

Status: Point in time view as at 12/05/2016.
Changes to legislation: There are currently no known outstanding effects for the Energy Act 2016. (See end of Document for details)

VALID FROM 01/10/2016

SCHEDULES

SCHEDULE 1

Section 2

TRANSFER OF FUNCTIONS TO THE OGA

PART 1

PRIMARY LEGISLATION

Energy Act 1976

- 1 The Energy Act 1976 is amended as follows.
- 2 (1) Section 12 (disposal of gas by flaring, etc) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Disposal of gas by flaring, or by releasing it unignited into the atmosphere, does not require consent under this section if consent—
- (a) is required under section 12A (disposal of gas by flaring etc: OGA's functions), or
- (b) would be required under that section but for subsection (3) of that section.”
- (3) At the end of the heading insert “ : Secretary of State's functions ”.
- 3 After section 12 insert—
- “12A Disposal of gas by flaring, etc: OGA's functions**
- (1) The OGA's consent is required for natural gas to be disposed of (whether at source or elsewhere)—
- (a) by flaring, or by releasing it unignited into the atmosphere, from anything that for the purposes of section 82(1) of the Energy Act 2011 is a relevant oil processing facility or a relevant gas processing facility, or
- (b) by releasing it unignited into the atmosphere in connection with activities carried out under a licence granted under—
- (i) section 3 of the Petroleum Act 1998, or
- (ii) section 2 of the Petroleum (Production) Act 1934.
- (2) This section applies to all natural gas of the United Kingdom, whether obtained there or in territorial waters, or in areas designated under the Continental Shelf Act 1964, except gas conveyed through pipes to

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premises by a gas transporter within the meaning of Part 1 of the Gas Act 1986.

- (3) Disposal of gas does not require consent under this section if—
- (a) it is necessary in order to reduce or avoid the risk of injury to any person,
 - (b) the risk could not reasonably have been foreseen in time to reduce or avoid it otherwise than by means of the disposal, and
 - (c) it was not reasonably practicable to obtain consent under this section in the time available.
- (4) A person who disposes of gas in cases where the consent of the OGA would have been required but for subsection (3) must inform the OGA of that disposal as soon as practicable after the disposal takes place.
- (5) The OGA's consent under this section—
- (a) may be given only by reference to particular cases, and
 - (b) may be made subject to conditions which may, in particular, be framed by reference to the description or origin of the gas, or the quantities to be disposed of.

12B Sanctions for failure to comply with section 12A

- (1) The requirements imposed by subsections (1) and (4) of section 12A are to be treated for the purposes of Chapter 5 of Part 2 of the Energy Act 2016 (power of the OGA to impose sanctions) as petroleum-related requirements.
- (2) But the OGA may not give an enforcement notice, a revocation notice or an operator removal notice under that Chapter by virtue of this section.”

4 (1) Section 18 (administration, enforcement and offences) is amended as follows.

(2) In subsection (2)(a), for “9 and 12” substitute “ 9, 12 and 12A ”.

(3) In subsection (3)—

- (a) in paragraph (a), for “9 or 12” substitute “ 9, 12 or 12A ”, and
- (b) in paragraph (b), after “Secretary of State” insert “ or the OGA ”.

5 In section 21 (interpretation), after the definition of “natural gas” insert—

““the OGA” means the Oil and Gas Authority;”.

Petroleum Act 1998

6 The Petroleum Act 1998 is amended as follows.

7 In section 9A(2) (principal objective and the strategy), for “Secretary of State” substitute “ OGA ”.

8 In section 9B (exercise of certain functions)—

- (a) for “Secretary of State” (including in the heading) substitute “ OGA ”,
- (b) in paragraph (b), omit the words from “to the extent” to the end, and
- (c) after paragraph (c) insert—

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“(ca) exercising functions under Part 2 of the Energy Act 2016.”.

9 After section 9B insert—

“9BA Exercise of certain functions of the Secretary of State

(1) The Secretary of State must act in accordance with the current strategy or strategies when exercising the functions mentioned in subsection (2).

