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## SCHEDULES

### SCHEDULE 1

Section 36

#### AMENDMENTS RELATING TO CHAPTERS 2 AND 3 OF PART 1

##### *Food and Environment Protection Act 1985 (c. 48)*

1 The Food and Environment Protection Act 1985 is amended as follows.

**Commencement Information**

**I1** Sch. 1 para. 1 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

2 In section 7A (regulation of deposits made in the sea: exclusion of certain oil and gas activities)—

- (a) the existing provision becomes subsection (1), and
- (b) after that subsection insert—

“(2) Nothing in this Part of this Act applies to anything done in the course of carrying on an activity for which a licence under section 4 or 18 of the Energy Act 2008 is required (gas unloading, storage and recovery, and carbon dioxide storage).

(3) For this purpose, activities are to be regarded as activities for which such a licence is required if, by virtue of such a licence, they are activities which may be carried on only with the consent of the Secretary of State or another person.

(4) Subsection (2) does not apply in relation to anything done in the course of carrying out an activity for which a licence under section 4 of the Energy Act 2008 is required in, under or over—

- (a) the territorial sea adjacent to Scotland, Wales or Northern Ireland, or
- (b) waters in a Gas Importation and Storage Zone which are United Kingdom controlled waters adjacent to Scotland.

(5) Subsection (2) does not apply in relation to anything done in, under or over the territorial sea adjacent to Wales or Northern Ireland in the course of carrying on an activity for which a licence under section 18 of the Energy Act 2008 is required.”

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

3 In section 24 (interpretation)—

- (a) in subsection (1), after the definition of “Convention State” insert—

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- ““Gas Importation and Storage Zone” has the meaning given by section 1 of the Energy Act 2008;”, and
- (b) after subsection (2) insert—
- “(2A) An order or Order in Council made under or by virtue of section 158(3) or (4) of the Government of Wales Act 2006 (apportionment of sea areas) has effect for the purposes of Part 2 of this Act if, or to the extent that, the order or Order in Council is expressed to apply—
- (a) by virtue of this subsection, for the purposes of Part 2 of this Act, or
- (b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.”

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

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*Petroleum Act 1987 (c. 12)*

- 4 (1) Section 21 of the Petroleum Act 1987 (automatic establishment of safety zones) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
- “(aa) the exploration of any place in, under or over such waters with a view to the storage of gas in such a place;
- (ab) the conversion of any place in, under or over such waters for the purpose of storing gas;”,
- (b) in paragraph (b), for “in or under the shore or bed of” substitute “ in, under or over ”,
- (c) after that paragraph insert—
- “(ba) the unloading of gas at any place in, under or over such waters;”, and
- (d) in paragraph (d) for “paragraph (a), (b) or (c)” substitute “ any of paragraphs (a) to (c) ”.
- (3) After subsection (7) insert—
- “(8) In this section “gas” means gas within the meaning of section 2(4) of the Energy Act 2008.”

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VALID FROM 13/11/2009

*Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I.2))*

- 5 In Article 3(1) of the Gas (Northern Ireland) Order 1996 (interpretation of provisions relating to gas supply and associated activities), in the definition of “gas storage facility” after “any facility” insert “ (other than a facility in, under or over the territorial sea adjacent to Northern Ireland) ”.

*Petroleum Act 1998 (c. 17)*

- 6 The Petroleum Act 1998 is amended as follows.

**Commencement Information**

**I4** Sch. 1 para. 6 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

- 7 In section 11 (application of civil law)—
- (a) in subsection (1), after “Order in Council” insert “ , subject to subsection (4A) ”,
  - (b) in subsection (3), after paragraph (a) insert—
    - “(aa) the exploration of any place in, under or over such waters with a view to the storage of gas in such a place;
    - (ab) the conversion of any place in, under or over waters to which this section applies for the purpose of storing gas;”
  - (c) in paragraph (b) of that subsection, for “in or under the shore or bed of” substitute “ in, under or over ”,
  - (d) after that paragraph insert—
    - “(ba) the unloading of gas at any place in, under or over such waters;”
  - (e) in paragraph (d) of that subsection, for “paragraph (a), (b) or (c)” substitute “ any of paragraphs (a) to (c) ”,
  - (f) after that subsection insert—
    - “(3A) In subsection (3) references (in whatever form) to storing gas include storing gas with a view to its permanent disposal.”
  - (g) after subsection (4) insert—
    - “(4A) An Order in Council may not make provision under subsection (1) in relation to questions arising out of acts or omissions taking place in connection with any activity carried on in, under or over relevant Scottish waters with a view to, or in connection with, the storage of carbon dioxide.
    - (4B) In subsection (4A)—
      - (a) “relevant Scottish waters” means tidal waters, and parts of the sea, in or adjacent to Scotland up to the seaward limits of the territorial sea, and

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- (b) references to the storage of carbon dioxide do not include the use of carbon dioxide for a purpose ancillary to getting petroleum (within the meaning of section 1).”, and
- (h) after subsection (8) insert—
  - “(9) In this section “gas” means—
    - (a) gas within the meaning of section 2(4) of the Energy Act 2008, or
    - (b) carbon dioxide.”

**Commencement Information**

- I5** Sch. 1 para. 7(a)-(c)(e)-(g) in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)  
**I6** Sch. 1 para. 7(h) in force at 6.4.2009 for specified purposes by S.I. 2009/45, art. 4(a)(iii)

- 8 In section 13 (interpretation of Part 2), after the existing provision (which becomes subsection (1)) insert—

“(2) An Order in Council under section 126(2) of the Scotland Act 1998 (apportionment of sea areas) has effect for the purposes of this Part if, or to the extent that, the Order is expressed to apply—

- (a) by virtue of this subsection, for the purposes of this Part, or
- (b) if no provision has been made by virtue of paragraph (a), for the general or residual purposes of that Act.”

