



# Energy Act 2016

## 2016 CHAPTER 20

### PART 2

#### FURTHER FUNCTIONS OF THE OGA RELATING TO OFFSHORE PETROLEUM

### CHAPTER 1

#### INTRODUCTION

#### 17 Overview of Part 2

- (1) This Part contains provision about functions of the OGA relating to offshore petroleum.
- (2) Chapter 2 makes provision for the OGA to consider disputes and make recommendations for resolving them.
- (3) Chapter 3 makes provision about—
  - (a) the retention of information and samples by relevant persons,
  - (b) the preparation of plans for dealing with information and samples held by an offshore licensee when rights under a licence are terminated, and
  - (c) powers of the OGA to require information and samples.
- (4) Chapter 4 makes provision—
  - (a) for the OGA to be informed of meetings,
  - (b) for persons authorised by the OGA to be entitled to participate in meetings, and
  - (c) for the OGA to be provided with information relating to meetings in which such persons do not participate.
- (5) Chapter 5 makes provision about sanctions which may be imposed on persons for failures to comply with requirements.

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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2016, PART 2. (See end of Document for details)*

- (6) Chapter 6 makes provision about the disclosure of information and samples which have been obtained by the OGA under this Part.

**Commencement Information**

**I1** S. 17 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**18 Interpretation of Part 2**

- (1) In this Part—

“items subject to legal privilege”—

- (a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
- (b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002;
- (c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (NI 12));

“licensee” means a person holding a petroleum licence;

“offshore licence” means a petroleum licence which confers on the holder of that licence rights in respect of offshore waters;

“offshore licensee” means a person holding an offshore licence;

“offshore waters” means—

- (a) the waters comprising the territorial sea of the United Kingdom, and
- (b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964;

“petroleum licence” means a licence granted under—

- (a) section 3 of the Petroleum Act 1998 (searching for, boring for and getting petroleum), or
- (b) section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);

“the principal objective” means the objective set out in section 9A(1) of the Petroleum Act 1998;

“relevant person” means a person listed in section 9A(1)(b) of the Petroleum Act 1998;

“statutory function” means a function conferred or imposed by or under any Act;

“Tribunal” means the First-tier tribunal.

- (2) In this Part a reference to a term or condition of a petroleum licence includes a reference to a condition imposed under a petroleum licence.

**Commencement Information**

**I2** S. 18 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

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## CHAPTER 2

### DISPUTES

#### 19 Qualifying disputes and relevant parties

- (1) For the purposes of this Chapter, a dispute is a qualifying dispute if—
  - (a) the dispute relates to qualifying issues, and
  - (b) the parties to the dispute include at least one relevant party.
- (2) In this Chapter, “qualifying issues” means issues which—
  - (a) are relevant to the fulfilment of the principal objective, or
  - (b) relate to activities carried out under an offshore licence, and are not the subject of a section 82 application.
- (3) If a dispute relates in part to qualifying issues and in part to other issues, the dispute is a qualifying dispute only to the extent that it relates to the qualifying issues.
- (4) For the purposes of subsection (2), an issue is the subject of a section 82 application if—
  - (a) an application has been made under section 82(4) of the Energy Act 2011 (acquisition of rights to use upstream petroleum infrastructure) in connection with the issue, and
  - (b) the OGA has made a decision under section 82(6)(a)(iii) of that Act to consider the application further.
- (5) In this Chapter “relevant party” to a dispute means a party to the dispute who is a relevant person.

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#### Commencement Information

**I3** S. 19 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

#### 20 Reference of disputes to the OGA

- (1) A relevant party to a qualifying dispute may refer it to the OGA.
- (2) A reference under this section is to be made in such manner as the OGA may require.
- (3) Requirements under subsection (2) as to the manner in which a reference is to be made—
  - (a) may make different provision for different cases;
  - (b) are to be imposed, withdrawn or modified by notice published in such manner as the OGA considers appropriate for bringing the requirement, withdrawal or modification to the attention of the persons who, in the OGA's opinion, are likely to be affected by it.

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#### Commencement Information

**I4** S. 20 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Status: Point in time view as at 01/10/2016. This version of this part contains provisions that are not valid for this point in time.*

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## 21 Action by the OGA on a dispute reference

- (1) On a reference of a dispute made under section 20, the OGA must decide whether the reference is to be—
  - (a) rejected,
  - (b) adjourned to enable further negotiation between the parties to the dispute, or
  - (c) accepted (see section 23).
- (2) The OGA must issue guidance about the matters to which it will have regard when making a decision under subsection (1).
- (3) As soon as reasonably practicable after the OGA has made a decision under subsection (1), it must give notice in writing stating—
  - (a) its decision,
  - (b) the reasons for the decision, and
  - (c) the date of the decision,
 to each relevant party to the dispute, and to any other parties to the dispute who have contributed (whether by providing information or attending meetings) to the OGA's decision-making process.
- (4) The grounds on which the OGA may reject a reference include, but are not limited to, grounds that—
  - (a) the dispute is not a qualifying dispute;
  - (b) the party that referred the dispute is not a relevant party;
  - (c) the reference is frivolous or vexatious;
  - (d) there are more appropriate means available for resolving the dispute;
  - (e) the dispute is not sufficiently material to the fulfilment of the principal objective to warrant, in the circumstances, its consideration by the OGA;
  - (f) the OGA considers it unlikely that, in the circumstances, it would be able to make a satisfactory recommendation in respect of the dispute.
- (5) Where the OGA adjourns a reference of a dispute—
  - (a) it must set a timetable in accordance with which relevant parties to the dispute are to conduct further negotiations and revert to the OGA,
  - (b) it may give directions with which relevant parties to the dispute are to comply during the adjournment, and
  - (c) it must, when the relevant parties revert to it following the adjournment, make a further decision under subsection (1) in respect of the reference.
- (6) Requirements imposed by the OGA on relevant parties—
  - (a) under subsection (5)(a), or
  - (b) by directions under subsection (5)(b),
 are sanctionable in accordance with Chapter 5.