(2) Those functions are functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines (including the reduction of such costs by means of the timing of measures proposed in abandonment programmes and by the inclusion in such programmes of provision for collaboration with other persons).”

10 Omit section 9D.

11 (1) Section 9E (security and resilience functions) is amended as follows.

(2) In subsection (1), for “Secretary of State's” substitute “OGA's”.

(3) In subsection (2), for “Secretary of State” substitute “ OGA ”.

(4) In the heading, for “Secretary of State's” substitute “OGA's”.

12 (1) Section 9F (producing and revising a strategy) is amended as follows.

(2) Omit subsection (1).

(3) For subsection (2) substitute—

“(2) After the first strategy has been produced, the OGA may—

(a) produce a new strategy, or

(b) revise a current strategy,

whenever the OGA thinks appropriate.”

(4) In subsection (3), for “Secretary of State” substitute “ OGA ”.

(5) Omit subsection (4).

13 (1) Section 9G (procedure for producing and revising a strategy) is amended as follows.

(2) In subsection (1)—

(a) omit paragraph (a), and

(b) for “Secretary of State” substitute “ OGA ”.

(3) In subsection (2), for “Secretary of State” (in both places) substitute “ OGA ”.

(4) For subsection (3) substitute—

“(3) If, after complying with that duty, the OGA decides to proceed with the draft (in its original form or with modifications), the OGA must send the draft to the Secretary of State.

(3A) The Secretary of State must either—

(a) lay a copy of the draft before each House of Parliament, or

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- (b) return the draft to the OGA and publish the Secretary of State's reasons for doing so.
- (3B) The Secretary of State may return the draft to the OGA only if the Secretary of State thinks that—
- (a) the OGA has failed to comply with subsection (2), or
- (b) the strategy will not enable the principal objective to be met.”
- (5) In subsection (4), for “The Secretary of State” substitute “ Where a copy of the draft has been laid in accordance with subsection (3A)(a), the OGA ”.
- (6) In subsection (5), for “Secretary of State” substitute “ OGA ”.
- (7) In subsection (6), for “Secretary of State” substitute “ OGA ”.
- 14 In section 14(1) (construction and use of pipelines), for “Secretary of State” substitute “ OGA ”.
- 15 In section 15 (authorisations), for “Secretary of State” (in each place) substitute “ OGA ”.
- 16 In section 16 (compulsory modifications of pipelines), for “Secretary of State” (in each place) substitute “ OGA ”.
- 17 (1) Section 17 (acquisition of rights to use pipelines) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “ OGA ”, and
- (b) for “he” substitute “ it ”.
- (4) In subsection (3)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
- (b) for “he” substitute “ it ”.
- (5) In subsection (5), for “Secretary of State” substitute “ OGA ”.
- (6) In subsection (7), for “Secretary of State” substitute “ OGA ”.
- (7) In subsection (8)—
- (a) for “Secretary of State” substitute “ OGA ”, and
- (b) for “he” substitute “ it ”.
- 18 (1) Section 17F (acquisition of rights to use controlled petroleum pipelines) is amended as follows.
- (2) In subsection (2), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (5), for “Secretary of State” substitute “ OGA ”.
- (4) In subsection (6)—
- (a) for “Secretary of State” substitute “ OGA ”, and
- (b) for “he” substitute “ it ”.
- (5) In subsection (7)—
- (a) for “Secretary of State” (in each place) substitute “ OGA ”, and
- (b) for “he” substitute “ it ”.

