Draft Regulations laid before Parliament under section 82(4) of the Energy Act 2016, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No. 0000

PETROLEUM

The Petroleum (Transfer of Functions) Regulations 2016

Made - - - - ***

Coming into force in accordance with regulation 1

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The Secretary of State for Energy and Climate Change makes the following Regulations in exercise of the powers conferred by sections 2(2), (3)(b) and (4)(a) and 82(3) of the Energy Act 2016(**a**).

In accordance with section 82(4) of the Energy Act 2016 a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Petroleum (Transfer of Functions) Regulations 2016.

(2) Parts 1, 2 and 4 come into force on the twenty-first day after the day on which these Regulations are made.

(3) Part 3 comes into force immediately after the commencement of section 48 of the Scotland Act 2016(**b**).

(4) An amendment made by these Regulations has the same extent as the provision to which it relates.

PART 2

Provisions transferring the Secretary of State's licensing functions under the Petroleum Act 1998 to the OGA until the transfer of certain functions to the Scottish Ministers

Petroleum Act 1998

2.—(1) Until the commencement of section 48 of the Scotland Act 2016, Part 1 of the Petroleum Act 1998(**c**) has effect as if it were amended as follows.

(2) Section 3 (licences to search and bore for and get petroleum) has effect as if—

(a) in subsection (1)—

(i) for "Secretary of State" there were substituted "OGA", and

(ii) for "he" there were substituted "it",

(b) in subsection (3), for "Secretary of State" (in both places) there were substituted "OGA".

(**a**) 2016 c. 20.
(**b**) 2016 c. 11.
(**c**) 1998 c. 17.

(3) Section 4(1)(e) (licences: further provisions) has effect as if for "he" there were substituted "the OGA".

(4) Section 5(9)(**a**) (existing licences) has effect as if for "Secretary of State" (in both places) there were substituted "OGA".

(5) Section 5A(**b**) (rights transferred without consent) has effect as if for "Secretary of State" (in each place) there were substituted "OGA".

(6) Section 5B(1)(**c**) (information) has effect as if for "Secretary of State" (in both places) there were substituted "OGA".

(7) Section 7(2) (ancillary rights) has effect as if—

(a) at the end of paragraph (b) "and" were omitted, and

(b) at the end of paragraph (c) there were inserted—

"; and

(d) references to the Secretary of State (or the Minister) in sections 4 and 9 of that Act included references to the OGA".

PART 3

Consequential amendments to the Petroleum Act 1998 having effect on the transfer of certain functions to the Scottish Ministers

Petroleum Act 1998

3.—(1) Part 1 of the Petroleum Act 1998 is amended as follows.

(2) In section 3 (licences to search and bore for and get petroleum)—

(a) in subsection (1)(**d**), for "Minister" (in both places) substitute "authority", and

(b) in subsection (3)(**e**)—

(i) for "Secretary of State" substitute "OGA", and

(ii) for "Minister" substitute "authority".

(3) In section 4 (licences: further provisions)—

(a) in subsection (1)(e)(**f**), for "he" substitute "the appropriate authority", and

(b) after subsection (3)(**g**) insert—

"(3ZA) Before making regulations under this section the Secretary of State must consult the OGA.".

(4) In section 5(9)(**h**) (existing licences), for "Minister" (in both places) substitute "authority".

(**a**) Section 5(9) was amended by the Energy Act 2008 (c. 32), Schedule 5, paragraph 8 and the Land Registration etc. (Scotland) Act 2012 (2012 asp 5), Schedule 5, paragraph 36.
(**b**) Section 5A was inserted by the Energy Act 2008, section 76.
(**c**) Section 5B was inserted by the Energy Act 2008, section 76.
(**d**) On the commencement of section 48 of the Scotland Act 2016, section 3(1) is amended by section 48(3) of that Act.
(**e**) On the commencement of section 48 of the Scotland Act 2016, section 3(3) is amended by section 48(4) of that Act.
(**f**) On the commencement of section 48 of the Scotland Act 2016, section 4(1) is amended by section 48(6) of that Act.
(**g**) On the commencement of section 48 of the Scotland Act 2016, section 4(3) is amended by section 48(8) of that Act.
(**h**) Section 5(9) was amended by the Energy Act 2008, Schedule 5, paragraph 8, the Land Registration etc. (Scotland) Act 2012, Schedule 5, paragraph 36 and on the commencement of section 48 of the Scotland Act 2016, it is amended by section 48(11) of that Act.