### Commencement Information

**I5** S. 21 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

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## 22 Power of the OGA to consider disputes on its own initiative

- (1) The OGA may decide, on its own initiative, to consider a qualifying dispute (see section 23).
- (2) If the OGA decides to consider a qualifying dispute under this section, it must notify all parties to the dispute.

### Commencement Information

**16** S. 22 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## 23 Procedure for consideration of disputes

- (1) This section applies where the OGA—
  - (a) accepts a reference of a dispute under section 21(1), or
  - (b) decides to consider a dispute under section 22(1).
- (2) The OGA must—
  - (a) consider the dispute, and
  - (b) make a recommendation for resolving it.
- (3) The OGA—
  - (a) must draw up a timetable for performing its duties under subsection (2), and
  - (b) may give directions with which the relevant parties to the dispute are to comply in order to enable the OGA to carry out those duties.
- (4) The OGA's recommendation must be one which it considers will enable the dispute to be resolved in a way which best contributes to the fulfilment of the principal objective whilst having regard to the need to achieve an economically viable position for the parties to the dispute.
- (5) The procedure for considering the dispute and making a recommendation is the procedure that the OGA considers most appropriate.
- (6) Where the OGA makes a recommendation under this section, the OGA may publish—
  - (a) the recommendation or any part of it;
  - (b) a summary of the recommendation or of any part of it.
- (7) Before publishing anything under subsection (6), the OGA must give an opportunity to be heard to each relevant party to the dispute.
- (8) The OGA must issue guidance about the matters to which it will have regard when performing its duties under this section.
- (9) Requirements imposed by directions under subsection (3)(b) are sanctionable in accordance with Chapter 5.

### Commencement Information

**17** S. 23 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

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## 24 Power of the OGA to acquire information

- (1) The OGA may require a relevant party to a dispute to provide it with such information as may be required by the OGA for the purposes of—
  - (a) deciding whether to reject, adjourn or accept a reference of the dispute under section 21(1),
  - (b) setting a timetable in respect of an adjournment of a reference of the dispute under section 21(5),
  - (c) assessing progress of further negotiations during such an adjournment,
  - (d) making a decision under section 22(1) to consider the dispute on its own initiative, or
  - (e) considering the dispute and making a recommendation under section 23(2), subject to subsection (3).
- (2) A person required to provide information under subsection (1) must provide it in such manner and within such reasonable period as may be specified by the OGA in the request for information.
- (3) Information requested under subsection (1) may not include items subject to legal privilege.
- (4) Requirements imposed under this section are sanctionable in accordance with Chapter 5.

### Commencement Information

**18** S. 24 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## 25 Power of the OGA to require attendance at meetings

- (1) The OGA may require a relevant party to a dispute to send an individual to act as its representative at a meeting with the OGA for the purpose of participating in proceedings relating to—
  - (a) whether a reference of the dispute is to be rejected, adjourned or accepted under section 21(1),
  - (b) whether the OGA is to make a decision to consider the dispute under section 22(1), or
  - (c) the consideration of the dispute and the making of a recommendation under section 23(2).
- (2) The OGA may require that the individual sent to attend the meeting has the necessary knowledge and expertise for the purpose of participating in the proceedings in question.
- (3) The OGA must give reasonable notice of any meeting at which attendance is required under this section.
- (4) Requirements imposed by the OGA on relevant parties under this section are sanctionable in accordance with Chapter 5.

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**Commencement Information**

**I9** S. 25 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**26 Appeals against decisions of the OGA: disputes**

- (1) This section applies to any decision of the OGA to which effect is given by one of the actions set out in an entry in column 1 of the table below.
- (2) A person affected by any such decision may appeal against it to the Tribunal—
- (a) on the grounds that the decision was not within the powers of the OGA, or
  - (b) on the grounds set out in the corresponding entry in column 2 of the table.

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<i>(1) Action by the OGA</i>	<i>(2) Grounds for appeal</i>
The setting of a timetable under section 21(5)(a).	The timetable is unreasonable.
The giving of directions under section 21(5)(b).	A direction, or a number of directions taken together, are unreasonable.
The giving of directions under section 23(3)(b).	A direction, or a number of directions taken together, are unreasonable.
The imposition of a requirement to provide information under section 24(1).	Either— (a) the information requested is not relevant to the dispute in question, or (b) the period specified under section 24(2) is unreasonable.
The imposition of a requirement under section 25(1) or (2) in relation to attendance at a meeting.	Either— (a) the requirement to attend the meeting is unreasonable, (b) reasonable notice of the meeting was not given, or (c) the requirement as to the knowledge and expertise of the person attending the meeting is unreasonable.

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- (3) On an appeal under this section the Tribunal may—
- (a) affirm, vary or quash the decision under appeal,
  - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
  - (c) substitute its own decision for the decision under appeal.

**Commencement Information**

**I10** S. 26 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

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## CHAPTER 3

### INFORMATION AND SAMPLES

#### *Interpretation*

#### **27 Petroleum-related information and samples**

(1) In this Chapter—

“petroleum-related information” means—

- (a) in relation to any relevant person, information acquired or created by or on behalf of the person in the course of carrying out activities which are relevant to the fulfilment of the principal objective, and
- (b) in relation to a relevant person who is an offshore licensee, information acquired or created by or on behalf of the person in the course of carrying out activities under the licensee's licence, which is not information falling within paragraph (a);

“petroleum-related samples” means samples of substances acquired by or on behalf of an offshore licensee in the course of carrying out activities under the licensee's licence.

(2) In this Chapter, “petroleum-related information” and “petroleum-related samples” include information or samples acquired or created as mentioned in subsection (1) which are relevant to activities carried out under a carbon dioxide storage licence.

(3) In subsection (2) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.

