right of fishermen to carry on their trade is not protected under the general law of tort. One reason for this is that the right to carry on this trade is not based on ownership of the resources, cf. s. 2 of Faroese Act No. 28 of 10 March 1994 on Commercial Fisheries. Furthermore, international law does not grant any right of priority to fishing operations over any other lawful exploitation of the resources of the continental shelf. However, exploration and exploitation of the natural resources of the continental shelf must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, cf. Article 5(1) of the Continental Shelf Convention.

Generally, the inconvenience or hindrance caused by the installations is due to the space they occupy. In addition to the actual space being occupied by an offshore installation, it is likely to be surrounded by a safety zone, cf. s. 27(1). Although no safety zones are established for pipelines, certain restrictions should nevertheless be foreseen, cf. s. 27(2).

International law generally allows safety zones of 500 m measured from the periphery of the installation. However, further restrictions may be imposed on areas outside the safety zones; thus, vessels may be prohibited from anchoring or fishing in such areas, or fishermen may be *de facto* prevented from carrying on their trade, for example, due to massive traffic to and from the installations, or because two installations with safety zones are placed so close to each other as to exclude any fishing in the area.

The activities referred to in the provision may cause more or less permanent occupation of an area. Field development usually entails the placement of units from which production is intended to go on for a number of years, during which they will be surrounded by a safety zone, whereas the construction of pipelines may, in certain cases, present only a temporary hindrance or inconvenience to fishing, as pipelines do not normally interfere with fishing.

The provision is based on the premise that not any difficulty caused to fishing operations should lead to payment of compensation. According to the provision, payment of compensation is subject to two conditions:

1. That implementation of the activities causes a hindrance or inconvenience to the commercial fishing operations usually carried on in the area;
2. That the activities will cause a reduction in the earnings potential of fishermen.

This means that payment of compensation will not be relevant, unless the activities make fishing in the area impossible or difficult to a significant degree. Thus, the fishing industry will have to accept a certain amount of adverse effects on fishing from the oil activities, but where such effects are insignificant, fishermen are assumed to be able to adapt to the changed conditions.

The Faroese Government or the fisheries compensation board, cf. s. 37, decides, from case to case, whether the *limit* for the effects on their trade to be accepted by the fishing industry without compensation has been exceeded. Factors considered might include previous fishing in the area, the extent and nature of the oil activities, conditions of weather and current, the mobility of the fishing fleet, and alternative fishing opportunities in the area concerned. It has not been found appropriate to establish specific and absolute criteria according to which compensation will or will not be paid. This issue, as well as the issue of how to allocate any compensation granted to various catch

methods and between owners and crews, are expected to be decided on the basis of the practice established by the board in such matters.

Basically, compensation is assumed to be paid as a lump sum, but may also, according to the circumstances, be provided in the form of annual payments over a number of years. A factor to be considered in determining the mode of payment could be the options of adapting to alternative fishing opportunities open to the fleet.

According to this provision, the Faroese Government may not grant a license or approval for any of the activities regulated by this Bill without at the same time deciding the compensation issue. The issue may either be decided by the Faroese Government or be submitted to the fisheries compensation board, cf. s. 37. In Denmark, where the Act on Salt-Water Fishing provides for a similar scheme, experience shows that the normal procedure is for such matters to be submitted to the board, for the reason, among others, that the compensation issue may not have been sufficiently clarified in time for a decision to be made simultaneously with the granting of a license or approval. Submission of the issue to the board allows the licensee to initiate the planned activities, while at the same time giving the fishermen assurance that the compensation issue will be dealt with.

The provision does not rule out the possibility of the licensee and the fishermen concerned reaching an agreement on payment of compensation, in which connection the fishermen may waive their right to advance further claims for compensation under s. 37.

It is assumed to be for the fisherman/fishermen concerned to prove that the conditions for receiving compensation are met. In this connection the possibility should not be excluded of a trade organisation submitting a collective application on behalf of its members, but in that case, the onus of proof is to be satisfied by each and every owner/vessel comprised by the application for compensation.

---

(Section 37)

**37.(1)** The question whether a loss has been or will be suffered, and whether compensation should be paid in accordance with section 35 above or following the Faroese Government's referral of the issue in accordance with section 36 above shall be decided by a fisheries compensation board composed of five members. The holders of licences under this Bill shall jointly appoint two members to the board, and organisations representing Faroese owners and crews of fishing vessels shall jointly appoint another two members. The members of the board thus appointed shall jointly appoint the chairman of the board, who shall meet the conditions for appointment as high court judge. In the absence of agreement on the appointment, the chairman shall be appointed by the "sorenskriver" (chief Faroese judge).

(2) The licensees shall pay the expenses connected with compensation payments and with the operation of the fisheries compensation board according to rules and regulations laid down by the Faroese Government. The Faroese Government may lay down rules and regulations regarding the payment of a fee for the hearing of a matter by the board. In other respects, the provisions of the Arbitration Act shall apply to the matters heard by the board. Furthermore the Faroese Government may lay down rules and regulations regarding the compensation fund referred to in section 35.

---

*Notes*

**Subsection (1)** establishes that issues regarding compensation raised under s. 35 are to be decided by a fisheries compensation board. The same applies to issues raised under s. 36, provided that the Faroese Government has exercised its right to refer such issues to the board. In addition, subsection (1) governs the composition of the board.

The Bill proposes that the fisheries compensation board is to be composed of five members, of which two are to be appointed by the licensees and two by the organisations representing Faroese owners and crews. By “licensees” is meant holders of licenses granted in pursuance of the Bill, i.e. prospecting licenses, exploration and production licenses, licenses to establish pipelines and approvals for discontinuing operations granted in pursuance of s. 20.