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- (6) In subsection (8), for “Secretary of State” substitute “ OGA ”.
- (7) In subsection (9)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
 - (b) for “he” substitute “ it ”.
- (8) In subsection (10), for “Secretary of State” substitute “ OGA ”.
- 19 (1) Section 17G (section 17F: supplemental) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
 - (b) for “himself” substitute “ itself ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “ OGA ”, and
 - (b) for “him” substitute “ it ”.
- (4) In subsection (4)—
- (a) for “Secretary of State” substitute “ OGA ”,
 - (b) for “he” substitute “ it ”, and
 - (c) for “him” substitute “ it ”.
- (5) In subsection (6), for “Secretary of State” substitute “ OGA ”.
- (6) In subsection (7)—
- (a) for “Secretary of State” substitute “ OGA ”, and
 - (b) for “he” substitute “ it ”.
- (7) In subsection (8), for “Secretary of State” substitute “ OGA ”.
- 20 (1) Section 17GA (controlled petroleum pipeline subject to Norwegian access system) is amended as follows.
- (2) In subsection (2), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (5)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
 - (b) in paragraph (a), for “he” substitute “ it ”.
- (4) In subsection (6), for “Secretary of State” substitute “ OGA ”.
- (5) In subsection (7), for “Secretary of State” substitute “ OGA ”.
- (6) In subsection (8), for “he is obliged to do so under the Framework Agreement, the Secretary of State shall make his” substitute “ the Framework Agreement so requires, the OGA shall make its ”.
- 21 (1) Section 17GB (section 17GA: supplemental) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State” substitute “ OGA ”, and
 - (b) for “him” substitute “ it ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “ OGA ”,

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- (b) for “he is required to do so” substitute “ the disclosure is required ”, and
(c) omit “on him”.
- 22 (1) Section 18 (termination of authorisations) is amended as follows.
- (2) In subsection (1)(b), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” substitute “ OGA ”, and
(b) for “he” substitute “ it ”.
- (4) In subsection (3)(b), for “Secretary of State” substitute “ OGA ”.
- (5) In subsection (4)—
- (a) for “Secretary of State” substitute “ OGA ”, and
(b) for “he” substitute “ it ”.
- (6) In subsection (5)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
(b) for “he” (in each place) substitute “ it ”.
- (7) In subsection (6), for “Secretary of State” (in both places) substitute “ OGA ”.
- (8) In subsection (7)—
- (a) for “Secretary of State” substitute “ OGA ”, and
(b) for “him” substitute “ it ”.
- (9) In subsection (8), for “Secretary of State” (in both places) substitute “ OGA ”.
- (10) In subsection (9)—
- (a) for “Secretary of State” substitute “ OGA ”, and
(b) for “he” substitute “ it ”.
- 23 (1) Section 19 (vesting of pipelines on termination or subsequent issue of authorisations) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (2)—
- (a) for “Secretary of State” (in each place) substitute “ OGA ”, and
(b) for “he” substitute “ the OGA ”.
- 24 (1) Section 20 (inspectors etc) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The OGA may appoint, as inspectors to assist it in the execution of this Part of this Act, such number of persons appearing to it to be qualified for the purpose as it considers appropriate from time to time.”
- (3) In subsection (2)(a)(ii), for “Secretary of State” substitute “ OGA ”.
- 25 (1) Section 21 (enforcement) is amended as follows.
- (2) In subsection (1)(c), for “Secretary of State” substitute “ OGA ”.
- (3) In subsection (2), for “Secretary of State” substitute “ OGA ”.