#### **Commencement Information**

**III** S. 27 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

#### *Retention*

#### **28 Retention of information and samples**

(1) Regulations made by the Secretary of State may require—

- (a) specified relevant persons to retain specified petroleum-related information;
- (b) specified offshore licensees to retain specified petroleum-related samples.

(2) Regulations under this section may include provision about—

- (a) the form or manner in which information or samples are to be retained;
- (b) the period for which information or samples are to be retained;
- (c) the event that triggers the commencement of that period.

(3) In this section, “specified” means specified, or of a description specified, in regulations under this section.

(4) Requirements imposed by regulations under this section are sanctionable in accordance with Chapter 5.



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- (5) Before making regulations under this section the Secretary of State must consult the OGA.

#### Commencement Information

**I12** S. 28 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## 29 Retention: supplementary

- (1) Subsection (2) applies in relation to regulations under section 28 imposing requirements on an offshore licensee to retain information or samples.
- (2) The regulations may provide for those requirements to continue following a termination of rights under the licensee's licence (whether by transfer, surrender, expiry or revocation and whether in relation to all or only part of the licence).
- (3) Regulations under section 28 may not impose requirements which have effect in relation to particular petroleum-related information or particular petroleum-related samples at any time when an information and samples plan dealing with the information or samples has effect (see sections 30 to 33).

#### Commencement Information

**I13** S. 29 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

VALID FROM 21/10/2017

### *Information and samples plans*

## 30 Information and samples plans: termination of rights under offshore licences

- (1) This section and sections 31 to 33 make provision in relation to the preparation of information and samples plans in connection with licence events.
- (2) The following definitions apply for the purposes of this section and those sections.
- (3) “Licence event” means—
- a transfer of rights under an offshore licence, whether in relation to all or part of the area in respect of which the licence was granted,
  - a surrender of rights under an offshore licence in relation to all of the area in respect of which the licence was granted, or in relation to so much of that area in respect of which the licence continues to have effect,
  - the expiry of an offshore licence, or
  - the revocation of an offshore licence by the OGA.
- (4) “Relevant licence”, in relation to a licence event, means the licence in respect of which the licence event occurs.

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- (5) “Responsible person” in relation to a licence event, means the person who is or was, or the persons who are or were, the licensee in respect of the relevant licence immediately before the licence event.
- (6) “Information and samples plan”, in relation to a licence event, means a plan dealing with what is to happen, following the event, to—
  - (a) petroleum-related information held by the responsible person before the event, and
  - (b) petroleum-related samples held by that person before the event.

### **31 Preparation and agreement of information and samples plans**

- (1) The responsible person must prepare an information and samples plan in connection with a licence event.
- (2) The responsible person must agree the information and samples plan with the OGA—
  - (a) in the case of a licence event mentioned in section 30(3)(a), (b) or (c) (transfer, surrender or expiry), before the licence event takes place, or
  - (b) in the case of a licence event mentioned in section 30(3)(d) (revocation), within a reasonable period after the revocation of the relevant licence.
- (3) An information and samples plan has effect once it is agreed with the OGA.
- (4) If an information and samples plan is not agreed with the OGA as mentioned in subsection (2)(a) or (b), the OGA—
  - (a) may itself prepare an information and samples plan in connection with the licence event, and
  - (b) may require the responsible person to provide it with such information as the OGA may require to enable it to do so.
- (5) The OGA must inform the responsible person of the terms of any information and samples plan it prepares in connection with a licence event.
- (6) Where the OGA—
  - (a) prepares an information and samples plan in connection with a licence event, and
  - (b) informs the responsible person of the terms of the plan,
 the plan has effect as if it had been prepared by the responsible person and agreed with the OGA.
- (7) Where an information and samples plan has effect in connection with a licence event, the responsible person must comply with the plan.
- (8) The requirements imposed by subsections (2) and (7), or under subsection (4)(b), are sanctionable in accordance with Chapter 5.

### **32 Changes to information and samples plans**

- (1) Where an information and samples plan has effect in relation to a licence event, the OGA and the responsible person may agree changes to the plan.
- (2) Once changes are agreed, the plan has effect subject to those changes.
- (3) Where—

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- (a) two or more persons are the responsible person in relation to a licence event, and
- (b) those persons include a company that has, since the licence event, been dissolved,

the reference to the responsible person in subsection (1) does not include that company.

### **33 Information and samples plans: supplementary**

- (1) An information and samples plan, in relation to a licence event, may provide as appropriate for—
  - (a) the retention, by the responsible person, of any petroleum-related information or petroleum-related samples held by or on behalf of that person before the licence event,
  - (b) the transfer of any such information or samples to a new licensee or to a person holding a carbon dioxide storage licence, or
  - (c) appropriate storage of such information or samples.
- (2) An information and samples plan prepared by the OGA under section 31(4) may not include provision under subsection (1)(b) for the transfer of information or samples to another person without the consent of the responsible person.
- (3) Where an information and samples plan makes provision under subsection (1) for a person, other than the responsible person, to hold information or samples in accordance with the plan—
  - (a) the plan may, with the consent of that other person, impose requirements on that person in connection with the information and samples, and
  - (b) any such requirements are sanctionable in accordance with Chapter 5.
- (4) An information and samples plan may provide for the storage of information or samples as mentioned in subsection (1)(c) to be the responsibility of the OGA.
- (5) Subsection (6) applies where a transfer of rights under an offshore licence relates to only part of the area in relation to which the licence was granted.
- (6) In those circumstances, the information and samples plan prepared in connection with the transfer is to relate to all petroleum-related information and petroleum-related samples held by the responsible person before the licence event, and not only petroleum-related information and petroleum-related samples in respect of that part of the area.
- (7) In subsection (1)(b) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.

