



Energy Act 2016

2016 CHAPTER 20

PART 2

FURTHER FUNCTIONS OF THE OGA RELATING TO OFFSHORE PETROLEUM

CHAPTER 6

DISCLOSURE

General prohibition

61 Prohibition on disclosure

Protected material must not be disclosed—

- (a) by the OGA, or
 - (b) by a subsequent holder,
- except in accordance with this Chapter.

62 Meaning of “protected material” and related terms

(1) In this Chapter “protected material” means information or samples which have been obtained by the OGA under this Part.

(2) In this Chapter—

“original owner”, in relation to protected material provided to the OGA under this Part, means the person by whom, or on whose behalf, the protected material was so provided;

“subsequent holder”, in relation to protected material, means a person holding protected material who has received it directly or indirectly from the OGA by virtue of a disclosure, or disclosures, in accordance with this Chapter.

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- (3) References to disclosing protected material include references to making the protected material available to other persons (in a case where the protected material includes samples).

Permitted disclosures

63 Disclosure by OGA to certain persons

- (1) Section 61 does not prohibit a disclosure of protected material by the OGA which—
- (a) is made to a person mentioned in column 1 of the table below,
 - (b) is made for the purpose of facilitating the carrying out of that person’s functions, and
 - (c) is a disclosure of information obtained by the OGA under a Chapter mentioned in the corresponding entry of column 2 of the table.

<i>Column 1</i>	<i>Column 2</i>
A Minister of the Crown	Chapters 2 to 5
Her Majesty’s Revenue and Customs	Chapters 2 to 4
The Competition and Markets Authority	Chapters 2 to 5
The Scottish Ministers	Chapter 3
The Welsh Ministers	Chapter 3
A Northern Ireland Department	Chapter 3
The Coal Authority	Chapter 3
The Office for Budget Responsibility	Chapter 3
An enforcing authority	Chapters 2 to 5
The competent authority under article 8 of the Offshore Safety Directive	Chapters 2 to 5
The Statistics Board	Chapters 2 to 5

- (2) In the table—
- “enforcing authority” has the same meaning as in Part 1 of the Health and Safety at Work etc Act 1974 (see section 18(7)(a) of that Act);
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
- “Offshore Safety Directive” means Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations.
- (3) Section 61 does not prohibit a disclosure of protected material by the OGA which—
- (a) is a disclosure of protected material obtained by it under Chapter 3 (information and samples),
 - (b) is made to the Natural Environment Research Council, or any other similar body carrying on geological activities, and

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- (c) is made for the purpose of enabling the body to prepare and publish reports and surveys of a general nature using information derived from the protected material.
- (4) A person to whom protected material is disclosed by virtue of subsection (1) or (3) may use the protected material only for the purpose mentioned in subsection (1)(b) or (3)(c) (as the case may be).
- (5) Section 61 does not prohibit such a person from disclosing the protected material so far as necessary for that purpose.
- (6) The Secretary of State may by regulations amend the table in subsection (1)—
 - (a) to remove a person from column 1,
 - (b) to add to column 1 a person to whom subsection (7) applies, or
 - (c) to add, remove or change entries in column 2.
- (7) This subsection applies to—
 - (a) persons holding office under the Crown;
 - (b) persons in the service or employment of the Crown;
 - (c) persons acting on behalf of the Crown;
 - (d) government departments;
 - (e) publicly owned companies as defined in section 6 of the Freedom of Information Act 2000.

64 Disclosure required for returns and reports prepared by OGA

- (1) Section 61 does not prohibit the OGA from using protected material obtained by the OGA under Chapter 3 (information and samples) for the purpose of—
 - (a) preparing such returns and reports as may be required under obligations imposed by or under any Act;
 - (b) preparing and publishing reports and surveys of a general nature using information derived from the protected material.
- (2) Section 61 does not prohibit the OGA from disclosing protected material so far as necessary for those purposes.

65 Disclosure in exercise of certain OGA powers

- (1) Section 61 does not prohibit a disclosure of protected material if—
 - (a) the protected material was obtained by the OGA under Chapter 2 (disputes), and
 - (b) the disclosure is made in the exercise of the OGA's powers under section 23(6) (publication of recommendations for resolving disputes).
- (2) Section 61 does not prohibit a disclosure of protected material if it is made in the exercise of the OGA's powers under section 53 (publication of details of sanctions).
- (3) Section 61 does not prohibit a disclosure of protected material which is permitted by section 75 (international oil and gas agreements: information exchange).

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66 Disclosure after specified period

- (1) Section 61 does not prohibit protected material obtained by the OGA under Chapter 3 (information and samples) from being—
 - (a) published, or
 - (b) made available to the public (in a case where the protected material includes samples),by the OGA or a subsequent holder at such time as may be specified in regulations made by the Secretary of State.
- (2) Regulations under subsection (1) may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person.
- (3) Before making regulations under subsection (1), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) Subsection (3) does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the OGA in relation to what time should be specified in regulations under subsection (1).
- (5) In determining the time to be specified in respect of protected material in regulations under subsection (1), the Secretary of State must have regard to the following factors—
 - (a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;
 - (b) any potential benefits to the petroleum industry of protected material being published or made available at the specified time;
 - (c) any potential risk that the specified time may discourage persons from acquiring or creating petroleum-related information or petroleum-related samples (as defined in section 27);
 - (d) any other factors the Secretary of State considers relevant.
- (6) In balancing the factors mentioned in subsection (5)(a) to (d), the Secretary of State must take into account the principal objective.
- (7) For the purposes of subsection (5)(a), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under Chapter 3 (information and samples).

67 Disclosure with appropriate consent

- (1) Section 61 does not prohibit a disclosure of protected material if it is made with the appropriate consent.
- (2) For this purpose a disclosure is made with the appropriate consent if—
 - (a) in the case of disclosure by the OGA, the original owner consents to the disclosure;
 - (b) in the case of disclosure by a subsequent holder—
 - (i) the OGA consents to the disclosure, and
 - (ii) in a case where the protected material in question was provided to the OGA under this Part, the OGA confirms that the original owner of the material also consents to the disclosure.

68 Disclosure required by legislation

Section 61 does not prohibit a disclosure of protected material required by virtue of an obligation imposed by or under any Act.

69 Disclosure for purpose of proceedings

- (1) Section 61 does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
 - (a) civil proceedings, or
 - (b) arbitration proceedings.
- (2) Section 61 does not prohibit a disclosure of protected material by the OGA for the purposes of, or in connection with—
 - (a) the investigation or prosecution of criminal offences, or
 - (b) the prevention of criminal activity.