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- (4) In subsection (3), for “Secretary of State” substitute “ OGA ”.
- (5) In subsection (4)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
 - (b) for “he” substitute “ it ”.
- (6) In subsection (5), for “Secretary of State” (in each place) substitute “ OGA ”.
- 26 In section 25 (orders and regulations), for subsection (1) substitute—
- “(1) Before making any order or regulations under this Part of this Act, the Secretary of State must consult—
- (a) the OGA, and
 - (b) in the case of regulations, such organisations in the United Kingdom as the Secretary of State considers are representative of persons who will be affected by the regulations.”
- 27 In section 28(1) (interpretation of Part 3), for the definition of “heard” substitute—
- ““heard” means—
- (a) in relation to section 27, heard on behalf of the Secretary of State by a person appointed by the Secretary of State for the purpose, and
 - (b) otherwise, heard on behalf of the OGA by a person appointed by the OGA for the purpose.””
- 28 In section 45A (abandoned wells), for “Secretary of State” (in each place) substitute “ OGA ”.
- 29 In section 46(1) (Northern Ireland and Isle of Man shares of petroleum revenue), for “Secretary of State” (in each place) substitute “ OGA ”.
- 30 (1) Section 47A (factors to take into account) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State” (in both places) substitute “ OGA ”, and
 - (b) for “him” substitute “ it ”.
- (3) In subsection (2A), for “Secretary of State” substitute “ OGA ”.
- (4) In the heading, for “Secretary of State” substitute “ OGA ”.
- 31 In section 48 (interpretation), after subsection (1) insert—
- “(1A) In this Act “the OGA” means the Oil and Gas Authority.”
- 32 (1) Schedule 2 (authorisations) is amended as follows.
- (2) Omit paragraph 1(2).
- (3) In paragraph 2—
- (a) for “Secretary of State” (in each place) substitute “ OGA ”, and
 - (b) in paragraph (b), for “his” substitute “ its ”.
- (4) In paragraph 3—
- (a) for “Secretary of State” (in each place) substitute “ OGA ”,

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- (b) for “his” substitute “ its ”, and
(c) for “he” substitute “ it ”.
- 33 (1) Paragraph 4 is amended as follows.
- (2) In sub-paragraph (1)—
(a) for “Secretary of State” substitute “ OGA ”,
(b) for “his” substitute “ its ”, and
(c) for “him” substitute “ it ”.
- (3) In sub-paragraph (2)—
(a) for “Secretary of State” (in each place) substitute “ OGA ”, and
(b) for “his” substitute “ its ”.
- (4) In sub-paragraph (3)—
(a) for “Secretary of State” substitute “ OGA ”,
(b) for “his” substitute “ its ”, and
(c) for “he” substitute “ it ”.
- 34 (1) Paragraph 5 is amended as follows.
- (2) In sub-paragraph (1)—
(a) for “Secretary of State” (in both places) substitute “ OGA ”,
(b) for “his opinion he” substitute “ its opinion it ”, and
(c) for “he thinks” substitute “ it thinks ”.
- (3) In sub-paragraph (2)—
(a) for “Secretary of State” (in both places) substitute “ OGA ”, and
(b) for “his opinion, he” substitute “ its opinion, it ”.
- 35 In paragraph 6, for “Secretary of State” (in both places) substitute “ OGA ”.
- 36 In paragraph 7—
(a) for “Secretary of State” (in each place) substitute “ OGA ”, and
(b) for “he” substitute “ it ”.
- 37 (1) Paragraph 8 is amended as follows.
- (2) In sub-paragraph (1)—
(a) for “Secretary of State” (in both places) substitute “ OGA ”, and
(b) for “he” substitute “ it ”.
- (3) In sub-paragraph (2)—
(a) for “Secretary of State” substitute “ OGA ”,
(b) for “he” (in the first place) substitute “ it ”, and
(c) in paragraph (b), for the words following “notice in” substitute “ such manner as it considers appropriate ”.
- 38 (1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “ OGA ”.
- (3) In sub-paragraph (2), for “Secretary of State” (in each place) substitute “ OGA ”.
- (4) For sub-paragraph (3) substitute—

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“(3) The OGA shall publish a copy of the notice in such manner as it considers appropriate.”

39

In paragraph 10—

- (a) for “Secretary of State” (in each place) substitute “ OGA ”, and
- (b) for the words from “he shall” to “which he” substitute “ it shall publish, in such manner as it ”.

Energy Act 2004

40

(1) Section 188 of the Energy Act 2004 (power to impose charges to fund energy functions) is amended as follows.

(2) In subsection (7), omit paragraphs (b), (h), (m) and (n).

(3) In subsection (8), omit paragraphs (da), (db) and (f).