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VALID FROM 19/12/2016

*Power to require information and samples*

**34 Power of the OGA to require information and samples**

- (1) The OGA may by notice in writing, for the purpose of carrying out any functions of the OGA which are relevant to the fulfilment of the principal objective or which relate to activities carried out under a carbon dioxide storage licence, require—
  - (a) a relevant person to provide it with any petroleum-related information, or a portion of any petroleum-related sample, held by or on behalf of the person;
  - (b) a person who holds information or samples in accordance with an information and samples plan (see sections 30 to 33) to provide it with any such information or a portion of any such sample,
subject to subsection (3).
- (2) The notice must specify—
  - (a) the form or manner in which the information or the portion of a sample must be provided;
  - (b) the time at which, or period within which, the information or the portion of a sample must be provided.
- (3) Information requested under subsection (1) may not include items subject to legal privilege.
- (4) Requirements imposed by a notice under this section are sanctionable in accordance with Chapter 5.
- (5) Where a person provides information or a portion of a sample to the OGA in accordance with a notice under this section, any requirements imposed on the person in respect of that information or sample by regulations under section 28 are unaffected.
- (6) In subsection (1) “carbon dioxide storage licence” means a licence granted under section 18 of the Energy Act 2008.

VALID FROM 21/10/2017

*Coordinators*

**35 Information and samples coordinators**

- (1) A relevant person must—
  - (a) appoint an individual to act as an information and samples coordinator, and
  - (b) notify the OGA of that individual's name and contact details.
- (2) The information and samples coordinator is to be responsible for monitoring the relevant person's compliance with its obligations under this Chapter.
- (3) A relevant person must comply with subsection (1) within a reasonable period after—

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- (a) the date on which this section comes into force, if the person is a relevant person on that date, or
  - (b) becoming a relevant person, in any other case.
- (4) The relevant person must notify the OGA of any change in the identity or contact details of the information and samples coordinator within a reasonable period of the change taking place.
- (5) The requirements imposed by this section are sanctionable in accordance with Chapter 5.

VALID FROM 19/12/2016

### *Appeals*

#### **36 Appeals against decisions of the OGA: information and samples plans**

- (1) This section applies to any decision of the OGA to which effect is given by one of the actions set out in an entry in column 1 of the table below.
- (2) A person affected by any such decision may appeal against it to the Tribunal—
- (a) on the grounds that the decision was not within the powers of the OGA, or
  - (b) on the grounds set out in the corresponding entry in column 2 of the table.

<i>(1) Action by the OGA</i>	<i>(2) Grounds for appeal</i>
The preparation of an information and samples plan.	The plan is unreasonable.
The giving of a notice requiring the provision of information or samples under section 34(1).	The length of time given to comply with the notice is unreasonable.

- (3) On an appeal under this section the Tribunal may—
- (a) affirm, vary or quash the decision under appeal,
  - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
  - (c) substitute its own decision for the decision under appeal.

## **CHAPTER 4**

### **MEETINGS**

#### **37 Meetings: interpretation**

- (1) A meeting is a relevant meeting for the purposes of this Chapter if—
- (a) two or more relevant persons are represented at the meeting, and
  - (b) the meeting involves discussion of relevant issues.

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- (2) A relevant person is represented at a meeting if an employee of, or a person acting on behalf of, the relevant person participates in the meeting.
- (3) In this Chapter “meeting” includes a meeting which is conducted in such a way that those who are not present together at the same place may by electronic means participate in it.
- (4) In this Chapter “relevant issues” means issues which—
  - (a) are relevant to the fulfilment of the principal objective, or
  - (b) relate to activities carried out under an offshore licence,
 but does not include anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in any legal proceedings.
- (5) A notice given by the OGA may provide that—
  - (a) a meeting specified, or of a description specified, in the notice is not a relevant meeting for the purposes of this Chapter;
  - (b) an issue specified, or of a description specified, in the notice is not a relevant issue for those purposes.

#### **Commencement Information**

**I14** S. 37 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### **38 Duty to inform the OGA of meetings**

- (1) This section applies where a relevant person, or an employee of or person acting on behalf of the relevant person, knows or should know that a meeting arranged by, or on behalf of, the relevant person will be or is likely to be a relevant meeting.
- (2) The relevant person must, in writing—
  - (a) inform the OGA of the fact that the meeting is to take place, and
  - (b) provide such details of the meeting as are necessary for a person authorised by the OGA to be able to participate in it.
- (3) The relevant person must comply with subsection (2)—
  - (a) at least 14 days before the day on which the meeting is to take place, or
  - (b) if that is not reasonably practicable, so as to give as much notice of the meeting as is reasonably practicable.
- (4) In a case within subsection (3)(b) the relevant person must, when complying with subsection (2), explain in writing to the OGA why it was not reasonably practicable to comply with subsection (2) at least 14 days before the day on which the meeting is to take place.
- (5) The relevant person must inform the OGA in writing as soon as is reasonably practicable of any changes to the information provided under subsection (2)(b).
- (6) The relevant person must also provide the OGA with any information that is provided (whether by the relevant person or any other person) to other persons attending the meeting, including (in particular)—
  - (a) the agenda, and

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- (b) any other documents relevant to the meeting.
- (7) That information must be provided to the OGA—
  - (a) at the same time as it is provided to other persons attending the meeting, or
  - (b) if it not possible for the relevant person to provide it to the OGA at that time, as soon after that time as is reasonably practicable.
- (8) Subsection (6) does not require the relevant person to provide the OGA with information that does not relate to relevant issues.
- (9) The information required under subsections (2), (5) and (6), and any explanation provided under subsection (4), must be provided to the OGA in such manner as may be required by a notice given by the OGA.
- (10) The requirements imposed by this section are sanctionable in accordance with Chapter 5.

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**Commencement Information**

**I15** S. 38 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### **39 Participation by the OGA in meetings**

- (1) A person authorised by the OGA under this section is entitled to participate in any relevant meeting.
- (2) But such a person is not entitled—
  - (a) to participate in any part of the meeting that does not relate to relevant issues, or
  - (b) if any matter is decided on by a vote, to take part in the voting.
- (3) The relevant person who arranged the meeting, or on whose behalf the meeting was arranged, must secure that the right conferred by subsection (1) may be exercised.
- (4) The requirement imposed by subsection (3) is sanctionable in accordance with Chapter 5.

