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STATUTORY INSTRUMENTS

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**2018 No. 980**

**The Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018**

**PART 1**

General

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 and come into force on 1st October 2018.

(2) An amendment or modification made by these Regulations has the same extent as the provision to which it relates.

**PART 2**

Amendments to secondary legislation

**Hydrocarbons Licensing Directive Regulations 1995**

2.—(1) The Hydrocarbons Licensing Directive Regulations 1995(1) are amended as follows.

(2) In regulation 1A(1), after “the Scottish onshore area” insert “or the Welsh onshore area”.

(3) In regulation 1A(2), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”(2).

(4) In regulation 5(2), for “the OGA or the Scottish Ministers invite” substitute “the OGA, the Scottish Ministers or the Welsh Ministers invite”.

**Petroleum (Production) (Landward Areas) Regulations 1995**

3.—(1) The Petroleum (Production) (Landward Areas) Regulations 1995(3) are amended as follows.

(2) In regulation 2, after the entry for “supplementary seismic survey licence”—

(a) omit “and”;

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(1) [S.I. 1995/1434](#), amended by [S.I. 2016/912](#) and [2018/56](#).

(2) Section 8A(5) of the Petroleum Act 1998 ([c.17](#)) is inserted by section 23(4) of the Wales Act 2017 ([c.4](#)) with effect from 1 October 2018 as provided by regulation 4 of [S.I. 2017/1179](#).

(3) [S.I. 1995/1436](#), revoked by [S.I. 2015/766](#) except in relation to methane drainage licences as specified in regulation 3(2) of that instrument. Regulations 2 and 3 were amended by section 48(21) to (24) of the Scotland Act 2016 ([c.11](#)) and by [S.I. 2011/1043](#) and [2016/912](#). There are other amending instruments but none are relevant.

- (b) insert ““Welsh onshore area” has the meaning given by section 8A of the Petroleum Act 1998; and”.
- (3) In regulation 3(1A), after “Scottish onshore area” insert “or the Welsh onshore area”.

#### **Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014**

4.—(1) The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014<sup>(4)</sup> are amended as follows.

- (2) After regulation 1A(1), insert—

“(1A) Except for regulations 1(2) and 2(1A) and Schedules 2B and 3B, these Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Welsh onshore area.”.

- (3) In regulation 1A(2), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.

- (4) For regulation 2(1A) substitute —

“(1A) For the purposes of section 4(1B) of the Petroleum Act 1998—

- (a) the model clauses prescribed for petroleum exploration and development licences granted by the Scottish Ministers are those set out in Schedule 2A;
- (b) the model clauses prescribed for petroleum exploration and development licences granted by the Welsh Ministers are those set out in Schedule 2B;
- (c) the model clauses prescribed for landward petroleum exploration licences granted by the Scottish Ministers are those set out in Schedule 3A; and
- (d) the model clauses prescribed for landward petroleum exploration licences granted by the Welsh Ministers are those set out in Schedule 3B.”.

- (5) After Schedule 2A, insert Schedule 2B as set out in Schedule 1 to these Regulations.

- (6) After Schedule 3A, insert Schedule 3B as set out in Schedule 2 to these Regulations.

#### **Petroleum Licensing (Applications) Regulations 2015**

5.—(1) The Petroleum Licensing (Applications) Regulations 2015<sup>(5)</sup> are amended as follows.

- (2) In regulation 3(1A), after “the Scottish onshore area” insert “or the Welsh onshore area”.

- (3) In regulation 3(1B), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.

#### **Oil and Gas Authority (Fees) Regulations 2016**

6.—(1) The Oil and Gas Authority (Fees) Regulations 2016<sup>(6)</sup> are amended as follows.

- (2) In regulation 1A(1), after “Scottish onshore area” insert “ or the Welsh onshore area”.

- (3) In regulation 1A(2), after “Petroleum Act 1998” insert “ and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.

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<sup>(4)</sup> S.I. 2014/1686, amended by S.I. 2016/912, 2016/1029, 2017/426, 2017/855, 2017/1012 and 2018/56.

<sup>(5)</sup> S.I. 2015/766, amended by S.I. 2016/912, 2017/855 and 2018/56.

<sup>(6)</sup> S.I. 2016/904, amended by S.I. 2017/426 and 2018/56.

## **Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018**

7.—(1) The Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018(7) are amended as follows.

(2) For regulation 7(1)(c) substitute—

“(c) clauses or parts of clauses corresponding to clauses 9, 25(5), 31, 32 or 36(2)(a) of the relevant Schedule were omitted;”.

(3) Omit regulation 7(1)(d).

(4) For regulation 9(4)(b)(v) substitute—

“(v) the following were omitted—

(aa) clause 12;

(bb) clause 30(5);

(cc) clauses 36 and 37;

(dd) clause 41(2)(a);

(ee) clause 44(4), and”.

