STATUTORY INSTRUMENTS

2016 No. 898

PETROLEUM

The Petroleum (Transfer of Functions) Regulations 2016

Made - - - - 10th September 2016

Coming into force in accordance with regulation 1

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(**1**).

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(**2**).

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

(**1**) 2016 c. 20.
(**2**) 2016 c. 11.

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(**3**) 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".

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

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

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

(6) Section 5B(1)(**6**) (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)(**7**), for "Minister" (in both places) substitute "authority", and

(**3**) 1998 c. 17.
(**4**) 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.
(**5**) Section 5A was inserted by the Energy Act 2008, section 76.
(**6**) Section 5B was inserted by the Energy Act 2008, section 76.
(**7**) On the commencement of section 48 of the Scotland Act 2016, section 3(1) is amended by section 48(3) of that Act.

(b) in subsection (3)(**8**)—

(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)(**9**), for "he" substitute "the appropriate authority", and

(b) after subsection (3)(**10**) insert—

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

(4) In section 5(9)(**11**) (existing licences), for "Minister" (in both places) substitute "authority".

(5) In section 5A(**12**) (rights transferred without consent), for "Minister" (in each place) substitute "authority".

(6) In section 5B(1)(**13**) (information), for "Minister" (in both places) substitute "authority".

(7) In section 7(2)(d)(**14**) (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)(**15**) (power to inspect plans of mines), for "Minister" (in both places) substitute "authority".

(9) In section 8A(**16**) (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(**17**) is amended as follows.

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

(**8**) On the commencement of section 48 of the Scotland Act 2016, section 3(3) is amended by section 48(4) of that Act.
(**9**) On the commencement of section 48 of the Scotland Act 2016, section 4(1) is amended by section 48(6) of that Act.
(**10**) On the commencement of section 48 of the Scotland Act 2016, section 4(3) is amended by section 48(8) of that Act.
(**11**) 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.
(**12**) 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.
(**13**) 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.
(**14**) On the commencement of section 48 of the Scotland Act 2016, section 7 is amended by section 48(14) of that Act.
(**15**) On the commencement of section 48 of the Scotland Act 2016, section 8 is amended by section 48(15) of that Act.
(**16**) On the commencement of section 48 of the Scotland Act 2016, section 8A is inserted by section 48(16) of that Act.
(**17**) 1975 c. 22. Section 12 and Schedules 1, 2 and 3 were amended by the Petroleum Act 1998, Schedule 4, paragraph 7.

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

(4) In section 5A(**18**) (allowance of exploration and appraisal expenditure), for "Secretary of State" (in each place) substitute "OGA".

(5) In section 10(3B)(**19**) (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—

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

(b) in subsection (1A)(a)(ii)(**20**), 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(**21**) (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(**22**) 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".

(**18**) Section 5A was inserted by the Finance Act 1983 (c. 28), section 37(1) and Schedule 8, Part 1.
(**19**) Section 10(3B) was inserted by the Finance Act 2001 (c. 9), section 103(1).
(**20**) Subsection (1A) was inserted by the Finance Act 2009 (c. 10), Schedule 42(1), paragraph 2(3).
(**21**) 1981 c. 35.
(**22**) 1982 c. 39.