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**Commencement Information**

**I16** S. 39 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### **40 Provision of information to the OGA after meetings**

- (1) This section applies where the right conferred by section 39(1) (right of person authorised by the OGA to participate) is not exercised in relation to a relevant meeting.
- (2) The relevant person by, or on behalf of whom, the meeting was arranged must provide the OGA with a written summary of—
  - (a) the meeting, and
  - (b) any decisions reached at the meeting.
- (3) The written summary must be provided to the OGA within a reasonable period after the end of the meeting.

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- (4) Subsection (2) does not require the relevant person to provide the OGA with any information that does not relate to relevant issues.
- (5) The requirement imposed by this section is sanctionable in accordance with Chapter 5.

**Commencement Information**

**I17** S. 40 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**41 Notices**

- (1) This section applies to a notice given by the OGA under this Chapter.
- (2) The notice—
  - (a) may make different provision for different cases, and
  - (b) may be varied or revoked by a further notice given by the OGA.
- (3) The notice, and any variation or revocation, must be published in such manner as the OGA considers appropriate for bringing it to the attention of the persons who, in its opinion, are likely to be affected by it.

**Commencement Information**

**I18** S. 41 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**CHAPTER 5**

SANCTIONS

*Power to give sanction notices*

**42 Power of OGA to give sanction notices**

- (1) If the OGA considers that a person has failed to comply with a petroleum-related requirement imposed on the person, it may give the person a sanction notice in respect of that failure.
- (2) If the OGA considers that there has been a failure to comply with a petroleum-related requirement imposed jointly on two or more persons, it may give a sanction notice in respect of that failure—
  - (a) to one only of those persons,
  - (b) jointly to two or more of them, or
  - (c) jointly to all of them,
but it may not give separate sanction notices to each of them in respect of the failure.
- (3) In this Chapter “petroleum-related requirement” means—
  - (a) a duty imposed under section 9C of the Petroleum Act 1998 to act in accordance with the current strategy or strategies produced under section 9A(2) of that Act for enabling the principal objective to be met,



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- (b) a term or condition of an offshore licence, or
  - (c) a requirement imposed on a person by or under a provision of this Act which, by virtue of the provision, is sanctionable in accordance with this Chapter.
- (4) In this Chapter “sanction notice” means—
- (a) an enforcement notice (see section 43),
  - (b) a financial penalty notice (see sections 44 to 46),
  - (c) a revocation notice (see section 47), or
  - (d) an operator removal notice (see section 48).
- (5) Sanction notices, other than enforcement notices, may be given in respect of a failure to comply with a petroleum-related requirement even if, at the time the notice is given, the failure to comply has already been remedied.
- (6) Where the OGA gives a sanction notice to a person in respect of a particular failure to comply with a petroleum-related requirement—
- (a) it may, at the same time, give another type of sanction notice to the person in respect of that failure to comply;
  - (b) it may give subsequent sanction notices in respect of that failure only in accordance with section 54 (subsequent sanction notices).
- (7) The OGA's power to give sanction notices under this section is subject to section 49 (duty of OGA to give sanction warning notices).

**Commencement Information**

**119** S. 42 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Sanction notices*

**43 Enforcement notices**

- (1) This section contains provision about enforcement notices which may be given under section 42 (failure to comply with a petroleum-related requirement).
- (2) An enforcement notice is a notice which—
- (a) specifies the petroleum-related requirement in question,
  - (b) gives details of the failure to comply with the requirement,
  - (c) informs the person or persons to whom the notice is given that the person or persons must comply with—
    - (i) the petroleum-related requirement, and
    - (ii) any directions included in the notice as mentioned in subsection (3), before the end of the period specified in the notice.
- (3) The notice may include directions as to the measures to be taken for the purposes of compliance with the petroleum-related requirement.
- (4) Requirements imposed by directions included in an enforcement notice as mentioned in subsection (3) are sanctionable in accordance with this Chapter.

*Status: Point in time view as at 01/10/2016. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
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**Commencement Information**

**I20** S. 43 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**44 Financial penalty notices**

- (1) This section and sections 45 and 46 contain provision about financial penalty notices which may be given under section 42 (failure to comply with a petroleum-related requirement).
- (2) A financial penalty notice is notice which—
  - (a) specifies the petroleum-related requirement in question,
  - (b) gives details of the failure to comply with the requirement,
  - (c) informs the person or persons to whom the notice is given that the person or persons must—
    - (i) comply with the petroleum-related requirement before the end of a period specified in the notice, in a case where it is appropriate to require such compliance and the failure to comply with the requirement has not already been remedied at the time the notice is given, and
    - (ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.
- (3) The period specified under subsection (2)(c)(ii) must not end earlier than the end of the period of 28 days beginning with the day on which the financial penalty notice was given.

**Commencement Information**

**I21** S. 44 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**45 Amount of financial penalty**

- (1) The financial penalty payable under a financial penalty notice in respect of a failure to comply with a petroleum-related requirement (whether payable by one person, or jointly by two or more persons) must not exceed £1 million.
- (2) The OGA must—
  - (a) issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice, and
  - (b) have regard to the guidance when determining the amount of the penalty in any particular case.
- (3) The OGA may from time to time review the guidance and, if it considers appropriate, revise it.
- (4) Before issuing or revising guidance under this section, the OGA must consult such persons as it considers appropriate.

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- (5) The OGA must lay any guidance issued under this section, and any revision of it, before each House of Parliament.
- (6) The OGA must publish any guidance issued under this section, and any revision of it, in such manner as the OGA considers appropriate.
- (7) The Secretary of State may by regulations amend subsection (1) to change the amount specified to an amount not exceeding £5 million.

