STATUTORY INSTRUMENTS

2016 No. 912

ENERGY

The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016

Made - - - -	*7th September 2016*
Laid before Parliament	*13th September 2016*
Coming into force - -	*1st October 2016*

The Secretary of State is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment. Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act, section 4(1)(c) of the Petroleum Act 1998(**3**), and sections 2(2) to (4) and (6) and 82(2) and (3) of the Energy Act 2016(**4**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 and come into force on 1st October 2016.

(2) Regulations 1 to 3 extend to England and Wales, Scotland and Northern Ireland.

(3) An amendment or revocation made by regulations 4 to 26 has the same extent as the provision to which the amendment or revocation relates.

Continuity and the validity of things done before the relevant date

2.—(1) Anything (including legal proceedings) which, at the relevant date, is in the process of being done by or in relation to the Secretary of State in connection with a transferred function may be continued by or in relation to the OGA(**5**).

(**1**) S.I. 2008/301.
(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Section 57(1) of the Scotland Act 1998 (c. 46) provides that despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown shall continue to be exercisable by that Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.
(**3**) 1998 c. 17. Section 4 is amended by section 48(6) of the Scotland Act 2016 (c. 11), which has not yet been commenced.
(**4**) 2016 c. 20.
(**5**) The OGA is defined as the Oil and Gas Authority in section 1(4) of the Energy Act 2016.

(2) Anything done (or having effect as if done) by or in relation to the Secretary of State in connection with a transferred function has effect, so far as is necessary for continuing its effect after the relevant date, as if done by or in relation to the OGA.

(3) Subject to paragraph (4), any instrument made, granted or given before the relevant date has effect, so far as is appropriate in connection with a transferred function, as if references to the Secretary of State (and references which are to be read as references to the Secretary of State), were or included references to the OGA.

(4) Any instrument which is a licence granted before the relevant date has effect, so far as is appropriate in connection with a transferred function, as if references to the Secretary of State (and references which are to be read as references to the Secretary of State), in any provision relating to the following, included references to the OGA—

(a) instructions relating to the avoidance of harmful methods of working;

(b) the training of persons employed in activities related to the exercise of rights granted by a licence;

(c) disclosure of information furnished under a licence;

(d) rights of access to examine installations, wells, plant, appliances and works, or

(e) arbitration.

(5) Documents or forms produced for use in connection with a transferred function may be used in connection with that function even though they contain (or are to be read as containing) references to the Secretary of State.

(6) For the purposes of the use of any documents or forms referred to in paragraph (5) after the relevant date, references to the Secretary of State are to be read as references to the OGA.

(7) These Regulations do not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State in connection with a transferred function before the relevant date.

(8) In this regulation—

"instrument" includes awards, licences, authorisations, consents, approvals, judgments, decrees and other documents granted or given in connection with a transferred function;

"relevant date" means the date on which a transferred function is transferred ;

"Secretary of State" includes a Minister of the Crown(**6**) and the department or an officer of the Secretary of State;

"transferred function" means a function transferred to the OGA by regulations made under section 2(2) of, or by Schedule 1 to, the Energy Act 2016.

Review

3.—(1) The Secretary of State must from time to time—

(a) carry out a review of regulation 2;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by regulation 2;

(b) assess the extent to which those objectives are achieved;

(**6**) Minister of the Crown is defined in section 2(6) of the Energy Act 2016 as having the same meaning as the Ministers of the Crown Act 1975 (c. 26).

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which regulation 2 comes into force.

(4) Subsequent reports under this regulation must be published at intervals not exceeding five years.

Oil Taxation (Gas Banking Schemes) Regulations 1982

4.—(1) Regulation 5 (conditions for elections) of the Oil Taxation (Gas Banking Schemes) Regulations 1982(**7**) is amended as follows.

(2) In paragraph (5)(a), for "Secretary of State for Energy or by the Department of Commerce for Northern Ireland as the case may be" substitute "appropriate authority".

(3) In paragraph (5)(a)(i) and (ii), for "Minister" substitute "appropriate authority".

(4) After paragraph (5) insert—

"(5A) In paragraph (5)(a), "the appropriate authority" means—

(a) in the case of a licence granted under the Petroleum (Production) Act 1934(**8**), the Oil and Gas Authority;

(b) in the case of a licence granted under the Petroleum (Production) Act (Northern Ireland) 1964(**9**), the Department for the Economy.".

Hydrocarbons Licensing Directive Regulations 1995

5.—(1) The Hydrocarbons Licensing Directive Regulations 1995(**10**) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of "licence" insert—

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

(3) In regulation 3 (determination of applications), for "Secretary of State" (in both places) substitute "OGA".

(4) In regulation 5(2) (advance notice of terms and conditions), for "Secretary of State" substitute "OGA".

(5) In regulation 6 (duration of licence), for "Secretary of State" (in both places) substitute "OGA".

