



# Petroleum Act 1998

## 1998 CHAPTER 17

### PART I

#### PETROLEUM

##### **Modifications etc. (not altering text)**

- C1** Pt. 1 modified (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), **ss. 15(3)**, 110(2); S.I. 2009/2809, **art. 2** (with **art. 4**)

#### **1 Meaning of “petroleum”.**

In this Part of this Act “petroleum”—

- (a) includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata; but
- (b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

#### **2 Rights to petroleum vested in Her Majesty.**

- (1) Her Majesty has the exclusive right of searching and boring for and getting petroleum to which this section applies.
- (2) This section applies to petroleum (including petroleum in Crown land) which for the time being exists in its natural condition in strata in Great Britain or beneath the territorial sea adjacent to the United Kingdom.
- (3) For the purposes of subsection (2), “Crown land” means land which—
  - (a) belongs to Her Majesty or the Duchy of Cornwall;
  - (b) belongs to a government department; or
  - (c) is held in trust for Her Majesty for the purposes of a government department.

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

- (4) Subsection (1) is subject to paragraph 4 of Schedule 3 and subsection (2) is subject to paragraph 5(3) of that Schedule.

### 3 Licences to search and bore for and get petroleum.

- (1) The Secretary of State, on behalf of Her Majesty, may grant to such persons as he thinks fit licences to search and bore for and get petroleum to which this section applies.
- (2) This section applies to—
- (a) petroleum to which section 2 applies; and
  - (b) petroleum with respect to which rights vested in Her Majesty by section 1(1) of the <sup>M1</sup>Continental Shelf Act 1964 (exploration and exploitation of continental shelf) are exercisable.
- (3) Any such licence shall be granted for such consideration (whether by way of royalty or otherwise) as the Secretary of State with the consent of the Treasury may determine, and upon such other terms and conditions as the Secretary of State thinks fit.
- (4) Subsection (1) is subject to paragraph 4 of Schedule 3.

#### Modifications etc. (not altering text)

**C2** S. 3(1): transfer of functions (15.2.2000) by [S.I. 2000/353](#), [art. 2\(a\)](#) (with [art. 3](#))

#### Marginal Citations

**M1** 1964 c. 29.

### 4 Licences: further provisions.

- (1) The Secretary of State shall make regulations prescribing—
- (a) the manner in which and the persons by whom applications for licences under this Part of this Act may be made;
  - (b) the information to be included in or provided in connection with any such application;
  - (c) the fees to be paid on any such application;
  - (d) the conditions as to the size and shape of areas in respect of which licences may be granted;
  - (e) model clauses which shall, unless he thinks fit to modify or exclude them in any particular case, be incorporated in any such licence.
- (2) Different regulations may be made for different kinds of licence.
- (3) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) As soon as practicable after granting a licence under section 3, the Secretary of State shall publish notice of the fact in the London Gazette stating—
- (a) the name of the licensee; and
  - (b) the situation of the area in respect of which the licence has been granted,

---

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

---

and, if that area or any part of it is in Scotland, the Secretary of State shall also publish the notice in the Edinburgh Gazette.

- (5) Any information which the Commissioners of Inland Revenue possess in connection with petroleum won by virtue of a licence granted under section 3—
- (a) may be disclosed by the Commissioners to the Secretary of State, or to an officer of his who is authorised by him to receive such information, in connection with provisions of the licence relating to royalty payments; but
  - (b) shall not be disclosed by a person to whom it is disclosed under paragraph (a) except—
    - (i) as authorised by the licence;
    - (ii) to a person to whom it could have been disclosed under paragraph (a); or
    - (iii) for the purposes of proceedings (which may be arbitration proceedings) in connection with the licence.