#### Commencement Information

**I22** S. 45 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### 46 Payment of financial penalty

- (1) If a financial penalty notice is given jointly to two or more persons, those persons are jointly and severally liable to pay the financial penalty under it.
- (2) A financial penalty payable under a financial penalty notice is to be recoverable as a civil debt if it is not paid before the end of the period specified under section 44(2)(c)(ii).
- (3) Money received by the OGA under a financial penalty notice must be paid into the Consolidated Fund.

#### Commencement Information

**I23** S. 46 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### 47 Revocation notices

- (1) This section contains provision about revocation notices which may be given under section 42 (failure to comply with a petroleum-related requirement).
- (2) A revocation notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on a licensee in that capacity.
- (3) Where two or more persons are the licensee in respect of a petroleum licence, the revocation notice may be given jointly to some or all of those persons.
- (4) A revocation notice is a notice which—
  - (a) specifies the petroleum-related requirement in question,
  - (b) gives details of the failure to comply with the requirement,
  - (c) informs the person or persons to whom the notice is given that the petroleum licence held by that person or those persons is to be revoked in relation to that person, or those persons, on the date specified in the notice (“the revocation date”).
- (5) The revocation date must not be earlier than the end of the period of 28 days beginning with the day on which the revocation notice was given.

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- (6) A revocation notice may not be given in circumstances where the licence to be revoked in accordance with the notice is one which, on the date the notice is given, the OGA would not have the power to grant.
- (7) Where a licence is revoked in relation to a person in accordance with a revocation notice—
  - (a) the rights granted to the person by the licence cease on the revocation date;
  - (b) the revocation does not affect any obligation or liability imposed on or incurred by the person under the terms and conditions of the licence;
  - (c) the terms and conditions of the licence apply as if the licence had been revoked in accordance with those terms and conditions, subject to section 56(2).
- (8) Where two or more persons are the licensee in respect of a petroleum licence and a revocation notice is given in relation to some of those persons, but not in relation to others (the “continuing licence holders”), the OGA must inform the continuing licence holders that—
  - (a) the revocation notice has been given, and
  - (b) the licence will continue to have effect in relation to them following the revocation date.

#### **Commencement Information**

**I24** S. 47 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## **48 Operator removal notices**

- (1) This section contains provision about operator removal notices which may be given under section 42 (failure to comply with a petroleum-related requirement).
- (2) An operator removal notice may be given only in respect of a failure to comply with a petroleum-related requirement imposed on an operator under a petroleum licence in that capacity.
- (3) An operator removal notice is a notice which—
  - (a) specifies the petroleum-related requirement;
  - (b) gives details of the failure to comply with the requirement;
  - (c) informs the operator to whom it is given that, with effect from a date specified in the notice (“the removal date”), the licensee under whose licence the operator operates (“the relevant licensee”) is to be required to remove the operator (see subsection (5)).
- (4) The OGA must—
  - (a) give a copy of the operator removal notice to the relevant licensee, and
  - (b) require the relevant licensee to remove the operator with effect from the removal date.
- (5) Where a licensee is required to remove an operator from a specified date, the licensee must ensure that, with effect from that date, the operator does not exercise any function of organising or supervising any of the operations of searching for, boring for, or getting petroleum in pursuance of the licensee's petroleum licence.

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- (6) The removal date must not be earlier than the end of the period of 28 days beginning with the day on which the operator removal notice was given.
- (7) An operator removal notice may not be given in circumstances where the licence under which the operator operates is one which, on the date the notice is given, the OGA would not have the power to grant.
- (8) A requirement imposed on a licensee under subsection (4)(b) is sanctionable in accordance with this Chapter.
- (9) In this Chapter, “operator under a petroleum licence” has the same meaning as in Part 1A of the Petroleum Act 1998 (see section 9I of that Act).

#### **Commencement Information**

**I25** S. 48 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### *Sanction warning notices*

#### **49 Duty of OGA to give sanction warning notices**

- (1) This section applies where the OGA proposes to give a sanction notice in respect of a failure to comply with a petroleum-related requirement.
- (2) The OGA must give a sanction warning notice in respect of the petroleum-related requirement to—
  - (a) the person or persons to whom it proposes to give a sanction notice, and
  - (b) where it proposes to give an operator removal notice, the relevant licensee (see section 48(3)(c)).
- (3) A sanction warning notice, in respect of a petroleum-related requirement, is a notice which—
  - (a) specifies the petroleum-related requirement,
  - (b) informs the person or persons to whom it is given that the OGA proposes to give a sanction notice in respect of a failure to comply with the requirement,
  - (c) gives details of the failure to comply with the petroleum-related requirement,
  - (d) informs the person or persons to whom it is given that the person or persons may, within the period specified in the notice (“the representations period”), make representations to the OGA in relation to the matters dealt with in the notice.
- (4) The representations period is to be such period as the OGA considers appropriate in the circumstances.
- (5) Subsections (6) and (7) apply where the OGA gives a sanction warning notice to a person or persons in respect of a petroleum-related requirement.
- (6) The OGA must not give a sanction notice to the person or persons in respect of a failure to comply with the requirement until after the end of the representations period specified in the sanction warning notice.
- (7) Having regard to representations made during the representations period specified in the sanction warning notice, the OGA may decide—

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- (a) to give the person or persons a sanction notice in respect of the failure to comply with the requirement detailed in the sanction warning notice under subsection (3)(c),
- (b) to give the person or persons a sanction notice in respect of a failure to comply with the requirement which differs from the failure detailed in the sanction warning notice under subsection (3)(c), or
- (c) not to give the person or persons a sanction notice in respect of a failure to comply with the requirement.