It appears from the wording of the Bill that the fishing industry must be represented both by the owners of fishing vessels and the organisations representing the crews. Accordingly, in the same way as the licensees, the organisations involved must cooperate in appointing the two members of the fisheries compensation board.

The parties’ representatives on the board must jointly appoint the chairman, who is to meet the conditions laid down in the Administration of Justice Act for the appointment of high court judges. In order to be eligible for appointment as a high court judge, it is generally necessary for the candidate to have acted as a district court judge, chief of police or as a practising lawyer with a right to appear before the Danish High Court, for a period of three years or more. Moreover, persons holding a law degree that have been employed by central government as principals or in senior positions for three years or more are eligible for appointment. Where the parties fail to agree on the appointment of the chairman of the board, the chairman is to be appointed by the “sorenskriver” (chief Faroese judge).

**Subsection (2)** stipulates that licensees must pay the expenses connected with compensation payments and the expenses for operating the fisheries compensation board. The Faroese Government may lay down detailed rules and regulations regarding the expenses for the administration of the board, including rules requiring the payment of a fee for submitting matters to the board.

In other respects, the Danish Arbitration Act, i.e. Act No. 181 of 24 May 1972, whose application was extended to the Faroe Islands by Executive Order No. 460 of 9 September 1975, applies to the matters brought before the board.

In addition, the Faroese Government may lay down detailed procedural rules that must be observed when matters are submitted to the board. This may involve rules regarding the reporting of any damage or loss to the Fisheries Control (“fiskiveiðieftirlitið”), including damage to fishing gear, time limits for such reporting, etc.

---

(Section 38)

**38.** A licence granted under the provisions of this Bill shall not be available to the recourse of creditors and may not be assigned to any other party, neither directly nor indirectly, unless the Faroese Government allows such assignment and approves the attendant terms and conditions.

---

*Notes*

The fact that licenses granted under the provisions of this Bill are not available to creditors means that execution cannot be levied on a license, and that a license cannot be administered as part of an insolvent or bankrupt estate. In addition, the commencement of insolvency or bankruptcy proceedings may result in revocation of the license, cf. s. 39(1) (c) of the Bill.

The purpose of stipulating that any assignment of a license must be approved is to ensure that assignments are only made to undertakings that meet the criteria for being granted licenses, as set out in s. 6 of the Bill. The fact that licenses may not be assigned to any other party, whether directly or indirectly, unless allowed by the Faroese Government, involves that not only formal assignments require permission. An assignment may also take place indirectly, through the transfer of shareholdings

of a size that will give the transferee a controlling interest, or through the conclusion of agreements having the same effect. This provision also applies to assignments made between several co-licensees.

---

(Section 39)

**39.(1)** The Faroese Government may revoke a licence granted under this Bill

- a) in case of any serious or persistent breach of the provisions of this Bill or of the provisions, terms and conditions or orders made in pursuance of the Bill;
- b) where an application for a licence contains incorrect or misleading information;
- c) where a licensee files a petition for suspension of payments or for the opening of negotiations for a compulsory composition, is declared bankrupt, goes into liquidation or is in a situation that is comparable hereto.

(2) Where the matter can be rectified by the licensee, the revocation of a licence in accordance with paragraph (1) of subsection a) above may not take place until the Faroese Government has issued an order specifying a time limit within which the matter shall be rectified, and such order is not complied with.

---

#### *Notes*

According to **subsection (1)**, the Faroese Government may revoke a license if the provisions of the Bill or the provisions, terms and conditions or notices issued in pursuance of the Bill are not complied with. However, in case of such non-compliance as mentioned in subsection (1)(a), the license can only be revoked after the Faroese Government has ordered the licensee to remedy the non-compliance within a specified time limit, and the licensee fails to do so.

If a license has been granted to several companies jointly, the revocation will apply to all the companies. In addition, the revocation will extend to the whole area comprised by the license.

The provision of subsection (1)(b) is aimed at ensuring that licenses granted under the Bill are always issued on the basis of correct information.

---

(Section 40)

**40.** It may be stipulated in a licence that a dispute between the Faroese Government and the licensee as to whether the licensee has complied with the provisions and stipulations of this Bill, rules and regulations laid down in pursuance of the Bill or a licence or approval may be brought before an arbitral tribunal whose decision shall be final.

---

#### *Notes*

The provision laid down in s. 40 allows for the insertion of arbitration clauses in the licenses issued under the Bill.

Disputes are frequently resolved more speedily if submitted to arbitration, and through the composition of the arbitral tribunal, the parties can ensure that the matter is decided by qualified experts. Detailed rules regarding the composition of the arbitral tribunal, competence, hearing of cases, etc. may be agreed upon from case to case or may be incorporated into the license terms.

---

(Section 41)

**41.(1)** Where the provisions of the Merchant Shipping Act regarding limitation of liability for mobile offshore installations covered by that Act are applicable, the owner shall, in case of such limited liability, be liable for an amount of up to 20 million special drawing rights (SDR), regardless of the size of the installation. In case of bodily injury, this amount shall be increased by twelve million SDR.

(2) Compensation for pollution damage caused by hydrocarbon activities is not secured by a maritime lien under the relevant provisions of the Merchant Shipping Act.

(3) Where the owner has been granted a licence for exploration and production of hydrocarbons in pursuance of section 6 above, the provisions on limitation of the owner's liability shall not be applicable.