(4) In subsection (12), in the substituted subsection (7A)(b), for “ mentioned in subsection (8)(db) ” (in both places) substitute “ for which a licence under Chapter 3 of Part 1 of the Energy Act 2008 is required ”.

Energy Act 2008

41

The Energy Act 2008 is amended as follows.

42

In section 4(1) (licences), for “Secretary of State” substitute “ OGA ”.

43

(1) Section 5 (applications) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) In that subsection, omit paragraph (e).

(4) After that subsection insert—

“(2) Before making any regulations under this section, the Secretary of State must consult the OGA.”

44

In section 6 (terms and conditions), for “Secretary of State” (in each place) substitute “ OGA ”.

45

(1) Section 7 (model clauses) is amended as follows.

(2) In subsection (3), for “Secretary of State” substitute “ OGA ”.

(3) After that subsection insert—

“(4) Before making any regulations under this section, the Secretary of State must consult the OGA.”

46

(1) Section 9 (offences relating to licences) is amended as follows.

(2) In subsection (1)(a), for “Secretary of State” substitute “ OGA ”.

(3) In subsection (3)(b), for “Secretary of State” substitute “ OGA ”.

(4) In subsection (4)(b), for “Secretary of State” substitute “ OGA ”.

47

In section 10 (power of direction), for “Secretary of State” (in each place, including in the heading) substitute “ OGA ”.

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- 48 In section 12 (injunctions restraining breaches of section 2(1)), for “Secretary of State” (in each place) substitute “ OGA ”.
- 49 (1) Section 13 (inspectors) is amended as follows.
- (2) In subsection (1), for “Secretary of State” (in both places) substitute “ OGA ”.
- (3) Omit subsection (2).
- (4) In subsection (3)(b), for “Secretary of State” substitute “ OGA ”.
- (5) After subsection (5) insert—
- “(6) Before making any regulations under this section, the Secretary of State must consult the OGA.”
- 50 In section 14(5) (proceedings for offence created by regulations under section 13), omit paragraph (b) and the word “and” immediately before it.
- 51 In section 15 (interaction with petroleum licensing requirements), for “Secretary of State” (in each place) substitute “ OGA ”.
- 52 In section 16 (interpretation), at the end insert—
- ““the OGA” means the Oil and Gas Authority.”
- 53 In section 18(2) (licences: the licensing authority), for “Secretary of State” (in each place) substitute “ OGA ”.
- 54 In section 19 (requirements relating to grant of licences), after subsection (2) insert—
- “(2A) Where the licensing authority is the OGA—
- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA),
- (b) the Secretary of State must consult the OGA before making the regulations, and
- (c) subsection (2)(d) does not apply.”
- 55 In section 21 (content of licences: regulations), after subsection (2) insert—
- “(2A) Where the licensing authority is the OGA—
- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA), and
- (b) the Secretary of State must consult the OGA before making the regulations.”
- 56 In section 26 (injunctions restraining breaches of section 17(1)), for “Secretary of State” (in each place) substitute “ OGA ”.
- 57 (1) Section 27 (inspectors) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) The following may appoint persons to act as inspectors to assist in carrying out their respective functions under this Chapter—
- (a) the OGA,
- (b) the Scottish Ministers,
- (c) the Welsh Ministers, and