## **5 Existing licences.**

- (1) In this section, the “current model clauses” means, in relation to any paragraph of Schedule 1, the model clauses which, immediately before the commencement of this Act, would be incorporated in a licence granted under section 2 of the <sup>M2</sup>Petroleum (Production) Act 1934 if the licence, when granted, had incorporated the model clauses mentioned in that paragraph.
- (2) The reference in subsection (1) to the model clauses which, immediately before the commencement of this Act, would be incorporated in a licence is a reference to those model clauses as they would then have effect but as if any reference (however expressed) in a model clause to an enactment repealed and re-enacted by this Act were, or (where the context requires) included, a reference to the corresponding provision of this Act.
- (3) For the purposes of subsection (2), any provision of a model clause which would have effect (or would have a particular effect) only in relation to a licence of a description of which none is in force immediately before the commencement of this Act shall be treated as not then having effect (or as not then having that effect).
- (4) The Secretary of State shall, in an order made before the commencement of this Act, reproduce the current model clauses in relation to each paragraph of Schedule 1.
- (5) Subject to subsections (7) and (8), any licence granted under section 2 of the Petroleum (Production) Act 1934 which—
- (a) is in force immediately before the commencement of this Act; and
  - (b) when granted, incorporated any of the model clauses mentioned in any paragraph of Schedule 1,
- shall on the commencement of this Act have effect as if it incorporated, in place of the relevant model clauses, the current model clauses reproduced in relation to that paragraph in the order under subsection (4).
- (6) For the purposes of subsection (5), the relevant model clauses, in relation to any licence, are the model clauses which the licence incorporates immediately before the commencement of this Act other than any model clause which—
- (a) was incorporated into the licence when it was granted; and
  - (b) is not within any paragraph of Schedule 1.

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

- (7) Where immediately before the commencement of this Act any such licence incorporates model clauses subject to any amendment or modification, or with the omission of any model clause, the current model clauses reproduced under subsection (4) shall have effect in relation to that licence—
- (a) subject to the same amendment or modification; or
  - (b) as the case may be, with the omission of the model clause corresponding to the model clause omitted from the licence.
- (8) Where before the commencement of this Act model clauses (the “substitute model clauses”) set out in any regulations made under section 6 of the <sup>M3</sup>Petroleum (Production) Act 1934 have been substituted for the model clauses originally incorporated in any licence granted under section 2 of that Act, the licence shall be treated for the purposes of this section as if, when granted, it had incorporated the substitute model clauses.
- (9) It is hereby declared that any provision incorporated in a licence by virtue of subsection (5) may be altered or deleted by [<sup>F1</sup>deed ] executed by the Secretary of State and the licensee or, as respects Scotland, by an instrument subscribed by the Secretary of State and the licensee in accordance with the <sup>M4</sup>Requirements of Writing (Scotland) Act 1995.
- (10) Where any provision is replaced by virtue of subsection (5)—
- (a) a reference in any document to that provision (or which immediately before the commencement of this Act is to be construed as a reference to that provision) shall, except so far as the nature of the document or context otherwise requires, be construed as a reference to the replacement; and
  - (b) anything done under or for the purposes of that provision shall, except where the context otherwise requires, be treated as having been done under or for the purposes of the replacement.
- (11) The order to be made under subsection (4) shall be made by statutory instrument, shall be laid before Parliament after being made and shall come into force on the commencement of this Act.

#### Textual Amendments

- F1** Word in s. 5(9) substituted (6.4.2009) by [Energy Act 2008 \(c. 32\), s. 110\(2\), Sch. 5 para. 8; S.I. 2009/45, art. 4\(d\)\(i\)](#)

#### Commencement Information

- I1** S. 5 wholly in force at 15.2.1999; s. 5 partly in force: s. 5(1)-(4)(11) in force at Royal Assent, see s. 52(1)-(4); s. 5(5)(6)(7)(8)(9)(10) in force at 15.2.1999 by [S.I. 1999/161, art. 2\(1\)](#)

#### Marginal Citations

- M2** 1934 c. 36.  
**M3** 1934 c. 36.  
**M4** 1995 c. 7.