---

#### *Notes*

This provision, which relates to mobile offshore installations exclusively, fixes special limits for the owner's liability for damage occurring in connection with exploration or production activities from such installations, and also stipulates that compensation for pollution damage caused by such activities is not secured by a maritime lien under the provisions of the Merchant Shipping Act. The special rules applicable to the owner of a mobile offshore installation do not limit the licensee's liability under the provisions of the Bill on Hydrocarbon Activities. Thus, it will not be possible for an owner, who is also a licensee under this Bill, and whose activities are subject to an exploration and production license, to limit his liability in accordance with the Merchant Shipping Act. Corresponding provisions are laid down in section 20 of the Danish Act on Certain Marine Installations and s. 507 of the Norwegian Merchant Shipping Act.

The ceilings on liability fixed in **subsection (1)** are not applicable when the installation is being towed or navigating under its own power, or in the cases where the installation is not covered by the Bill's scope of application, cf. section 1(1), or does not fall within the scope of s. 2(b). In these cases, the general limitation of liability fixed by the Merchant Shipping Act is applicable.

By SDR is meant the special drawing rights issued by the International Monetary Fund. The Bill does not include special provisions regarding the timing of the translation of SDR into Danish currency. Therefore, such translation must be effected in accordance with the provisions of the Merchant Shipping Act applicable from time to time.

As the potential for causing damage in the drilling phase cannot be assumed to vary proportionately with the tonnage of the installation, it has been found appropriate not to limit the liability in relation to the relevant tonnage. Instead, it is therefore proposed to fix the ceiling on liability at 20 million SDR, which is almost 50% higher than the maximum liability applicable under the 1969 International Convention on Civil Liability for Oil Pollution Damage.

It is proposed to increase this amount by 12 million SDR in case of bodily injury. If the 12 million SDR ceiling on liability for bodily injury is not sufficient to meet the claims raised for bodily injury, the claimants may attempt to have the uncovered portion of their claims covered on a par with claims for property damage, out of the 20 million SDR. If support vessels, such as tow-boats, are used in the exploration or production activities, the owner of the installation will be liable under s. 233 of the Merchant Shipping Act for any damage caused by such support vessel.

**Subsection (2)** stipulates that compensation for pollution damage caused by exploration or production activities is not secured by a maritime lien. A maritime lien is a charge on the vessel or the cargo

created by operation of law. A lien on a vessel cannot be registered with the shipping register and, without such registration, has the ranking following from the provisions of the Merchant Shipping Act. It must be assumed that a maritime lien providing security for pollution damage caused by exploration or production activities would constitute a major impediment to the mortgaging of offshore installations, etc.

**Subsection (3)** establishes that an owner that has been granted a license for exploration and production of hydrocarbons under this Bill cannot rely on the provisions of subsections (1) and (2) to reduce the strict and unlimited liability imposed on licensees under s. 34 of the Bill, provided that the activities causing the damage are comprised by the license. For example, a licensee whose vessel causes damage in the course of activities comprised by the license cannot limit his liability in accordance with the provisions of the Merchant Shipping Act regarding limitation of liability.

---

(Section 42)

**42.(1)** To the extent necessary, the Faroese Government may permit the expropriation of real property with a view to activities comprised by this Bill.

(2) The Faroese Government may allow short-term surveys undertaken with a view to carrying out any of the activities comprised by this Bill to be made on third-party property, although this may result in damage or inconvenience, against payment of compensation in full for any such damage or inconvenience.

(3) Expropriation in accordance with subsection (1) above shall take place subject to the provisions of Act No. 63 of May 7, 1881, on the obligation to relinquish land for public roads, harbours and landing places, as well as for public schools in the Faroe Islands. The provisions of the said Act shall also be applied in respect of decisions made under subsection (2) above in the absence of agreement on the amount of compensation payable.

---

#### *Notes*

The provision of **subsection (2)** is intended to make it possible to carry out the requisite technical investigations, such as seismic surveys, in cases where area relinquishments or permanent restrictions of use are not necessary.

---

(Section 43)

**43.(1)** Any party

- a) carrying on the activities referred to in sections 4, 6, 18 and 19 without a licence issued by the Faroese Government,
- b) winding up such activities without the prior approval of the Faroese Government according to section 20(1) or failing to submit an adequate decommissioning plan in due time, cf. section 20(3),
- c) transgressing the provisions of sections 23, 25 or 26, or failing to submit the samples and other information required according to section 11 or hindering an examination as referred to in section 28(2), or
- d) failing to comply with orders issued in accordance with this Bill or with regulations laid down in pursuance of this Bill

shall be punishable by a fine or simple detention.

(2) In case of any transgression of section 23, an employer may become liable to a fine, even though such transgression is not attributable to the employer's intentional act or gross negligence.

(3) Any regulations issued in pursuance of this Bill may include penalty provisions imposing a fine or simple detention for any transgression of the provisions laid down in such regulations. Further, it may be stipulated that an employer who transgresses provisions, orders or prohibitions as stated above shall be liable to a fine, even though the transgression is not attributable to the employer's intentional act or gross negligence. No alternative sentence in lieu of a fine shall be determined.

(4) Where the transgressor is a public limited company, private limited company, cooperative society or the like, the company or society as such may become liable to a fine.

---

*Notes*

The proposed wording of **subsection (3)** makes it possible to incorporate penalty provisions into regulations issued under the Bill. Like s. 21(2) of the Danish Act on Certain Marine Installations, the second sentence of subsection (3) makes it possible to impose punishment in the form of a fine, but not simple detention or imprisonment, on an employer who transgresses regulations issued under the Bill, even though the transgression is not attributable to the employer (strict liability). By implication, such strict liability will only be imposed in regulations issued under those provisions of the Bill that are crucial to the protection of health and safety on offshore installations.

**Subsection (4)** provides for the clear allocation of liability, also in cases where a legal person is involved in the transgression.