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	(d) the Department of Enterprise, Trade and Investment in Northern Ireland.
	(2) The following may make payments, by way of remuneration or otherwise, to inspectors appointed by them under this section—
	(a) the Scottish Ministers,
	(b) the Welsh Ministers, and
	(c) the Department of Enterprise, Trade and Investment in Northern Ireland.”
	(3) In subsection (3)(b), for “Secretary of State” substitute “ OGA ”.
	(4) In subsection (6)—
	(a) for “This section applies” substitute “ Subsections (3) to (5) apply ”,
	(b) for “it applies” substitute “ they apply ”, and
	(c) at the end insert “ (reading the reference to the OGA in subsection (3)(b) as a reference to the Secretary of State) ”.
	(5) Omit subsection (7).
58	In section 28(5) (proceedings for offence created by regulations under section 27), at the beginning of paragraph (b) insert “ except in the case of an offence that relates to functions of the OGA under this Chapter, ”.
59	In section 29 (requirement for public register) at the end insert—
	“(8) The OGA must provide to the Secretary of State any information held by it that is required by the Secretary of State in order to comply with the requirements imposed by this section.”
60	In section 31 (termination of licences: regulations), after subsection (3) insert—
	“(3A) Where the licensing authority is the OGA—
	(a) regulations under this section are to be made by the Secretary of State (and not by the OGA), and
	(b) the Secretary of State must consult the OGA before making the regulations.”
61	In section 33 (enhanced petroleum recovery: power to make orders), after subsection (1) insert—
	“(1A) Before making an order under subsection (1), the Secretary of State must consult the OGA.”
62	In section 35(1) (interpretation), after the definition of “offshore UK-controlled place” insert—
	““the OGA” means the Oil and Gas Authority.”
	<i>Energy Act 2011</i>
63	The Energy Act 2011 is amended as follows.
64	In section 82 (acquisition of rights to use upstream petroleum infrastructure), for “Secretary of State” (in each place) substitute “ OGA ”.

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- 65 (1) Section 83 (power to give notice under section 82(11) on own initiative) is amended as follows.
- (2) In subsection (2), for “Secretary of State may on his or her” substitute “ OGA may on its ”.
- (3) In subsection (3), for “Secretary of State” (in both places) substitute “ OGA ”.
- (4) In subsection (4), for “Secretary of State” substitute “ OGA ”.
- (5) In subsection (5)(d), for “Secretary of State” substitute “ OGA ”.
- (6) In the heading, for “Secretary of State” substitute “ OGA ”.
- 66 In section 84 (compulsory modification of upstream petroleum infrastructure), for “Secretary of State” (in each place) substitute “ OGA ”.
- 67 In section 85 (variation of notices under sections 82 and 84), for “Secretary of State” (in each place) substitute “ OGA ”.
- 68 In section 86 (publication of notices and variations), for “Secretary of State” (in each place) substitute “ OGA ”.
- 69 In section 87 (powers to require information), for “Secretary of State” (in each place, including in the heading) substitute “ OGA ”.
- 70 (1) Section 88 (enforcement) is amended as follows.
- (2) In subsection (1), for “Secretary of State” (in each place) substitute “ OGA ”.
- (3) In subsection (9), for “Secretary of State” substitute “ OGA ”.
- 71 In section 89 (minor, consequential and supplemental provision), for “Secretary of State” (in both places) substitute “ OGA ”.
- 72 In section 90(1) (interpretation), after the definition of “gas processing facility” insert—
- ““the OGA” means the Oil and Gas Authority;”.

Infrastructure Act 2015

- 73 The Infrastructure Act 2015 is amended as follows.
- 74 Omit section 42 (levy on holders of certain energy industry licences).
- 75 In section 55(4)(b) (statutory instruments subject to affirmative procedure), omit “or 42(11)”.
- 76 Omit Schedule 7 (the licensing levy).

PART 2

SECONDARY LEGISLATION

Storage of Carbon Dioxide (Licensing etc) Regulations 2010

- 77 The Storage of Carbon Dioxide (Licensing etc) Regulations 2010 (S.I. 2010/2221) are amended as follows.

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- 78 In regulation 1(3) (interpretation), in the definition of “the authority”, for “Secretary of State” substitute “ Oil and Gas Authority ”.
- 79 In regulation 3(1)(a) (applications for a licence), for “Department of Energy and Climate Change” substitute “ Oil and Gas Authority ”.
- 80 In paragraph 2(3)(a) of Schedule 1 (application for consent to close storage site), for “Department of Energy and Climate Change” substitute “ Oil and Gas Authority ”.

Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015

- 81 In regulation 2(1) (interpretation) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385), in the definition of “licensing authority”, for “Secretary of State for Energy and Climate Change” substitute “ Oil and Gas Authority ”.

