



Petroleum Act 1998

1998 CHAPTER 17

PART I

PETROLEUM

[^{F1}4B Section 4A: supplementary provision

- (1) “Associated hydraulic fracturing” means hydraulic fracturing of shale or strata encased in shale which—
 - (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
 - (b) involves, or is expected to involve, the injection of—
 - (i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or
 - (ii) more than 10,000 cubic metres of fluid in total.
- (2) For the purposes of deciding the depth at which associated hydraulic fracturing is taking place in land—
 - (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
 - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (3) Subsections (1) and (2) apply for the purposes of section 4A and this section.
- (4) The Secretary of State must, by regulations made by statutory instrument, specify—
 - (a) the descriptions of areas [^{F2}in the English onshore area] which are “protected groundwater source areas”, and
 - (b) the descriptions of areas [^{F3}in the English onshore area] which are “other protected areas”,for the purposes of section 4A.

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- (5) A statutory instrument which contains regulations under subsection (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) The Secretary of State must lay a draft of the first such regulations before each House of Parliament on or before 31 July 2015.
- (7) The Secretary of State must consult—
- (a) the Environment Agency before making any regulations under subsection (4)
 - (a) ^{F4} ... ;
 - ^{F5}(b)
- [The Welsh Ministers may, by regulations made by statutory instrument, specify—
- ^{F6}(7A) (a) the descriptions of areas in the Welsh onshore area that are “protected groundwater source areas”, and
- (b) the descriptions of areas in the Welsh onshore area that are “other protected areas”,
- for the purposes of section 4A.
- (7B) A statutory instrument that contains regulations under subsection (7A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.
- (7C) Before making regulations under subsection (7A)(a), the Welsh Ministers must consult the Natural Resources Body for Wales.]
- (8) These expressions have the meanings given—
- “development order” has the meaning given in section 59 of the Town and Country Planning Act 1990;
- “environmental permit” means a permit granted under regulation 13 of [^{F7}the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)];
- “hydraulic fracturing consent” has the meaning given in subsection (1)(b);
- “licensee” means the holder of the onshore licence for England or Wales;
- “local planning authority” means—
- (a) the planning authority to which the application for the relevant planning permission was made (unless the Secretary of State or Welsh Ministers are responsible for determining the application), or
 - (b) the Secretary of State or Welsh Ministers (if responsible for determining the application);
- “onshore licence for England or Wales” means a licence granted under section 3 which authorises a person to search or bore for or get petroleum in those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) that are in England or Wales or are beneath waters (other than waters adjacent to Scotland);
- “relevant environmental regulator” means—
- (a) the Environment Agency, if the relevant well is situated in [^{F8}the English onshore area], or
 - (b) the Natural Resources Body for Wales, if the relevant well is situated in [^{F9}the Welsh onshore area];

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“relevant planning permission” means planning permission to be granted, or granted, in respect of development which includes the relevant well;

“relevant undertaker” means the water undertaker or sewerage undertaker in whose area of appointment the relevant well is located;

“relevant well” means the well to which a well consent relates;

“well consent” means a consent in writing of the [^{F10}OGA][^{F11}or the Welsh Ministers] to the commencement of drilling of a well.

- (9) The power of the Secretary of State to make regulations under section 4 includes power to make such amendments of the definition of “onshore licence for England or Wales” in this section [^{F12}(as it applies to the English onshore area)] as the Secretary of State considers appropriate in consequence of any other exercise of the power [^{F13}by the Secretary of State] under section 4.

[The power of the Welsh Ministers to make regulations under section 4 includes power ^{F14}(9A) to make such amendments of the definition of ““onshore licence for England and Wales”” in this section (as it applies to the Welsh onshore area) as they consider appropriate in consequence of any exercise by them of the power under section 4.]

- (10) The Secretary of State may, by regulations made by statutory instrument—
- (a) make such amendments of column 2 of the table in section 4A as the Secretary of State considers appropriate [^{F15}as regards an application for a hydraulic fracturing consent in relation to land in the English onshore area], and
 - (b) make such other amendments of section 4A or this section as the Secretary of State considers appropriate in consequence of provision made under paragraph (a).
- (11) A statutory instrument which contains regulations under subsection (10) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

[The Welsh Ministers may, by regulations made by statutory instrument—

^{F16}(12) (a) make such amendments of column 2 of the table in section 4A as the Welsh Ministers consider appropriate as regards an application for a hydraulic fracturing consent in relation to land in the Welsh onshore area, and

(b) make such other amendments of section 4A or this section as the Welsh Ministers consider appropriate in consequence of provision made under paragraph (a).

- (13) A statutory instrument that contains regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.]]

Textual Amendments

- F1** Ss. 4A, 4B inserted (E.W.) (30.7.2015 for the insertion of s. 4B(4)-(7), 6.4.2016 in so far as not already in force) by [Infrastructure Act 2015 \(c. 7\)](#), ss. 50, 57(7)(c); S.I. 2015/1576, reg. 2; S.I. 2016/455, reg. 2
- F2** Words in s. 4B(4)(a) inserted (1.10.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 17\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 4(b)
- F3** Words in s. 4B(4)(b) inserted (1.10.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 17\(2\)](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 4(b)
- F4** Words in s. 4B(7)(a) omitted (1.10.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 17\(3\)\(a\)](#) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 4(b)

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- F5** S. 4B(7)(b) omitted (1.10.2018) by virtue of Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(3)(b)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F6** S. 4B(7A)-(7C) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(4)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F7** Words in s. 4B(8) substituted (E.W.) (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 29 para. 14** (with regs. 1(3), 77-79, Sch. 4)
- F8** Words in s. 4B(8) substituted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(5)(a)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F9** Words in s. 4B(8) substituted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(5)(b)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F10** Word in s. 4B(8) substituted (1.10.2016) by The Petroleum (Transfer of Functions) Regulations 2016 (S.I. 2016/898), regs. 1(2), **13(4)** (with reg. 2)
- F11** Words in s. 4B(8) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(5)(c)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F12** Words in s. 4B(9) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(6)(a)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F13** Words in s. 4B(9) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(6)(b)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F14** S. 4B(9A) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(7)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F15** Words in s. 4B(10)(a) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(8)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)
- F16** S. 4B(12)(13) inserted (1.10.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 17(9)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 4(b)

Status:

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Changes to legislation:

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