---

(Section 44)

**45.(1)** This Bill shall take effect on .....

(2) Parliamentary Act No. 179 of October 21, 1993, on preliminary surveys, etc. of the Faroese subsoil shall be repealed.

---

*Notes*

Executive Order No. 10 of 15 February 1996, as amended by Executive Order No. 50 of 9 May 1997, issued under the authority of the Act on Preliminary Surveys, is to remain in force until amended or repealed by a new executive order.

In addition, permits issued under the authority of the Act on Preliminary Surveys and the above-mentioned Executive Order will remain valid until they expire according to the terms of such permits. The existing permits for preliminary surveys have been issued for a term of 12 months, reckoned from the date of issuance, and most of the permits expire in early 1998.

## APPENDIX

The Faroese Parliament passed the Bill on Hydrocarbon Activities 26 February 1998 and the act came into force as Act no 31 of 16 March 1998.

Section 3, 7 and 10 have been amended. A new section 11 has been inserted and in section 14 a new subsection 6 has been inserted. Furthermore section 42 has been amended and a new section 43 has been inserted. The section numbers and the references to the individual sections have been amended accordingly. The act is quoted below in an unofficial translation.

**Act no 31**

**16 March 1998**

### **Parliamentary Act on Hydrocarbon Activities**

#### **Part 1**

##### *General provisions*

1.(1) This Act shall apply to prospecting, etc., exploration, production and pipeline transportation of hydrocarbons in the land territory and territorial sea of the Faroe Islands and on the Faroese continental shelf. The Act shall also apply to offshore installations, cf. section 2 b) below.

(2) The aim of this Act is to provide for prudent and appropriate exploration and exploitation of hydrocarbon resources for the benefit of the Faroese economy and employment opportunities. The activities shall be planned with due consideration given to fishing, navigation, the environment, nature and other interests of society.

2. For the purposes of this Act,

a) *hydrocarbons* shall mean mineral oil, condensate, natural gas and other hydrocarbons found naturally in the subsoil which can be produced in a gaseous or liquid form.

b) *offshore installations* shall mean:

(I) platforms, pipelines and other fixed installations and facilities in the territorial sea and on the continental shelf which are used for exploration and production activities referred to in section 1 above.

(II) mobile units such as drill ships and drilling rigs, production and storage vessels, accommodation vessels and similar vessels, when such units are in a stationary mode and are used for exploration and production activities referred to in section 1 above.

3.(1) The hydrocarbons referred to in section 1 above belong to the Faroe Islands and may only become subject to prospecting, exploration or production by any third party by virtue of a license granted in accordance with the provisions of this Act.

(2) Unless otherwise provided by other legislation or by rules or regulations laid down by the Faroese Government, Faroese law shall apply to any offshore installations on the continental shelf and safety zones established around such installations.

#### **Part 2**

### *Prospecting, etc.*

4. (1) The Faroese Government may grant licenses for prospecting with a view to exploration for and production of hydrocarbons in the subsoil as well as licenses for scientific investigations of the subsoil of importance hereto.

(2) Licenses shall be granted for a term of three years, unless a shorter term is fixed in the individual license. The license shall indicate the areas encompassed by it.

(3) A prospecting license shall entitle the holder to perform geological, geophysical, geochemical and geotechnical surveys. The license shall not entitle the holder to drill for or produce hydrocarbons and shall not give the holder any preferential right to subsequently being granted an exploration and production license.

5.(1) The Faroese Government may lay down terms and conditions for the award of a prospecting license or a license for scientific investigations, including the payment of charges and fees, reporting on the progress and results of such prospecting and investigations, as well as confidentiality obligations with respect hereto.

(2) The Faroese Government may lay down general provisions on charges and fees payable for the award of licenses.

## **Part 3**

### *Exploration and production*

#### *A. Licenses and attendant terms and conditions*

6.(1) For a specific area and subject to more specific terms and conditions, the Faroese Government may grant a license with an exclusive right for the exploration for and production of hydrocarbons. Such a license may only be granted to applicants which are considered to have the requisite expertise, experience, resources and financial capacity. In determining to whom a license is granted the Faroese Government shall have regard to the extent to which the Faroe Islands will gain insight into and benefit from the activities carried on by virtue of the license.

(2) A license granted in pursuance of subsection (1) above shall incorporate provisions about the matters referred to in sections 8 to 13, and may include such other terms and conditions as deemed necessary by the Faroese Government.

7.(1) Licenses for exploration and production of hydrocarbons shall be granted following a public notice inviting applications.

(2) Prior to inviting applications, the areas to be offered for licensing and the general terms and conditions on which licenses are to be granted shall be fixed by law. The explanatory notes to the Act shall include an assessment of the possible impact of the hydrocarbon activities on navigation, fishing and other commercial activities, and on nature, environment and any other effects on the community, as well as an assessment of the contributions of the activities to stimulating the economy and employment opportunities.

(3) The Faroese Government may decide not to grant any licenses on the basis of the applications submitted following a public notice inviting applications.

(4) The Faroese Government may stipulate payment of fees for the consideration of applications and the award of licenses pursuant to section 6.

**8.**(1) A license granted in pursuance of section 6 above shall be issued with a view to exploration for a term of up to 12 years, which term may be prolonged for up to two years at a time. However, the total term of exploration may not exceed 16 years.

(2) When the pertinent terms and conditions stipulated in a license have been fulfilled, the licensee shall be entitled to an extension of the license with a view to production for a period to be fixed in the license, which may not exceed 30 years. The license thus extended shall apply, as a minimum, to those parts of the area that include commercially exploitable deposits from which a licensee intends to carry on production. As a condition for extending the license, the Faroese Government may stipulate that within a specified, reasonable time limit, an application shall be submitted for approval of a field development plan in accordance with section 15(2) below.