(6) In regulation 7 (information), for "Secretary of State" (in both places) substitute "OGA".

Petroleum (Production) (Landward Areas) Regulations 1995

6.—(1) The Petroleum (Production) (Landward Areas) Regulations 1995(**11**) are amended as follows.

(2) In regulation 2 (interpretation), after the definition of "Official Journal" insert—

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

(3) In regulation 3(1) (application of the regulations), for "Secretary of State" substitute "OGA".

(4) In regulation 5 (applications for licences)—

(**7**) S.I. 1982/92, to which there are amendments not relevant to these Regulations.
(**8**) 1934 c. 36.
(**9**) 1964 c. 28 (N.I.).
(**10**) S.I. 1995/1434.
(**11**) S.I. 1995/1436, amended by S.I. 2009/229 and 2015/766; there are other amending instruments but none is relevant.

(a) in paragraph (1)(a), for "Energy Development Unit, Department of Energy and Climate Change, London, SW1" insert "the OGA, Aberdeen AB10";

(b) at the end of paragraph (1)(b) insert ", as set out in the Oil and Gas Authority (Fees) Regulations 2016(**12**)";

(5) in paragraph (2), for "Secretary of State" substitute "OGA".

(6) In regulation 9(1) (form of licences), for "Secretary of State" substitute "OGA".

(7) Omit regulation 10(3) (fees).

(8) After regulation 11 (plurality of licences), insert—

"**Review**

12.—(1) The Secretary of State must from time to time—

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this regulation comes into force.

(4) Subsequent reports under this regulation must be published at intervals not exceeding five years.".

(9) Schedule 5 (model clauses for methane drainage licences) is amended as follows.

(10) In clause 1(1) (interpretation), for the definition of "the Minister" insert—

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

(11) In clause 2 (grant of licence), for "Minister" substitute "OGA".

(12) In clause 4 (right of licensee to determine licence), for "Minister" substitute "OGA".

(13) In clause 5 (payment of consideration for licence), for "Minister" (in both places) substitute "OGA".

(14) In clause 6 (records), for "Minister" (in both places) substitute "OGA".

(15) In clause 7 (power to inspect accounts), for "Minister" substitute "OGA".

(16) In clause 8 (records to be treated as confidential)—

(a) after "employment of the" insert "OGA or the";

(b) for "Minister" (in both places) substitute "OGA".

(17) In clause 9 (notice of commencement and termination of operations), for "Minister" (in both places) substitute "OGA".

(18) In clause 10 (indemnity against third party claims), for "Minister" (in both places) substitute "OGA".

(19) In clause 11 (agreement not to assign), for "Minister" substitute "OGA".

(**12**) S.I. 2016/904.

(20) In clause 12 (power of revocation), for "Minister" substitute "OGA".

(21) In clause 13 (arbitration)—

(a) in paragraph (1), for "Minister" (in both places) substitute "OGA";

(b) in paragraph (2), for "Minister" substitute "OGA";

(c) in paragraph (2A), for "Minister" substitute "OGA";

(d) in the Note after paragraph (2A), for "Minister" substitute "OGA".

Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999

7.—(1) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(**13**) are amended as follows.

(2) In regulation 3(1) (interpretation)—

(a) after the definition of "notice" insert—

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

(b) in the definition of "relevant requirement", for "Secretary of State" substitute "OGA".

(3) In regulation 4 (requirements as to contents of licences)—

(a) in paragraphs (1), (3) and (4), for "Secretary of State" (in each place) substitute "OGA";

(b) in paragraph (3), for "him" substitute "it".

(4) In regulation 5 (grant of consent by Secretary of State)—

(a) in the heading, for "Grant of consent by" substitute "Agreement of";

(b) before paragraph (1) insert—

"(A1) The OGA shall not grant a consent in respect of a relevant project without the agreement of the Secretary of State.";

(c) in paragraphs (1), (4), (5) and (6), for "grant" (in each place) substitute "agree to the grant of";

(d) in paragraph (7)—

(i) for "gives his consent" substitute "agrees to the grant of consent";

(ii) for "that consent" substitute "that agreement".

(5) In regulation 6(2) (provisions as to directions that no environmental statement need be prepared), for "grant of consent by" substitute "agreement of".

(6) In regulation 7(3) (opinion by Secretary of State as to content of environmental statements), for "Secretary of State", in the third place it occurs, substitute "OGA".

(7) In regulation 11 (exercise of powers under licences)—

(a) in the heading, for "Secretary of State" substitute "OGA";

(b) for paragraph (1) substitute—

"(1) Where the OGA exercises any powers under a licence so as to require a licensee to submit to it for its approval any proposals for the carrying out of a relevant project comprising a development then, subject to paragraph (2) below, the licensee shall submit an environmental statement to the Secretary of State.";

(c) in paragraph (2)—

(**13**) S.I. 1999/360, amended by S.I. 2007/933; there are other amending instruments but none is relevant.