Draft Regulations laid before Parliament under section 71(7) of the Scotland 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

2017 No. 000

PETROLEUM

The Scotland Act 2016 (Onshore Petroleum) (Consequential Amendments) Regulations 2017

Made - - - -

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Business, Energy and Industrial Strategy makes the following Regulations in exercise of the powers conferred by section 71 of the Scotland Act 2016(**a**).

In accordance with section 71(7) of the Scotland 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 Scotland Act 2016 (Onshore Petroleum) (Consequential Amendments) Regulations 2017.

(2) Parts 1 and 2 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 Part 2 of Schedule 6 (amendments relating to onshore petroleum consequential on transfer of certain functions under the Petroleum Act 1998 to the Welsh Ministers) to the Wales Act 2017(**b**).

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

(**a**) 2016 c.11.
(**b**) 2017 c.4.

PART 2

Transitional modifications of taxation legislation having effect until the commencement of Part 2 of Schedule 6 to the Wales Act 2016

Period for which the modifications made by regulations 3 to 7 have effect

2. The modifications specified in regulations 3 to 7 have effect until the commencement of Part 2 of Schedule 6 (amendments relating to onshore petroleum consequential on transfer of certain functions under the Petroleum Act 1998 to the Welsh Ministers) to the Wales Act 2017.

Oil Taxation Act 1975

3. In section 12(1) (interpretation of Part 1) of the Oil Taxation Act 1975(**a**), in the definition of "licensee", paragraph (b) has effect as if, for "the OGA" there were substituted—

"—

(i) the Scottish Ministers, where the rights relate to oil in the Scottish onshore area, as defined in section 8A of the Petroleum Act 1998, or

(ii) the OGA, where the rights relate to oil elsewhere,".

Taxation of Chargeable Gains Act 1992

4. Section 196 (interpretation) of the Taxation of Chargeable Gains Act 1992(**b**) has effect as if—

(a) in subsection (1), in paragraphs (a) and (b), and subsection (3), for "Oil and Gas Authority" there were substituted "appropriate authority";

(b) in subsection (5), after "section—" there were inserted—

""appropriate authority", in relation to a licence under Part 1 of the Petroleum Act 1998—

(a) the Scottish Ministers, in relation to the Scottish onshore area, as defined in section 8A of that Act, or

(b) otherwise, the Oil and Gas Authority;".

Finance Act 1993

5. Section 185 (abolition of petroleum revenue tax for oil fields with development consent on or after 16 March 1993) of the Finance Act 1993(**c**) has effect as if—

(a) in subsection (1C), in paragraphs (a) and (b), for "OGA" there were substituted "appropriate authority";

(b) in subsection (2), in paragraph (b), for "OGA" there were substituted "appropriate authority";

(c) after subsection (2) there were inserted—

"(2A) In subsections (1C) and (2), the "appropriate authority" means—

(**a**) 1975 c.22; the definition of "licensee" in section 12(1) was amended by the Petroleum Act 1998 (c.17), Schedule 4, para 7(3) and S.I. 2016/898, and is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 19 from a date to be appointed.

(**b**) 1992 c.12; relevant amendments to section 196 were made by the Finance Act 1996 (c.8), section 181(1) and (4), the Finance Act 2009 (c.10), Schedule 40, Part 1, paragraphs 1 and 6, the Finance Act 2011(c.11), Schedule 15, Part 1, paragraph 3(1) and (3) and S.I. 2016/898. Section 196 is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 21 from a date to be appointed.

(**c**) 1993 c.34; relevant amendments to section 185 were made by the Finance Act 2007 (c.11), section 102(1) and (3), and S.I. 2016/898. Section 185 is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 22 from a date to be appointed.

(a) in relation to a field that is wholly within the Scottish onshore area, as defined in section 8A of the Petroleum Act 1998, the Scottish Ministers;

(b) otherwise, the OGA.".

Capital Allowances Act 2001

6. In section 556(2) of the Capital Allowances Act 2001(**a**), paragraph (a) of the definition of "the relevant authority" has effect as if for ", the Oil and Gas Authority" there were substituted—

"—

(i) the Scottish Ministers, in relation to the Scottish onshore area, as defined in section 8A of that Act;

(ii) otherwise, the Oil and Gas Authority".