**9.** A license granted in pursuance of section 6 shall stipulate the work obligations that the licensee shall fulfil within the term of exploration referred to in section 8(1) above, as well as the charges payable by the licensee to the Faroese authorities. In this connection, it may be stipulated in the license that a periodic charge shall be payable on the basis of the size of the area comprised by the license (area rental), as well as a charge based on the amount or value of hydrocarbons produced (royalty).

**10.** Licenses granted in pursuance of section 6 above shall incorporate provisions on the licensee's use of Faroese manpower and the supply of goods and services by Faroese undertakings on training and educational measures, etc., as well as on the location of the licensee's activities including its supply bases.

**11.** (1) The terms and conditions of licenses granted in pursuance of section 6 above shall stipulate that any transport of equipment and passengers to and from Faroese territory shall be conducted via Faroese quay or Faroese airport.

(2) In special cases the Faroese Government may exempt from the provision in subsection 1.

**12.**(1) The terms and conditions of licenses granted in pursuance of section 6 above, or the rules and regulations issued by the Faroese Government under section 30 below, shall incorporate more specific provisions about how the licensee is to report financial and accounting data, as well as information about its exploration and production activities, including samples and other data about the subsoil collected in the course of such activities.

(2) Licenses granted in pursuance of section 6 above may lay down provisions on confidentiality with regard to the data and information referred to in subsection (1) above.

**13.** Subject to the provisions laid down in sections 21 and 22, licenses granted in pursuance of section 6 above shall stipulate the extent to which the licensee's obligations shall continue to exist after the expiry, relinquishment or revocation of the license. Further, it may be stipulated that if a work obligation or other obligation is not fulfilled, the Faroese Government may demand that the licensee shall pay the amount, in whole or in part, that it would have cost to fulfil the relevant obligation.

### ***B. Exploration and production activities***

**14.**(1) Exploration and production shall be carried on in a safe and appropriate manner in accordance with good international practice, as established for activities carried on under similar conditions. The activities shall be carried on with due consideration given to safety and the environment, such that any waste of hydrocarbons is avoided. Appropriate measures shall be taken to avoid damage to flora and fauna and any other pollution of the environment. The activities may not pose unnecessary risk or

hindrance to shipping, aviation, fishing or other commercial activities; nor may they cause damage to or pose risk of damage to pipelines, cables or other installations.

(2) Processing facilities, pipelines and other transportation facilities should be designed and constructed having due regard for the efficiency of the overall infrastructure.

**15.**(1) Exploration wells and other wells in the subsoil may only be drilled following prior approval by the Faroese Government of equipment, programme and mode of operation.

(2) Offshore installations as well as onshore installations and facilities for the production of hydrocarbons and the initiation of production may only be established by the licensee following prior approval of a field development plan by the Faroese Government, as referred to in subsection (3) below, including approval of the envisaged course of production and of the facilities for this purpose.

(3) Where a licensee decides to develop and initiate production from a hydrocarbon accumulation, such licensee shall draw up a plan for these activities (field development plan), and shall submit it to the Faroese Government for approval, as stipulated in subsection (2) above. The plan shall contain information and assessments regarding the hydrocarbon discovery and the associated production activities, including technical, financial, safety, environmental, navigation and fishing information, as well as a review of the impact of the development project on Faroese economy and employment. Finally, an account shall be given of a proposed plan for decommissioning installations and facilities. If the field is to be developed in two or more stages, the plan should comprise the overall development activities insofar as possible.

(4) The Faroese Government shall have granted its approval of the field development plan, including any subsequent approval of separate development stages and of individual installations or parts thereof in accordance with the rules and regulations laid down in pursuance of section 25, before the licensee enters into any major contractual obligations, unless the Faroese Government consents to the entering into of such contractual obligations beforehand.

(5) Where warranted by concern for safe, appropriate or efficient production, or necessitated by weighty considerations for society, the Faroese Government may make changes in approved production plans and regulate production.

(6) 4 weeks before a decision is made by the Faroese Government to approve a field development plan the Government shall submit a statement to the Faroese Parliament indicating the general terms and conditions of approval imposed by the Faroese Government.

**16.**(1) Where an accumulation of hydrocarbons extends into the areas of several licensees, the relevant licensees shall coordinate exploration and any subsequent production activities. Agreements in this respect shall be approved by the Faroese Government. Where the parties fail to reach an agreement on coordination of such activities within a reasonable time limit, the Faroese Government may order such coordination and lay down the applicable terms and conditions.

(2) Where an accumulation of hydrocarbons extends into another country's continental shelf or territory, the Faroese Government may order, provided that an agreement on the coordination of exploration and production is concluded with the relevant country, that the holder of the license for the Faroese part of the accumulation shall take part in such coordination, and may lay down the applicable terms and conditions.

**17.** Where two or more accumulations of hydrocarbons should be exploited together from a resource point of view or due to economic considerations or in the interests of society, the Faroese Government may issue an order in this respect upon consultation with the licensees. In this connection, a licensee may be ordered, against payment, to make processing and transportation facilities available for the

purpose of such coordination. In the absence of agreement between the licensees about the amount of such payment, the amount shall be fixed by the Faroese Government.

**18.** Any hydrocarbons produced under a license granted in pursuance of section 6 that have not been utilised in the course of production activities, reinjected, flared or lost shall be landed in the Faroe Islands, unless the Faroese Government consents to delivery elsewhere. The Faroese Government may stipulate conditions for such consent.

### *C. Pipeline facilities*

**19.**(1) The establishment and operation of pipeline facilities for use in the activities comprised by this Act may only take place pursuant to a license from the Faroese Government.