SCHEDULE 2

Section 72

ABANDONMENT OF OFFSHORE INSTALLATIONS

Petroleum Act 1998

- 1 Part 4 of the Petroleum Act 1998 (abandonment of offshore installations) is amended as follows.
- 2 Before section 29 insert—

Restriction on abandonment

- “28A(1) A person to whom a notice may be given under section 29(1) in relation to an offshore installation or submarine pipeline may not abandon, or begin or continue the decommissioning of, the installation or pipeline unless an abandonment programme approved by the Secretary of State has effect in relation to the installation or pipeline.
- (2) A person who without reasonable excuse contravenes subsection (1) is guilty of an offence.”
- 3 (1) Section 29 (preparation of programmes) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The power to give a notice under subsection (1) is exercisable—
- (a) on the Secretary of State's own motion, or
- (b) at the request of any person to whom the notice may be given (whether or not the notice is given to that person).”
- (3) After subsection (2) insert—
- “(2A) A person to whom a notice under subsection (1) is given—
- (a) must consult the OGA before submitting the abandonment programme to the Secretary of State, and

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- (b) must frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (2B) When consulted under paragraph (a) of subsection (2A) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) how to comply with paragraph (b) of that subsection.”
- (4) In subsection (3), after “such” insert “ other ”.
- 4 (1) Section 32 (approval of programmes) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The modifications or conditions may (in particular) include modifications or conditions—
- (a) which are intended (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) to reduce the total cost of carrying out the programme, provided that they do not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme;
 - (b) requiring the persons who submitted the programme to carry out and publish or make available to the Secretary of State and the OGA a review of the programme and its implementation including, where relevant, recommendations as to the contents and implementation of future abandonment programmes.”
- (3) At the end insert—
- “(6) Before reaching a decision under this section the Secretary of State must—
- (a) consult the OGA, and
 - (b) take into account the cost of carrying out the programme that has been submitted and whether it is possible to reduce that cost by modifying the programme or making it subject to conditions.
- (7) When consulted under subsection (6)(a), the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether section 29(2A)(b) has been complied with and, if it has not been, modifications or conditions that would enable it to be complied with.”
- 5 In section 33 (failure to submit programme), after subsection (3) insert—
- “(3A) When preparing an abandonment programme under this section the Secretary of State must—
- (a) consult the OGA, and

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- (b) frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (3B) When consulted under paragraph (a) of subsection (3A), the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) how to comply with the requirement in paragraph (b) of that subsection.”
- 6 (1) Section 34 (revision of programmes) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) A person who makes a proposal under subsection (1) that is likely to have an effect on the cost of carrying out the programme must frame it so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be altered is kept to the minimum that is reasonably practicable in the circumstances.
- (4B) Where the Secretary of State makes a proposal under subsection (1)(a) the purpose of which is to reduce the total cost of carrying out a programme, the proposal may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.”
- (3) After subsection (7) insert—
- “(7A) If it appears to the Secretary of State that what is proposed under subsection (1) is likely to have an effect on the cost of carrying out the programme, the Secretary of State must, before making a determination under subsection (7)—
- (a) consult the OGA, and
 - (b) take that effect into account.
- (7B) When consulted under subsection (7A)(a) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether subsection (4A) applies and, if so, whether it has been complied with.”
- 7 After section 34 insert—
- “34A Amendment of programmes**
- (1) This section applies where an abandonment programme approved by the Secretary of State includes provision by virtue of which the programme may be amended.

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- (2) A person who proposes to make an amendment under such a provision that is likely to have an effect on the cost of carrying out the programme must frame the amendment so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be amended is kept to the minimum that is reasonably practicable in the circumstances.
- (3) If it appears to the person who proposes to make the amendment that subsection (2) applies, the person must consult the OGA before making the amendment.
- (4) When consulted under subsection (3) the OGA must (in particular) consider and advise on—
 - (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
 - (b) whether subsection (2) applies and, if so, whether it has been complied with.
- (5) Any person who has the function of approving amendments made under a provision mentioned in subsection (1) must, when exercising the function, take into account the effect of the proposed amendment on the cost of carrying out the programme.”