## **PART 3**

### **Amendments to existing Welsh licences**

#### **Interpretation**

8. In this Part, “existing Welsh licence” means a licence, granted before the day on which section 23 of the Wales Act 2017 comes into force(8), under—

(a) section 3 of the Petroleum Act 1998(9), or

(b) section 2 of the Petroleum (Production) Act 1934(10),

in respect of an area all of which is within the Welsh onshore area(11) or which has effect as if it comprised such an area as a result of a direction made under section 24(3)(a) of the Wales Act 2017.

#### **Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 3 to the Petroleum (Production) (Landward Areas) Regulations 1995**

9.—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 3 to the Petroleum (Production) (Landward Areas) Regulations 1995(12) has effect as if—

(a) in clauses or parts or clauses corresponding to clause 1(1) of that Schedule—

(i) in the definition of “block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”, and

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(7) [S.I. 2018/56](#).

(8) Section 23 comes into force on 1 October 2018 as provided by regulation 4 of [S.I. 2017/1179](#).

(9) [1998 c.17](#). Section 3 is amended by section 48(2) to (4) of the Scotland Act 2016 ([c.11](#)) and [S.I. 2016/898](#).

(10) [1934 c.36](#). The whole Act was repealed by Part 1 of Schedule 5 to the Petroleum Act 1998.

(11) “Welsh onshore area” is defined in section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006 ([c.32](#)) to mean the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 ([c.49](#)).

(12) Schedule 3 is amended by section 77 of, and paragraph 1 of Schedule 3 to, the Energy Act 2008 ([c.32](#)).

- (ii) the definitions of “appropriate percentage” and “chargeable period” were omitted;
  - (b) in clauses or parts or clauses corresponding to clause 2 of that Schedule, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
  - (c) in clauses or parts or clauses corresponding to clauses 4(1) or 5(1) of that Schedule, the words “paying the payments and royalties hereinafter provided and” were omitted;
  - (d) clauses or parts or clauses corresponding to clauses 9 to 11, 27(5), 33, 34 or 38(2)(a) of that Schedule were omitted, and
  - (e) references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.
- (2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

**Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004**

**10.**—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004<sup>(13)</sup> has effect as if—

- (a) in clauses or parts of clauses corresponding to clause 1(1) of that Schedule, in the definition of “Block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
  - (b) in clauses or parts of clauses corresponding to clauses 4(1)(a) or 5(1) of that Schedule, the words “to payments of those sums hereinafter provided for and” were omitted;
  - (c) clauses or parts of clauses corresponding to clauses 9, 25(5), 31, 32 or 36(2)(a) of that Schedule were omitted, and
  - (d) references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.
- (2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

**Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014**

**11.**—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 has effect as if—

- (a) in clauses or parts or clauses corresponding to clause 1(1) of that Schedule, in the definition of “Block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
- (b) in clauses or parts or clauses corresponding to clause 5(1)(a) or 7(1) of that Schedule, the words “to payment of those sums hereinafter provided for and” were omitted;
- (c) in clauses or parts of clauses corresponding to clause 6(2) of that Schedule, the words “to payment of the sums specified in Schedule 2 and” were omitted;
- (d) clauses or parts or clauses corresponding to clauses 12, 30(5), 36, 37 or 41(2)(a) of that Schedule were omitted;

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<sup>(13)</sup> S.I. 2004/352, amended by section 77 of, and paragraph 20 of Schedule 3 to, the Energy Act 2008, S.I. 2006/784, S.I. 2009/229 and S.I. 2009/3283. Schedule 6 is disapplied by regulation 2(2) of S.I. 2014/1686 in relation to any licence granted on or after the commencement of that instrument.

- (e) in clauses or parts of clauses corresponding to clause 20(11), references to “the OGA” (including references having effect as such) were references to “the Welsh Ministers or the Secretary of State”, and
  - (f) any other references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.
- (2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

### **Amendment to existing Welsh licences to incorporate new model clauses relating to reserved matters**

12. Any existing Welsh licence has effect as if the clauses in Schedule 3 to these Regulations were incorporated in the licence.

## **PART 4**

### **Transitional provision and savings**

#### **Transitional modification of the Hydrocarbons Licensing Directive Regulations 1995**

13.—(1) This regulation applies until any legislation made by the Welsh Ministers or the National Assembly for Wales relating to any matter to which the Hydrocarbons Licensing Directive Regulations 1995 relate comes into force.

(2) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Licensing Directive Regulations 1995 have effect as if they had been made by the Welsh Ministers.

(3) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Licensing Directive Regulations 1995 have effect as if —

- (a) the words inserted in regulation 1A(1) by regulation 2(2) of these Regulations were omitted;
- (b) the words inserted in regulation 1A(2) by regulation 2(3) of these Regulations were omitted, and
- (c) with the exception of regulation 5(2), references to the “the OGA” were references to “the Welsh Ministers”.