(2) A license may be granted subject to conditions regulating the routing, dimensions and ownership of the pipeline, as well as the right for other parties to use the pipeline, payment therefor, charges payable to the Faroe Islands, etc.

(3) Subsections (1) and (2) shall not apply to local pipelines that form part of installations used in the production from an individual field.

(4) Where the pipeline extends into another country's continental shelf or territory, the Faroese Government may order, provided that a cooperation agreement regarding the establishment and operation of the pipeline is concluded with the relevant country, that the party holding the rights to the Faroese section of the pipeline shall take part in such cooperation, and may lay down the applicable terms and conditions.

**20.** The establishment and operation by another country of subsea pipeline facilities for transporting hydrocarbons in transit across the Faroese continental shelf shall be approved by the Faroese Government. The approval shall cover the routing of such pipelines and shall be granted on terms and conditions that provide for reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources, and the prevention, reduction and control of pollution from pipelines.

### *D. Decommissioning*

**21.**(1) Cessation of the operation and maintenance of an offshore installation for production purposes may only take place following prior approval from the Faroese Government. Within the time limits set out in subsection (3) below, the licensee shall submit a decommissioning plan to the Faroese Government, which shall include the necessary technical, safety, environmental, fishing, navigation and financial information, as well as assessments and proposals for the measures to be taken in respect of the offshore installation.

(2) In due observance of existing international standards, the offshore installation shall either continue to be used for hydrocarbon activities under the provisions of this Act, be used for other purposes or be removed in whole or in part. The licensee shall implement the decommissioning plan within a time limit fixed by the Faroese Government in accordance with the terms and conditions laid down by the Faroese Government for its approval of the plan. In the event that the time limit starts to run when the use of the offshore installation is discontinued, the licensee shall notify the Faroese Government of the discontinuance of use.

(3) The licensee's decommissioning plan shall be submitted no later than two years before the use of an offshore installation is expected to be discontinued. This provision shall also apply upon the expiry of a license granted to a licensee under the provisions of sections 6 and 19 of this Act, in the event that the license expires before the anticipated date of termination. Where warranted by the circumstances, the

Faroese Government may demand that a decommissioning plan be submitted at an earlier date, and the Faroese Government may at any time order the licensee to substantiate its ability to finance the implementation of a decommissioning plan or to furnish requisite security herefore, if the Faroese Government has reason to presume that the licensee does not have the necessary financial resources for this purpose.

**22.**(1) When a license granted to a licensee in pursuance of sections 6 or 19 of this Act has expired or has been relinquished or revoked, or when the use of an installation intended for operation solely within the relevant area has been discontinued, the Faroese authorities shall be entitled, free of charge, to take over, in whole or in part, such installation.

(2) The Faroese Government exercises the rights established in subsection (1) above. The Faroese Government shall inform the licensee of its decision in connection with considering the licensee's decommissioning plan in accordance with the provisions of section 21 above, and such decision shall become effective not later than six months after the time referred to in subsection (1) above.

(3) The licensee shall ensure that the installation, complete with facilities, necessary equipment and materials, is transferred to the Faroese authorities in a properly maintained condition, free from any claims from third parties and other encumbrances. Any such claims and other encumbrances shall have no effect against the Faroese authorities.

#### **Part 4**

##### ***Environmental impact assessment***

**23.**(1) Licenses or approvals in pursuance of sections 15, 19, 20 or 21, regarding projects assumed to have a major impact on the environment, may only be granted in the light of an assessment of the effects on the environment and after the affected public, authorities and organisations have been given an opportunity to express their opinion.

(2) Where warranted by circumstances the Faroese Government may grant exceptions from the requirement in subsection (1) above.

(3) The Faroese Government may lay down rules on notification and hearing of the affected public and the affected authorities and organisations.

#### **Part 5**

##### ***Working environment, safety and emergency procedures, etc. for offshore installations***

**24.** The licensee, operator, offshore installation manager, contractors, subcontractors and other employers shall, within their respective scopes of activities, ensure that the working conditions are fully satisfactory from a safety and health point of view, and that effective supervision of the work ensures that it is being carried out properly.

**25.** In order to ensure health and safety and protection of the environment in connection with the exploration for and production and transportation of hydrocarbons, the Faroese Government may lay down more detailed rules and regulations for offshore installations, including rules and regulations on

- a) the general duties of employers, managers and employees as well as suppliers;
- b) health and safety documentation, controls in the form of safety management systems and similar schemes, certification schemes, etc. as well as overall safety management;

- c) the construction of an installation and its equipment, as well as the approval of and consent to the design, building, installation, commissioning and removal of the installation;
- d) the health, safety and environmental conditions under which the work is carried out;
- e) training and instruction, rest periods, 24-hour periods off, age requirements and medical examinations.

**26.(1)** On manned offshore installations, the owner or user shall appoint a manager who shall have supreme authority in all matters.

(2) The owner or user of any offshore installation shall prepare a manning and organisational chart. The chart shall name the manager and the persons responsible for the individual main tasks connected with the safe operation of the installation, and shall set out the guidelines for cooperation between the persons in charge.

(3) In the interests of safety, the Faroese Government may require that the chart referred to in subsection (2) above shall be submitted for its approval before the installation is commissioned, and may lay down more detailed rules and regulations on the manning of the installation.

**27.(1)** The owner or user of an offshore installation shall maintain efficient emergency procedures in case of accidents or hazardous situations that could involve the loss of human lives or bodily injury, pollution of the environment or property damage, and shall provide for the necessary evacuation and life-saving equipment, as well as adequate warning and communication systems. In such situations, the owner or user shall take the necessary measures to prevent or reduce any risks to persons and any harmful effects.