(5) In section 5A(**a**) (rights transferred without consent), for "Minister" (in each place) substitute "authority".

(6) In section 5B(1)(**b**) (information), for "Minister" (in both places) substitute "authority".

(7) In section 7(2)(d)(**c**) (ancillary rights), for the words following "included references to" substitute—

"(i) the Scottish Ministers, in relation to licences granted in relation to the Scottish onshore area, and

(ii) the OGA, in relation to other licences".

(8) In section 8(1)(**d**) (power to inspect plans of mines), for "Minister" (in both places) substitute "authority".

(9) In section 8A(**e**) (interpretation), after subsection (1) insert—

"(1A) The "appropriate authority" means—

(a) in relation to the Scottish onshore area, the Scottish Ministers;

(b) otherwise, the OGA.".

PART 4

Transfer to the OGA of the Secretary of State's functions under oil taxation legislation, and other consequential amendments

Oil Taxation Act 1975

4.—(1) The Oil Taxation Act 1975(**f**) is amended as follows.

(2) In section 2(7)(c) (assessable profits and allowable losses), for "Secretary of State" substitute "OGA".

(3) In section 3 (allowance of general expenditure), for "Secretary of State" (in each place) substitute "OGA".

(4) In section 5A(**g**) (allowance of exploration and appraisal expenditure), for "Secretary of State" (in each place) substitute "OGA".

(5) In section 10(3B)(**h**) (modification of Part 1)—

(a) for "Secretary of State" substitute "OGA", and

(b) for "him" substitute "it".

(6) In section 12 (interpretation of Part 1)—

(a) in subsection (1)—

(i) in paragraph (b) of the definition of "licensee", for "Secretary of State" substitute "OGA", and

(ii) at the appropriate place insert—

(**a**) Section 5A was inserted by the Energy Act 2008, section 76 and on the commencement of section 48 of the Scotland Act 2016, it is amended by section 48(12) of that Act.
(**b**) Section 5B was inserted by the Energy Act 2008, section 76 and on the commencement of section 48 of the Scotland Act 2016, it is amended by section 48(13) of that Act.
(**c**) On the commencement of section 48 of the Scotland Act 2016, section 7 is amended by section 48(14) of that Act.
(**d**) On the commencement of section 48 of the Scotland Act 2016, section 8 is amended by section 48(15) of that Act.
(**e**) On the commencement of section 48 of the Scotland Act 2016, section 8A is inserted by section 48(16) of that Act.
(**f**) 1975 c. 22. Section 12 and Schedules 1, 2 and 3 were amended by the Petroleum Act 1998, Schedule 4, paragraph 7.
(**g**) Section 5A was inserted by the Finance Act 1983 (c. 28), section 37(1) and Schedule 8, Part 1.
(**h**) Section 10(3B) was inserted by the Finance Act 2001 (c. 9), section 103(1).

""the OGA" means the Oil and Gas Authority;",

(b) in subsection (1A)(a)(ii)(**a**), for "Secretary of State" substitute "OGA", and

(c) in subsection (4), after "Secretary of State" insert "or the OGA".

(7) In Schedule 1 (determination of oil fields), in paragraph 1(2), for "Secretary of State" (in each place) substitute "OGA".

(8) In Schedule 2 (management and collection of petroleum revenue tax), in paragraph 2(2)(c) and (3)(d) for "Secretary of State" substitute "OGA".