#### [<sup>F2</sup>5A Rights transferred without the consent of Secretary of State

- (1) This section applies if—

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

- (a) a person is (or two or more persons are) the licensee in respect of a licence under section 2 of the Petroleum (Production) Act 1934 or section 3 above (“the transferor”),
  - (b) the transferor transfers a right granted by the licence, or derived from a right so granted, to another person (“the transferee”) after commencement in circumstances where the consent of the Secretary of State is required for the transfer, and
  - (c) that consent is not obtained.
- (2) The Secretary of State may, by notice given to the transferor and the transferee, direct that the right is to revert to the transferor from a date specified in the notice.
  - (3) The date specified must not be earlier than the date on which the notice is given.
  - (4) Before giving a notice to a person under subsection (2), the Secretary of State must—
    - (a) notify the person of the proposal to give the notice, and
    - (b) give the person a reasonable period within which to make written representations.
  - (5) The Secretary of State may not give a notice under subsection (2) after the end of the period of 3 months beginning with the date on which the Secretary of State learns of the transfer.
  - (6) In this section—
    - “commencement” means the time when this section comes into force;
    - “transfer” does not include a transfer by way of security for a loan.

#### **Textual Amendments**

**F2** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), ss. 76, 110(2); S.I. 2009/45, art. 2(c)(i)

## **5B Information**

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose to the Secretary of State information relating to the transfer of a right granted by a licence under section 2 of the Petroleum (Production) Act 1934 or section 3 above, or derived from a right so granted, for the purpose of enabling the Secretary of State to determine whether a transfer to which section 5A applies has taken place.
- (2) This section applies despite any statutory or other restriction on the disclosure of information.
- (3) Information disclosed under this section must not be further disclosed except—
  - (a) for the purpose mentioned in subsection (1), with the consent (which may be general or specific) of the Commissioners,
  - (b) in pursuance of an order of a court, or
  - (c) with the consent of each person to whom the information relates.
- (4) A person who discloses information contrary to subsection (3) commits an offence if the identity of the person to whom the information relates—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it.

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

- (5) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed that—
- (a) the disclosure was lawful, or
  - (b) the information had already and lawfully been made available to the public.
- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

#### Textual Amendments

**F2** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 76**, 110(2); S.I. 2009/45, art. 2(c)(i)

### 5C Offences under section 5B: supplemental

- (1) No proceedings for an offence under section 5B may be instituted in England and Wales except—
- (a) by the Director of Revenue and Customs Prosecutions, or
  - (b) with the consent of the Director of Public Prosecutions.
- (2) No proceedings for an offence under section 5B may be instituted in Northern Ireland except—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) with the consent of the Director of Public Prosecutions for Northern Ireland.
- (3) In the application of section 5B to Northern Ireland the reference in section 5B(6)(a) to 12 months is to be read as a reference to 6 months.
- (4) In the application of section 5B to England and Wales in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (short sentences) the reference in section 5B(6)(a) to 12 months is to be read as a reference to 6 months.]

#### Textual Amendments

**F2** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 76**, 110(2); S.I. 2009/45, art. 2(c)(i)

### 6 Repayments for development.

- (1) Where any person has paid to the Secretary of State a sum by way of royalty under the terms of a licence granted under section 3, the Secretary of State may with the approval of the Treasury repay to him the whole or a part of that sum if the Secretary of State considers it expedient to do so for the purpose of facilitating or maintaining the development of the petroleum resources of the United Kingdom.
- (2) Where for any chargeable period for the purpose of a licence granted under section 3 any person has been required to deliver petroleum to the Secretary of State under the terms of that licence, subsection (1) shall have effect as if for that period that person

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

had paid to the Secretary of State by way of royalty such sum, or (where he has been required to deliver some but not all of the petroleum which he could have been required to deliver) such additional sum, as he would have been required to pay under the terms of the licence if he had not been required to deliver the petroleum.

- (3) Any repayment and right to a repayment under this section shall be disregarded for the purposes of income tax, corporation tax and petroleum revenue tax.