(2) The Faroese Government may decide upon or lay down more detailed rules and regulations on emergency procedures, including the manpower or equipment that shall be available to the owner or user in case of accidents on the offshore installation, and may order several licensees to coordinate their emergency procedures. In case of accidents or hazardous situations, the Faroese Government may decide to initiate rescue, fire-fighting or control operations, and may stipulate that other parties make the resources needed in emergencies available, for the owner's or user's account.

**28.(1)** Safety zones shall be established around offshore installations, with the exception of pipelines. The Faroese Government shall determine the extension of the safety zones in view of existing international standards, and may draw up regulations for navigation, fishing and aviation in the zones, in which connection unauthorised vessels and aircraft may be prohibited access to the zones.

(2) For safety reasons, the Faroese Government may lay down rules and regulations restricting the right of vessels to anchor at and fish in the vicinity of subsea pipelines.

**29.(1)** Where a serious accident has occurred in connection with the activities comprised by this Act or where other events have occurred involving danger thereof, or in case of major property damage or pollution of the marine environment, the Faroese Government may appoint a special commission for the purpose of preparing a report, which shall incorporate an investigation and assessment of the events occurred. The Faroese Government may lay down more detailed rules and regulations on the activity of the special commission.

(2) The special commission shall be entitled to examine the offshore installation or its remains.

(3) The special commission may demand that books and other documents of importance to the investigation be submitted to it, and may question the owner or user of the offshore installation and its

personnel, as well as any other person assumed to be able to provide information of importance to the investigation.

(4) The special commission may demand a judicial enquiry in accordance with the provisions of the Administration of Justice Act.

## **Part 6**

### *Administration and supervision, etc. by the public authorities*

**30.** The Faroese Government may draw up more detailed regulations on the performance of the activities comprised by licenses granted in pursuance of sections 4, 6, 19, 20 and 21.

**31.** The Faroese Government shall compile all the information provided about the subsoil in the course of the activities comprised by this Act.

**32.(1)** The Faroese Government shall supervise compliance with the provisions of this present Act and with the rules and regulations, terms and conditions drawn up in pursuance of this Act.

(2) The Faroese Government may lay down more detailed rules and regulations regarding performance of the supervision and regarding the acceptance of tests and other documentation substantiating compliance with health, safety and environmental regulations.

(3) The Faroese Government may authorise governmental and other public institutions to exercise powers vested in the Faroese Government by this Act.

(4) The licensees shall pay the expenses incurred by the authorities in connection with the administration of matters regarding licenses and approvals, etc. for activities carried on under this Act and in connection with the supervision referred to in subsection (1) above, in accordance with rules and regulations laid down by the Faroese Government.

**33.(1)** The licensees as well as owners or users of an offshore installation shall submit any information the Faroese Government deems necessary for its supervision of the activities carried on under this Act.

(2) For the purpose of its supervision, the Faroese Government may order a licensee to submit samples, raw data, processing results, interpretations and assessments as well as technical and financial information.

(3) To the extent required to carry out their duties, the staff of the supervisory authority shall at all times have access without a prior court order, to all parts of the licensee's business used for activities carried on under this Act against duly showing proof of their identity.

(4) The owner or user of an offshore installation as well as any party acting on their behalf shall be under an obligation to grant the staff of the supervisory authority all the assistance required for their investigations.

(5) The representatives of the supervisory authority shall be entitled to participate as observers in meetings of the joint committees set up by licensees to which a license has been granted jointly in accordance with the provisions of section 6 above.

**34.(1)** The supervisory authority may order that any matter that is contrary to this Act or rules and regulations or decisions made in pursuance of this Act shall be rectified immediately or before the expiry of a specified time limit.

(2) Where deemed necessary by the supervisory authority in order to avoid grave, imminent risk to the health or safety of the employees and other parties, or to the environment, the supervisory authority may order that such risk be countered immediately, and may also order stoppage of the work.

## **Part 7**

### ***Damages, including special provisions on compensation to fishermen***

**35.**(1) A holder of a license granted under the provisions of this Act shall be liable to pay damages for any loss, damage or injury, including pollution damage, caused by the activities carried on under the license, even though such loss, damage or injury was caused accidentally.

(2) In the event that the injured party contributed to the loss, damage or injury, either intentionally or through gross negligence, the damages payable may be reduced or lapse.

(3) The damages payable for pollution damage may be reduced or lapse, in the event that it is substantiated that an unavoidable natural event, war or terrorist action or a similar case of force majeure was a major contributor to the damage or scope of damage in circumstances that could not be foreseen and were beyond the licensee's control.

(4) For the purposes of this Act, pollution damage shall mean any loss, damage or injury caused by pollution as a consequence of an escape or leakage of hydrocarbons from an installation, including a well, and the expenses for reasonable measures to prevent or reduce any such loss, damage or injury, as well as any loss, damage or injury resulting from such measures. Pollution damage shall also be considered to include any loss or damage suffered by the owners and crew of fishing vessels due to reduced fishing opportunities.

**36.** In the event that Faroese owners and crews of fishing vessels suffer losses that are assumed to relate to offshore hydrocarbon activities carried on under this Act, but where the specific tortfeasor cannot be identified, cf. section 35, the licensees shall be jointly liable for paying compensation for any damage to or loss of fishing gear and fishing vessels, as well as lost hauls and lost fishing time, including fishing time lost in connection with buoying, retrieving and landing any objects deriving from the activities. The holders of licenses under this Act may establish a compensation fund with primary liability for the settlement of claims under this section 36.