(9) In Schedule 3 (petroleum revenue tax: miscellaneous provisions), in paragraph 4, for "Secretary of State" substitute "OGA".

Finance Act 1981

5.—(1) Section 118 of the Finance Act 1981(**b**) (licence payments other than royalties) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "Secretary of State" insert "or the OGA", and

(b) in paragraph (b), for "Secretary of State" substitute "OGA".

(3) In subsection (2)—

(a) after "Secretary of State" (in the first place) insert "or the OGA",

(b) for "Secretary of State" (in the second place) substitute "OGA", and

(c) in paragraph (b), for "Secretary of State" substitute "OGA".

Finance Act 1982

6.—(1) The Finance Act 1982(**c**) is amended as follows.

(2) In section 140 (increase of gross profit by reference to royalties in kind), for "Secretary of State" (in each place) substitute "OGA".

(3) In Schedule 19 (supplementary provisions relating to APRT), in paragraph 3(1)(a)(**d**), for "Secretary of State" substitute "OGA".

Finance Act 1983

7. In section 36(3)(b) of the Finance Act 1983(**e**) (increased oil allowance for certain new fields), for "Secretary of State" substitute "OGA".

Finance Act 1984

8. In section 113(5)(b) of the Finance Act 1984(**f**) (restriction on PRT reliefs), for "Secretary of State" substitute "OGA".

(**a**) Subsection (1A) was inserted by the Finance Act 2009 (c. 10), Schedule 42(1), paragraph 2(3).
(**b**) 1981 c. 35.
(**c**) 1982 c. 39.
(**d**) Paragraph 3 was amended by the Finance Act 1999 (c. 16), section 99.
(**e**) 1983 c. 28.
(**f**) 1984 c. 43.

Finance Act 1987

9.—(1) The Finance Act 1987(**a**) is amended as follows.

(2) In Schedule 10 (nomination scheme for disposals and appropriations), in paragraph 1(3)(**b**)—

(a) for "Secretary of State" substitute "OGA", and

(b) for "him" substitute "it".

(3) In Part 3 of Schedule 14 (relevant new fields and associated companies), in paragraph 8(2)(b), for "Secretary of State" substitute "OGA".

Finance Act 1988

10. In section 138(3)(b) of the Finance Act 1988(**c**) (reduced oil allowance for certain Southern Basin and onshore fields), for "Secretary of State" substitute "OGA".

Taxation of Chargeable Gains Act 1992

11. In section 196 of the Taxation of Chargeable Gains Act 1992(**d**) (definitions relating to UK licences), for "Secretary of State" (in each place) substitute "Oil and Gas Authority".

Finance Act 1993

12. In section 185 of the Finance Act 1993(**e**) (abolition of petroleum revenue tax for oil fields with development consent on or after 16th March 1993), in subsections (1C)(a) and (b) and (2)(b)(**f**), for "Secretary of State" substitute "OGA".

Petroleum Act 1998

13.—(1) Part 1 of the Petroleum Act 1998 is amended as follows.

(2) In section 4(4) (licences: notice of grant)—

(a) for "Secretary of State" substitute "OGA",

(b) for "the London Gazette" substitute "such manner as it thinks appropriate", and

(c) omit the words from "and, if that area" to the end.

(3) In section 4A(1)(**g**) (onshore hydraulic fracturing: safeguards), for "Secretary of State" in the first place substitute "OGA".

(4) In section 4B(8)(**h**) (section 4A: supplementary provisions), in the definition of "well consent", for "Secretary of State" substitute "OGA".

Capital Allowances Act 2001

14. In section 556(2)(a) of the Capital Allowances Act 2001(**i**) (disposals of oil licences: definitions), for "Secretary of State" substitute "Oil and Gas Authority".