**Modifications etc. (not altering text)**

**C3** S.6: transfer of functions (15.2.2000) by S.I. 2000/353, art. 2(b) (with art. 3)

**7 Ancillary rights.**

- (1) Subject to the provisions of this section, the <sup>M5</sup>Mines (Working Facilities and Support) Act 1966 shall apply (in England and Wales and Scotland) for the purpose of enabling a person holding a licence under this Part of this Act to acquire such ancillary rights as may be required for the exercise of the rights granted by the licence.
- (2) In its application for the purposes of this section, the Mines (Working Facilities and Support) Act 1966 shall have effect as if—
- (a) references to a person having a right to work minerals included references to a person holding a licence under this Part of this Act;
  - (b) references to minerals included references to petroleum; and
  - (c) references to the working of minerals included references to the getting, carrying away, storing, treating and converting of petroleum.
- (3) Without prejudice to the generality of subsection (1) of section 2 of the <sup>M6</sup>Mines (Working Facilities and Support) Act 1966, that Act shall have effect for the purposes of this section as if the ancillary rights mentioned in that subsection included—
- (a) a right to enter upon land and to sink boreholes in the land for the purpose of searching for and getting petroleum; and
  - (b) a right to use and occupy land for—
    - (i) the erection of such buildings;
    - (ii) the laying and maintenance of such pipes; and
    - (iii) the construction of such other works,as may be required for the purpose of searching and boring for and getting, carrying away, storing, treating and converting petroleum.
- (4) Where an application is made to the court under the Mines (Working Facilities and Support) Act 1966 by virtue of this section—
- (a) in deciding—
    - (i) whether to grant any right applied for; or
    - (ii) what terms and conditions, if any, should be imposed upon the grant of such a right,the court shall have regard, among other considerations, to the effect on the amenities of the locality of the proposed use and occupation of the land in respect of which the right is applied for;
  - (b) in determining the amount of any compensation to be paid in respect of the grant of any right, an additional allowance of not less than 10 per cent. shall be made on account of the acquisition of the right being compulsory;

*Status: Point in time view as at 10/11/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

- (c) the costs in connection with the application incurred by the applicant shall not be ordered to be paid by any person from whom a right is sought to be obtained; and
- (d) the costs in connection with the application incurred by each person from whom a right is sought to be obtained shall be ordered to be paid by the applicant unless the court is satisfied that an unconditional offer in writing was made by the applicant to that person of a sum as compensation equal to or greater than the amount of any compensation awarded to him by the court.

#### Marginal Citations

- M5** 1966 c. 4.  
**M6** 1966 c. 4.

### 8 Power to inspect plans of mines.

- (1) For the purpose of ascertaining on behalf of the Secretary of State the position of the workings, actual and prospective, of any mines or abandoned mines through or near which it is proposed to sink any borehole for the purpose of searching for or getting petroleum, any officer appointed by the Secretary of State shall have the same powers with respect to the production and inspection and the taking of copies of relevant documents as may under section 20 of the <sup>M7</sup>Health and Safety at Work etc. Act 1974 be exercised by an inspector acting for the purpose mentioned in subsection (1) of that section.
- (2) For the purposes of subsection (1)—
  - (a) “relevant documents” means plans, sections, drawings or other similar documents which, by virtue of paragraph 16 of Schedule 3 to that Act of 1974, are required to be kept;
  - (b) “an inspector” means an inspector appointed under section 19 of that Act; and
  - (c) subsections (2) and (3) of section 19 of that Act shall be disregarded.

#### Marginal Citations

- M7** 1974 c. 37.

### 9 Supplementary.

- (1) Nothing in this Part of this Act shall be construed as imposing any liability on any person where in the course of mining or other lawful operations petroleum is set free.
- (2) Nothing in this Part of this Act shall be construed as conferring, or as enabling the Secretary of State to confer, on any person, whether acting on behalf of Her Majesty or not, any right which he does not enjoy apart from this Part of this Act to enter on or interfere with land.
- (3) The issue of an authorisation within the meaning of Part III of this Act shall be deemed not to derogate from a licence granted under section 3 which is for the time being in force.



**Status:**

Point in time view as at 10/11/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Petroleum Act 1998, Part I.