**37.** A license or approval under the provisions of sections 15, 19, 20 or 21 for activities in the Faroese territorial sea and on the continental shelf that will constitute a hindrance or an inconvenience to the commercial fishing operations usually carried on in the area by fishing vessels flying the Faroese flag may not be granted, unless the Faroese Government simultaneously makes a decision determining the question of payment of compensation by the licensee to the owners and crews of fishing vessels whose earnings potential will be reduced by the relevant activity, or unless the Faroese Government refers the issue to the compensation board mentioned in section 38 below for its decision.

**38.**(1) The question whether a loss has been or will be suffered, and whether compensation should be paid in accordance with section 36 above or following the Faroese Government's referral of the issue in accordance with section 37 above shall be decided by a fisheries compensation board composed of five members. The holders of licenses under this Act shall jointly appoint two members to the board, and organisations representing Faroese owners and crews of fishing vessels shall jointly appoint another two members. The members of the board thus appointed shall jointly appoint the chairman of the board, who shall meet the conditions for appointment as high court judge. In the absence of agreement on the appointment, the chairman shall be appointed by the "sorenskriver" (chief Faroese judge).

(2) The licensees shall pay the expenses connected with compensation payments and with the operation of the fisheries compensation board according to rules and regulations laid down by the Faroese Government. The Faroese Government may lay down rules and regulations regarding the payment of a fee for the hearing of a matter by the board. In other respects, the provisions of the Arbitration Act shall apply to the matters heard by the board. Furthermore the Faroese Government may lay down rules and regulations regarding the compensation fund referred to in section 36.

## **Part 8**

### ***Other provisions***

**39.** A license granted under the provisions of this Act shall not be available to the recourse of creditors and may not be assigned to any other party, neither directly nor indirectly, unless the Faroese Government allows such assignment and approves the attendant terms and conditions.

**40.**(1) The Faroese Government may revoke a license granted under this Act

- a) in case of any serious or persistent breach of the provisions of this Act or of the provisions, terms and conditions or orders made in pursuance of the Act;
- b) where an application for a license contains incorrect or misleading information;
- c) where a licensee files a petition for suspension of payments or for the opening of negotiations for a compulsory composition, is declared bankrupt, goes into liquidation or is in a situation that is comparable hereto.

(2) Where the matter can be rectified by the licensee, the revocation of a license in accordance with paragraph (1) of subsection a) above may not take place until the Faroese Government has issued an order specifying a time limit within which the matter shall be rectified, and such order is not complied with.

**41.** It may be stipulated in a license that a dispute between the Faroese Government and the licensee as to whether the licensee has complied with the provisions and stipulations of this Act, rules and regulations laid down in pursuance of the Act or a license or approval may be brought before an arbitral tribunal whose decision shall be final.

**42.**(1) Where the provisions of the Merchant Shipping Act regarding limitation of liability for mobile offshore installations covered by that Act are applicable, the owner shall, in case of such limited liability, be liable for an amount of up to 20 million special drawing rights (SDR), regardless of the size of the installation. In case of bodily injury, this amount shall be increased by twelve million SDR.

(2) Compensation for pollution damage caused by hydrocarbon activities is not secured by a maritime lien under the relevant provisions of the Merchant Shipping Act.

(3) Where the owner has been granted a license for exploration and production of hydrocarbons in pursuance of section 6 above, the provisions on limitation of the owner's liability shall not be applicable.

**43.**(1) To the extent necessary, the Faroese Government may permit the expropriation of real property with a view to activities comprised by this Act.

(2) The Faroese Government may allow short-term surveys undertaken with a view to carrying out any of the activities comprised by this Act to be made on third-party property, although this may result in

damage or inconvenience, against payment of compensation in full for any such damage or inconvenience.

(3) Expropriation in accordance with subsection (1) above shall take place subject to the provisions of Act No. 69 of May 7, 1881, on the obligation to relinquish land for public roads, harbours and landing places, as well as for public schools in the Faroe Islands. The provisions of the said Act shall also be applied in respect of decisions made under subsection (2) above in the absence of agreement on the amount of compensation payable.

**44.** Every other year, at the least, the Faroese Government shall submit to the Faroese Parliament a statement which shall form the basis of a debate on oil politics according to the provisions laid down in the Rules of Procedure of the Faroese Parliament. First statement is to be submitted in 1999.

## **Part 9**

### ***Penalties and commencement provisions, etc.***

**45.(1)** Any party

- a) carrying on the activities referred to in sections 4, 6, 19 and 20 without a license issued by the Faroese Government,
- b) winding up such activities without the prior approval of the Faroese Government according to section 21(1) or failing to submit an adequate decommissioning plan in due time, cf. section 21(3),
- c) transgressing the provisions of sections 24, 26 or 27, or failing to submit the samples and other information required according to section 12 or hindering an examination as referred to in section 29(2), or
- d) failing to comply with orders issued in accordance with this Act or with regulations laid down in pursuance of this Act

shall be punishable by a fine or simple detention.

(2) In case of any transgression of section 24, an employer may become liable to a fine, even though such transgression is not attributable to the employer's intentional act or gross negligence.

(3) Any regulations issued in pursuance of this Act may include penalty provisions imposing a fine or simple detention for any transgression of the provisions laid down in such regulations. Further, it may be stipulated that an employer who transgresses provisions, orders or prohibitions as stated above shall be liable to a fine, even though the transgression is not attributable to the employer's intentional act or gross negligence. No alternative sentence in lieu of a fine shall be determined.

(4) Where the transgressor is a public limited company, private limited company, cooperative society or the like, the company or society as such may become liable to a fine.

**46.** In case of non-payment, the taxes and fees payable under this Act shall be recoverable through execution proceedings.

**47.(1)** This Act shall take effect the day after it has been published.

(2) Parliamentary Act No. 179 of October 21, 1993, on preliminary surveys, etc. of the Faroese subsoil shall be repealed.