Corporation Tax Act 2010

7.—(1) Section 356IB (authorisation of development: oil fields) of the Corporation Tax Act 2010(**b**) has effect as if, in subsection (2), in the definition of "national authority"—

(a) the word "or" were omitted at the end of paragraph (a);

(b) after paragraph (a) there were inserted—

"(aa) the Scottish Ministers, or".

(2) Section 356J (authorisation of development: drilling and extraction sites) of that Act(**c**) has effect as if, in subsection (4), in the definition of "national authority"—

(a) the word "or" were omitted at the end of paragraph (a);

(b) after paragraph (a) there were inserted—

"(aa) the Scottish Ministers, or".

PART 3

Amendments to taxation legislation consequential upon the transfer of certain functions under the Petroleum Act 1998 to the Scottish Ministers

Oil Taxation Act 1975

8. In section 12(1) (interpretation of Part 1) of the Oil Taxation Act 1975, in the definition of "licensee"(**d**), in paragraph (b), before sub-paragraph (i) insert—

"(ai) the Scottish Ministers, where the rights relate to oil in the Scottish onshore area, as defined in section 8A of the Petroleum Act 1998,".

Taxation of Chargeable Gains Act 1992

9. In section 196(5) (interpretation) of the Taxation of Chargeable Gains Act 1992, in paragraph (a) of the definition of "appropriate authority"(**e**), before sub-paragraph (i) insert—

(**a**) 2001 c.2; section 556(2) was amended by S.I. 2016/898, and is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 23 from a date to be appointed.

(**b**) 2010 c.4; section 356IB was inserted by the Finance Act 2015 (c.11), Schedule 14, Part 1, paragraphs 1 and 7, and amended by S.I. 2016/898, and is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 26 from a date to be appointed.

(**c**) 2010 c.4; section 356J was inserted by the Finance Act 2014 (c.26), Schedule 15, Part 1, paragraphs 1 and 3, and amended by S.I. 2016/898, and is further amended by the Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 26 from a date to be appointed.

(**d**) 1975 c.22; definition of "licensee" as further amended by Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 19.

(**e**) 1992 c.12; definition of "appropriate authority" inserted by Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 21(4).

"(ai) the Scottish Ministers, in relation to the Scottish onshore area, as defined in section 8A of that Act;".

Finance Act 1993

10. In section 185 (abolition of petroleum revenue tax for oil fields with development consent on or after 16 March 1993) of the Finance Act 1993, in subsection (2A)(**a**), before paragraph (a) insert—

"(za) in relation to a field that is wholly within the Scottish onshore area, as defined in section 8A of the Petroleum Act 1998, the Scottish Ministers;".

Capital Allowances Act 2001

11. In section 556(2) (minor definitions) of the Capital Allowances Act 2001, in paragraph (a) of the definition of "the relevant authority", before sub-paragraph (i) insert—

"(ai) the Scottish Ministers, in relation to the Scottish onshore area, as defined in section 8A of that Act;".

Corporation Tax Act 2010

12.—(1) In section 356IB (authorisation of development: oil fields) of the Corporation Tax Act 2010, in subsection (2), in the definition of "national authority", after paragraph (a) insert—

"(aza) the Scottish Ministers,".

(2) In section 356J (authorisation of development: drilling and extraction sites) of that Act , in subsection (4), in the definition of "national authority", after paragraph (a) insert—

"(aza) the Scottish Ministers,".

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy

Name
Parliamentary Under Secretary of State, Minister for Energy and Industry
Date
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential arrangement required by the bringing into force of sections 47 to 49 of the Scotland Act 2016 (c.11).

Part 2 of the Regulations make provision for the position between the commencement of the Scotland Act 2016 and the commencement of provisions in the Wales Act 2017 (c.4) making similar amendments to those in these Regulations, as part of provisions in the Wales Act 2017 devolving responsibility for onshore petroleum licensing to Welsh Ministers and the National Assembly for Wales.

Part 3 then makes consequential amendments to provisions that will be amended by the Wales Act 2017, on the commencement of the provisions in the Wales Act 2017 devolving responsibility for onshore petroleum licensing to Welsh Ministers and the National Assembly for Wales. Part 3 will replace the effect of the Part 2 of these Regulations.

A full regulatory impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

(**a**) 1993 c.34; section 185(2A) inserted by Wales Act 2017 (c.4), Schedule 6, Part 1, paragraph 22(4).

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£4.25

UK201707181020 07/2017 19585

http://www.legislation.gov.uk/id/ukdsi/2017/9780111159194

ISBN 978-0-11-115919-4

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