(**a**) 1987 c. 16.
(**b**) Paragraph 1(3) was inserted by the Finance (No. 2) Act 1987 (c. 51), section 101(1) and Schedule 8, paragraph 1.
(**c**) 1988 c. 39.
(**d**) 1992 c. 12. Amendments have been made to section 196 which are not relevant to the amendments made by this regulation.
(**e**) 1993 c. 34.
(**f**) Subsection (1C) was inserted by the Finance Act 2007 (c. 11), section 102.
(**g**) Section 4A was inserted by the Infrastructure Act 2015 (c. 7), section 50.
(**h**) Section 4B was inserted by the Infrastructure Act 2015, section 50.
(**i**) 2001 c. 2.

Corporation Tax Act 2010

15.—(1) The Corporation Tax Act 2010(**a**) is amended as follows.

(2) In section 278 (general definitions for Part 8), at the appropriate place insert—

""the OGA" means the Oil and Gas Authority,".

(3) In section 332DA(5)(**b**) (restriction where field qualified for field allowances as new field), for "Secretary of State" substitute "OGA".

(4) In section 332DB(5) (restriction where project in additionally-developed field qualified for field allowance), for "Secretary of State" substitute "OGA".

(5) In section 356IB(2)(**c**) (authorisation of development: oil fields), in paragraph (a) of the definition of "national authority", for "Secretary of State" substitute "OGA".

(6) In section 356J(4)(**d**), (authorisation of development: drilling and extraction sites), in paragraph (a) of the definition of "national authority", for "Secretary of State" substitute "OGA".

(7) In section 356JD(**e**) (meaning of "cluster area"), for "Secretary of State" (in each place) substitute "OGA".

(8) In Schedule 4 (index of defined expressions), at the appropriate place, insert—

"the OGA (in Part 8)	section 278".

Scotland Act 2016

16.—(1) Section 48 of the Scotland Act 2016(**f**) (onshore petroleum: consequential amendments) is amended as follows.

(2) In subsection (19), for ""Secretary of State"" substitute ""OGA"".

(3) In subsection (20), for "Secretary of State" (in each place) substitute "OGA".

Name
Minister of State
Department of Energy and Climate Change

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transfer certain functions relating to the licensing and taxation of oil and gas from the Secretary of State for Energy and Climate Change to the Oil and Gas Authority (the "OGA") and make consequential amendments. The functions which are being transferred in relation to licensing are set out in Part 1 of the Petroleum Act 1998 (c. 17) (the "1998 Act") and include granting licences and dealing with rights under licences which are transferred without consent. The functions being transferred in relation to taxation include determining oil fields and cluster areas, which are required for the purposes of assessing tax liability.

In due course certain functions under Part 1 of the 1998 Act will be transferred to the Scottish Ministers. Provision for this is set out in the Scotland Act 2016 (c. 11).

(**a**) 2010 c. 4.
(**b**) Sections 332DA and 332DB were inserted by the Finance Act 2015 (c. 11), Schedule 12, paragraphs 1 and 2.
(**c**) Section 356IB was inserted by the Finance Act 2015, Schedule 14, paragraphs 1 and 7.
(**d**) Section 356J was inserted by the Finance Act 2014 (c. 26), Schedule 15, paragraphs 1 and 3.
(**e**) Section 356JD was inserted by the Finance Act 2015, Schedule 13, paragraphs 1 and 2.
(**f**) 2016 c. 11.

Part 2 of these Regulations makes amendments to Part 1 of the 1998 Act which have effect from the time when the OGA begins exercising its functions as the new regulator until the transfer of functions to the Scottish Ministers.

Part 3 of these Regulations makes amendments to Part 1 of the 1998 Act which have effect immediately after the transfer of functions to the Scottish Ministers.

Part 4 of these Regulations makes amendments which have effect from the time when the OGA begins exercising its functions as the new regulator. These are not affected by the transfer of functions to the Scottish Ministers.

A full impact assessment has not been produced for this instrument as it has minimal impact on the private sector.

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