**Commencement Information**

- I7** Sch. 1 para. 8 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

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- 9 In section 28 (interpretation of Part 3), in the definition of “gas”—
- (a) in paragraph (a), for “or carbon monoxide” substitute “, carbon monoxide or a substance designated under paragraph (e) of the definition of “gas” in section 2(4) of the Energy Act 2008 ”,
  - (b) in paragraph (b) for “gases” substitute “ substances ”, and
  - (c) in paragraph (c) for “gases” substitute “ substances ”.

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- 10 In section 30 (persons who may be required to submit programmes)—
- (a) for subsection (5)(a) substitute—
    - “(a) the person has the right—
      - (i) to exploit or explore mineral resources in any area,
      - (ii) to unload, store or recover gas in any area or to convert any natural feature in any area for the purpose of storing gas, or

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- (iii) to explore any area with a view to, or in connection with, the exercise of a right within sub-paragraph (i) or (ii), and”,
- (b) in subsection (6), for paragraph (a) substitute—
- “(a) the exploitation or exploration of mineral resources in the exercise of the right mentioned in subsection (5)(a);
  - (aa) the unloading, storage or recovery of gas in the exercise of that right;
  - (ab) the conversion, in the exercise of that right, of any natural feature for the purpose of storing gas;
  - (ac) the exploration in exercise of that right with a view to, or in connection with, the exercise of a right within subsection (5)(a)(ii);”, and
- (c) in paragraph (c) of that subsection, for “or (b)” substitute “to (b) ”.

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- 11 In section 44 (offshore installations)—
- (a) in subsection (3), after paragraph (a) insert—
    - “(aa) the exploration of any place in, under or over relevant waters with a view to the storage of gas in such an place;
    - (ab) the conversion of any place in, under or over relevant waters for the purpose of storing gas;”,
  - (b) in paragraph (b) of that subsection, for “in or under the shore or bed of” substitute “ in, under or over ”,
  - (c) after that paragraph insert—
    - “(ba) the unloading of gas at any place in, under or over relevant waters;”,
  - (d) in paragraph (d) of that subsection, for “paragraph (a), (b) or (c)” substitute “ any of paragraphs (a) to (c) ”, and
  - (e) in subsection (5), after “section—” insert—
    - ““gas” means gas within the meaning of section 2(4) of the Energy Act 2008;”.

- 12 In section 47A (factors for the Secretary of State to take into account when performing functions under the Petroleum Act 1998)—
- (a) in subsection (1), after paragraph (a) insert—
    - “(aa) activities which are authorised by a licence under Chapter 2 or 3 of Part 1 of the Energy Act 2008 (gas importation and storage);”,
  - (b) in paragraph (b) of that subsection for “such activities” substitute “ activities within paragraph (a) or (aa) ”, and
  - (c) after subsection (2) insert—
    - “(2A) For the purposes of subsection (1)(aa), activities are to be regarded as activities authorised by a licence under Chapter 2 or 3 of Part 1 of the Energy Act 2008 if, by virtue of such a licence, they are

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activities which may be carried on only with the consent of the Secretary of State or another person.”

**Commencement Information**

**I8** Sch. 1 para. 12 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

*Energy Act 2004 (c. 20)*

13 In section 188 of the Energy Act 2004 (power to impose charges to fund energy functions)—

- (a) in subsection (7), after paragraph (l) insert—  
“ (m) Chapter 2 of Part 1 of the Energy Act 2008.”,
- (b) in that subsection, after paragraph (m) (inserted by paragraph (a)) insert—  
“ (n) Chapter 3 of Part 1 of the Energy Act 2008.”,
- (c) in subsection (8), after paragraph (d) insert—  
“ (da) any activity for which a licence under Chapter 2 of Part 1 of the Energy Act 2008 is required;”, and
- (d) in that subsection, after paragraph (da) (inserted by paragraph (c)) insert—  
“ (db) any activity for which a licence under Chapter 3 of Part 1 of the Energy Act 2008 is required.”,
- (e) after subsection (11) insert—

“ (12) This section applies in relation to the Scottish Ministers as it applies in relation to the Secretary of State, and in its application to the Scottish Ministers it is to be read as if for subsections (6) and (7) there were substituted—

“ (6) Regulations under this section must be made by statutory instrument and are subject to annulment in pursuance of a resolution of the Scottish Parliament.

(7) Section 192(4) applies in relation to the power of the Scottish Ministers to make regulations under subsection (6) as it applies in relation to an order or regulations made by the Secretary of State or the Treasury.

(7A) The references in this section to relevant energy functions are references to the functions of the Scottish Ministers under—

- (a) Chapter 3 of Part 1 of the Energy Act 2008, or
- (b) so much of any Community instrument as has effect in connection with—
  - (i) any activity mentioned in subsection (8) (db), or
  - (ii) any activity mentioned in subsection (8) (h) to the extent that the activity is carried on in connection with an activity mentioned in subsection (8)(db).”

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and as if the reference in subsection (11) to the Consolidated Fund were a reference to the Scottish Consolidated Fund.”

**Commencement Information**

**19** Sch. 1 para. 13 in force at 6.4.2009 by S.I. 2009/45, art. 4(a)(iii)

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