**Commencement Information**

**I26** S. 49 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Appeals*

**50 Appeals in relation to sanction notices**

- (1) Where a sanction notice is given under this Chapter in respect of a failure to comply with a petroleum-related requirement, an appeal may be made—
  - (a) under section 51 (on the grounds that there was no such failure to comply);
  - (b) under section 52 (against the sanction imposed by the notice).
- (2) Where an appeal is made in relation to a sanction notice, the notice ceases to have effect until a decision is made by the Tribunal to confirm, vary or cancel the notice.
- (3) Where, on an appeal made in relation to a sanction notice—
  - (a) the Tribunal makes a decision to confirm or vary the notice, and
  - (b) an appeal is or may be made in relation to that decision,
 the Tribunal, or the Upper Tribunal, may further suspend the effect of the notice pending a decision which disposes of proceedings on such an appeal.

**Commencement Information**

**I27** S. 50 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**51 Appeals against finding of failure to comply**

- (1) This section applies where a sanction notice is given in respect of a failure to comply with a petroleum-related requirement.
- (2) An appeal may be made to the Tribunal by the person, or by any of the persons, to whom the notice was given, on the grounds that the person, or persons, did not fail to comply with the petroleum-related requirement.
- (3) On an appeal under this section, the Tribunal may confirm or cancel the sanction notice.
- (4) Where sanction notices are given on more than one occasion in respect of the same failure to comply with a petroleum-related requirement—

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- (a) an appeal under this section may be made only in relation to the sanction notice, or any of the sanction notices, given on the first of those occasions, and
- (b) appeals in relation to sanction notices given on subsequent occasions in respect of that failure to comply may be made only under section 52 (appeals against sanction imposed).

#### **Commencement Information**

**I28** S. 51 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## **52 Appeals against sanction imposed**

- (1) This section applies where a sanction notice is given in respect of a failure to comply with a petroleum-related requirement.
- (2) An appeal may be made to the Tribunal—
  - (a) by the person, or by any of the persons, to whom the notice was given, and
  - (b) in the case of an operator removal notice under section 48, by the licensee under whose licence the operator operates,against any of the decisions of the OGA mentioned in subsection (3) (as to the sanction imposed by the notice) on the grounds mentioned in subsection (4).
- (3) Those decisions are—
  - (a) in a case where an enforcement notice has been given, the decision as to—
    - (i) the measures that are required to be taken for the purposes of compliance with the petroleum-related requirement, or
    - (ii) the period for compliance with the petroleum-related requirement;
  - (b) in a case where a financial penalty notice has been given, the decision—
    - (i) to impose a financial penalty, or
    - (ii) as to the amount of the financial penalty imposed;
  - (c) in a case where a revocation of licence notice has been given, the decision to revoke the licence, whether in relation to some or all of the persons to whom it was granted;
  - (d) in a case where an operator removal notice has been given, the decision to require the removal of the operator.
- (4) The grounds are that the decision of the OGA—
  - (a) was unreasonable, or
  - (b) was not within the powers of the OGA.
- (5) On an appeal under this section against a decision made in relation to an enforcement notice, the Tribunal may—
  - (a) confirm or quash the decision, in the case of a decision as mentioned in subsection (3)(a)(i) (remedial action), or
  - (b) confirm or vary the decision, in the case of a decision as mentioned in subsection (3)(a)(ii) (period for compliance),and confirm, vary or cancel the enforcement notice accordingly
- (6) On an appeal under this section against a decision made in relation to a financial penalty notice, the Tribunal may—

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- (a) confirm or quash the decision, in the case of a decision as mentioned in subsection (3)(b)(i) (imposition of penalty), or
  - (b) confirm or vary the decision, in the case of a decision as mentioned in subsection (3)(b)(ii) (amount of penalty),
- and confirm, vary or cancel the financial penalty notice accordingly.
- (7) The Tribunal must have regard to any guidance issued by the OGA under section 45(2) (a) when deciding whether to confirm or vary a decision as to the amount of a financial penalty under subsection (6)(b).
- (8) On an appeal under this section against a decision to revoke a licence or to require the removal of an operator the Tribunal may—
- (a) confirm the decision,
  - (b) vary the decision by changing the revocation date or the removal date, as the case may be, or
  - (c) quash the decision, and
- confirm, vary or cancel the sanction notice in question accordingly.
- (9) Where a decision is quashed under subsection (5)(a), (6)(a) or (8), the Tribunal may remit the decision to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.

**Commencement Information**

**I29** S. 52 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Supplementary*

**53 Publication of details of sanctions**

- (1) The OGA may publish details of any sanction notice given in accordance with this Chapter.
- (2) But the OGA may not publish anything that, in the OGA's opinion—
- (a) is commercially sensitive,
  - (b) is not in the public interest to publish, or
  - (c) is otherwise not appropriate for publication.
- (3) If, after details of a sanction notice are published by the OGA, the sanction notice is—
- (a) cancelled on appeal, or
  - (b) withdrawn under section 55,
- the OGA must publish details of the cancellation or withdrawal.

**Commencement Information**

**I30** S. 53 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)



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## 54 Subsequent sanction notices

- (1) This section applies where the OGA gives a sanction notice in respect of a particular failure to comply with a petroleum-related requirement (whether the notice is given alone or at the same time as another type of sanction notice).
- (2) If the sanction notice given is a revocation notice or an operator removal notice, no further sanction notices may be given in respect of the failure to comply.
- (3) If the sanction notice given is a financial penalty notice which does not require compliance with the petroleum-related requirement, no further sanction notices may be given in respect of the failure to comply.
- (4) Subsection (5) applies if the sanction notice given is—
  - (a) an enforcement notice, or
  - (b) a financial penalty notice which requires compliance with the petroleum-related requirement.
- (5) No further sanction notices may be given in respect of the failure to comply before the end of the period specified under section 43(2)(c) or 44(2)(c)(i), as the case may be (period for compliance with petroleum-related requirement).