8 After section 36 insert—

“36A Reduction of costs of carrying out programmes

- (1) This section applies where an abandonment programme approved by the Secretary of State has effect in relation to an installation or pipeline.
- (2) The Secretary of State may, for the purpose of reducing the total cost of carrying out the programme, by written notice require any person who submitted the programme to take, or refrain from taking, action of a description specified in the notice.
- (3) The notice may, in particular, require—
 - (a) changes to the times at which the measures proposed in the programme are to be carried out;
 - (b) the persons who are under a duty to secure that the programme is carried out to collaborate with other persons.
- (4) The programme, and any condition to which it is subject, has effect subject to any notice given under this section.
- (5) A notice given under this section may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.
- (6) The Secretary of State may not give a notice to a person under this section without first giving the person an opportunity to make written representation as to whether the notice should be given.
- (7) A person to whom a notice is given under this section who without reasonable excuse fails to comply with the notice is guilty of an offence.

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- (8) If a notice under this section is not complied with, the Secretary of State may—
- (a) do anything necessary to give effect to the notice, and
 - (b) recover from the person to whom the notice was given any expenditure incurred under paragraph (a).
- (9) A person liable to pay any sum to the Secretary of State by virtue of subsection (8) must also pay interest on that sum for the period beginning with the day on which the Secretary of State notified the person of the sum payable and ending with the date of payment.
- (10) The rate of interest payable in accordance with subsection (9) is a rate determined by the Secretary of State as comparable with commercial rates.”
- 9 In section 37 (default in carrying out programmes), after subsection (1) insert—
- “(1A) If it appears to the Secretary of State that the proposed remedial action is likely to have an effect on the cost of carrying out the programme, the Secretary of State must—
- (a) consult the OGA before giving a notice under subsection (1), and
 - (b) take that effect into account when deciding whether to give the notice.
- (1B) When consulted under subsection (1A)(a), the OGA must consider and advise on the likely effect of the proposed remedial action on the cost of carrying out the programme.”
- 10 In section 40 (offences: penalties)—
- (a) after “section” insert “ 28A, ”, and
 - (b) after “33,” insert “ 36A, ”.
- 11 (1) Section 41 (offences: general) is amended as follows.
- (2) In subsection (1)—
- (a) after “section” insert “ 28A, ”, and
 - (b) after “33,” insert “ 36A, ”.
- (3) In subsection (2)—
- (a) after “section” insert “ 28A, ”, and
 - (b) after “33,” insert “ 36A, ”.
- (4) In subsection (3)—
- (a) after “section” insert “ 28A, ”, and
 - (b) after “33,” insert “ 36A, ”.
- (5) In subsection (5), after “section” insert “ 28A, 36A or ”.
- 12 (1) Section 42 (validity of Secretary of State's acts) is amended as follows.
- (2) In subsection (2), after paragraph (e) insert—
- “(ea) the giving of a notice under section 36A(2);”.
- (3) In subsection (5), after paragraph (e) insert—

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“(ea) in relation to the giving of a notice under section 36A(2), means the requirements of section 36A(6);”.

Energy Act 2008

- 13 (1) Section 30 of the Energy Act 2008 (abandonment of carbon storage installations) is amended as follows.
- (2) In subsection (1), after “subsections” insert “ (1A), ”.
- (3) After that subsection insert—
- “(1A) For the purposes of subsection (1), the amendments made to Part 4 of the 1998 Act by Schedule 2 to the Energy Act 2016 are to be disregarded.”
- (4) For subsection (4A) substitute—
- “(4A) The power in subsection (4)—
- (a) may (in particular) be exercised to make modifications corresponding to the amendments made by Schedule 2 to the Energy Act 2016, and
- (b) is subject to section 30A.”

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Changes to legislation:

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