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### Commencement Information

**I31** S. 54 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## 55 Withdrawal of sanction notices

- (1) The OGA may, at any time after giving a sanction notice, withdraw the sanction notice.
- (2) If a sanction notice is withdrawn by the OGA—
  - (a) the notice ceases to have effect, and
  - (b) the OGA must notify the following persons of the withdrawal of the notice—
    - (i) the person or persons to whom the notice was given,
    - (ii) in the case of a revocation notice, the persons who were required to be informed of the giving of the revocation notice under section 47(8), and
    - (iii) in the case of an operator removal notice, the licensee under whose licence the operator operates.

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### Commencement Information

**I32** S. 55 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## 56 Alternative means of enforcement

- (1) Where the OGA gives a sanction notice to an offshore licensee in respect of a failure to comply with a petroleum-related requirement, the matter is to be dealt with in accordance with this Chapter.
- (2) Any requirement under the licensee's licence to deal with the matter in a certain way (including by arbitration) does not apply in respect of that failure to comply.

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*Changes to legislation: There are currently no known outstanding effects  
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**Commencement Information**

**I33** S. 56 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Information*

**57 Sanctions: information powers**

- (1) This section applies for the purposes of an investigation by the OGA which—
  - (a) concerns whether a person has failed to comply with a petroleum-related requirement, and
  - (b) is carried out for the purpose of enabling the OGA to decide whether to give the person a sanction notice, or on what terms a sanction notice should be given to the person.
- (2) The OGA may by notice in writing, for the purposes of that investigation, require the person to provide specified documents or other information.
- (3) A requirement under subsection (2) only applies to the extent that the documents or information requested are—
  - (a) documents that are in the person's possession or control, or
  - (b) other information that is in the person's possession or control.
- (4) A requirement imposed by a notice under subsection (2) is sanctionable in accordance with this Chapter.
- (5) The documents or information requested—
  - (a) may include documents or information held in any form (including in electronic form);
  - (b) may include documents or information that may be regarded as commercially sensitive;
  - (c) may not include items that are subject to legal privilege.
- (6) The notice must specify—
  - (a) to whom the information is to be provided;
  - (b) where it is to be provided;
  - (c) when it is to be provided;
  - (d) the form and manner in which it is to be provided.
- (7) In this section, “specified” in a notice, means specified, or of a description specified, in the notice.

**Commencement Information**

**I34** S. 57 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**58 Appeals against information requests**

- (1) A person to whom a notice is given under section 57 may appeal against it to the Tribunal on the grounds that—

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- (a) the giving of the notice is not within the powers of the OGA, or
  - (b) the length of time given to comply with the notice is unreasonable.
- (2) On an appeal under this section the Tribunal may—
- (a) confirm, vary or cancel the notice, or
  - (b) remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.

**Commencement Information**

**I35** S. 58 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*The OGA's procedures*

**59 Procedure for enforcement decisions**

- (1) The OGA must determine the procedure that it proposes to follow in relation to enforcement decisions.
- (2) That procedure must be designed to secure, among other things, that an enforcement decision is taken—
  - (a) by a person falling within subsection (3), or
  - (b) by two or more persons, each of whom falls within subsection (3).
- (3) A person falls within this subsection if the person was not directly involved in establishing the evidence on which the enforcement decision is based.
- (4) The OGA must issue a statement of its proposals.
- (5) The statement must be published in a way appearing to the OGA to be best calculated to bring the statement to the attention of the public.
- (6) When the OGA takes an enforcement decision, the OGA must follow its stated procedure.
- (7) If the OGA changes its procedure in a material way, it must publish a revised statement.
- (8) A failure of the OGA in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of an enforcement decision taken in that case.
- (9) But subsection (8) does not prevent the Tribunal from taking into account any such failure in considering an appeal under section 51 or 52 in relation to a sanction notice.
- (10) In this section “enforcement decision” means either of the following—
  - (a) a decision to give a sanction notice in respect of a failure to comply with a petroleum-related requirement;
  - (b) a decision as to the details of the sanction to be imposed by the notice.

**Commencement Information**

**I36** S. 59 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

*Status: Point in time view as at 01/10/2016. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
for the Energy Act 2016, PART 2. (See end of Document for details)*

### *Interpretation*

#### **60 Sanctions: interpretation**

In this Chapter—

- “operator under a petroleum licence” has the meaning given in section 48(9);
- “petroleum-related requirement” has the meaning given in section 42(3);
- “sanction notice” has the meaning given in section 42(4).

#### **Commencement Information**

**I37** S. 60 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## **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.

#### **Commencement Information**

**I38** S. 61 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

#### **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.
- (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).

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**Changes to legislation:** There are currently no known outstanding effects for the Energy Act 2016, PART 2. (See end of Document for details)

### Commencement Information

**I39** S. 62 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

## Permitted disclosures

### 63 Disclosure by OGA to certain persons

- (1) Section 61 does not prohibit a disclosure of protected material by the OGA which—
- is made to a person mentioned in column 1 of the table below,
  - is made for the purpose of facilitating the carrying out of that person's functions, and
  - 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—
- is a disclosure of protected material obtained by it under Chapter 3 (information and samples),
  - 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.

**Commencement Information**

**I40** S. 63 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**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.

**Commencement Information**

**I41** S. 64 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

**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

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- (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).

#### **Commencement Information**

**I42** S. 65 in force at 1.10.2016 by S.I. 2016/920, reg. 2(b)

### **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).

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*Changes to legislation: There are currently no known outstanding effects  
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**Commencement Information**

**I43** S. 66(1)(2)(5)-(7) in force at 1.10.2016 by S.I. 2016/920, **reg. 2(b)**

**I44** S. 66(3)(4) in force at 24.5.2016 by S.I. 2016/602, **reg. 2(c)**

**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.

**Commencement Information**

**I45** S. 67 in force at 1.10.2016 by S.I. 2016/920, **reg. 2(b)**

**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.

**Commencement Information**

**I46** S. 68 in force at 1.10.2016 by S.I. 2016/920, **reg. 2(b)**

**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.

**Commencement Information**

**I47** S. 69 in force at 1.10.2016 by S.I. 2016/920, **reg. 2(b)**



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2016, PART 2.