#### **Transitional modification of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014**

14.—(1) This regulation applies until the Welsh Ministers exercise section 4(1)(e) of the Petroleum Act 1998(14).

(2) Subject to paragraph (3), in relation to any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if they had been made by the Welsh Ministers.

(3) Paragraph (2) does not apply for the purposes of regulation 2(1A) and Schedules 2B and 3B as inserted by regulation 4(4), (5) and (6) of these Regulations.

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(14) Section 4(1) is amended by section 48(6) of the Scotland Act 2016 and [S.I. 2016/898](#). Section 8A(2)(aa), inserted by section 23(3) of the Wales Act 2017 (c.4) with effect from 1 October 2018, provides that in relation to the Welsh onshore area, the Welsh Ministers are the “appropriate minister” for the purposes of section 4(1).

(4) In relation to any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if—

- (a) regulation 1A(1A) as inserted by regulation 4(2) of these Regulations were omitted;
- (b) the words inserted in regulation 1A(2) by regulation 4(3) of these Regulations were omitted;
- (c) in Schedule 2—
  - (i) in clause 1(1)—
    - (aa) in the definition of “Block”, for the words “Aberdeen, AB10” there were substituted “Cardiff, CF10 3NQ”, and
    - (bb) the definition of “the OGA” were omitted;
  - (ii) in clauses 5(1)(a) and 7(1), the words “to payment of those sums hereinafter provided for and” were omitted;
  - (iii) in clause 6(2), the words “to payment of those sums specified in Schedule 2 and” were omitted;
  - (iv) in clause 20(11), the reference to “OGA” were a reference to “Welsh Ministers or the Secretary of State”;
  - (v) the following were omitted—
    - (aa) clause 12;
    - (bb) clause 30(5);
    - (cc) clauses 36 and 37;
    - (dd) clause 41(2)(a);
    - (ee) clause 44(3) and (4), and
  - (vi) any other references to “the OGA” were references to “the Welsh Ministers”, and
- (d) in Schedule 3—
  - (i) in clause 1(1), the definition of “the OGA” were omitted;
  - (ii) in clause 2(1), for the words “payments provided for in clause 7” there were substituted “sums payable to the Oil and Gas Authority”;
  - (iii) clauses 7 and 18(2)(a) were omitted;
  - (iv) clause 20(3) were omitted, and
  - (v) any other references to “the OGA” were references to “the Welsh Ministers”.

(5) In relation to any review under regulation 3 of the 2014 Regulations, regulation 3(1)(a) has effect as if after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Welsh Ministers”.

(6) In this regulation, the “2014 Regulations” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014.

### **Transitional modification of the Petroleum Licencing (Applications) Regulations 2015**

**15.**—(1) This regulation applies until the Welsh Ministers exercise section 4(1)(a), (b) or (d) of the Petroleum Act 1998.

(2) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if they had been made by the Welsh Ministers.

(3) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if—

- (a) in regulation 2—
  - (i) in the definition of “model clauses” after the words “section 4(1)(e)” there were inserted “or section 4(1B)”;
  - (ii) the definition of “the OGA” were omitted, and
  - (iii) in the definition of “seaward petroleum exploration licence”, the words after “seaward area” were omitted;
- (b) the words inserted in regulation 3(1A) by regulation 5(2) of these Regulations were omitted;
- (c) the words inserted in regulation 3(1B) by regulation 5(3) of these Regulations were omitted;
- (d) for regulation 4(2) there were substituted—
  - “(2) Applications must be—
    - (a) made in writing, and
    - (b) accompanied by such evidence and particulars or documents in support as are specified in these Regulations in respect of the licence being applied for, and are appropriate to that application.”;
- (e) any other references to “the OGA” were references to “the Welsh Ministers”.

(4) In relation to any review under regulation 9 of the 2015 Regulations, regulation 9(1)(a) has effect as if after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Welsh Ministers”.

(5) In this regulation, the 2015 Regulations means the Petroleum Licensing (Applications) Regulations 2015.

### **Savings**

**16.**—(1) Anything which, at the commencement of these Regulations, is in the process of being done by or in relation to the OGA<sup>(15)</sup> in connection with a transferred function may be continued by or in relation to the Welsh Ministers.

(2) Anything done (or having effect as if done) by or in relation to the OGA before the commencement of these Regulations in connection with a transferred function has effect, so far as is necessary for continuing its effect after the commencement of these Regulations, as if done by or in relation to the Welsh Ministers.

(3) Any instrument (except an existing licence, an Act or subordinate legislation) made, granted or given before the commencement of these Regulations has effect, so far as is appropriate in connection with a transferred function, as if references to the OGA (and references which are to be read as references to the OGA) were or included references to the Welsh Ministers.

(4) These Regulations do not affect the validity of anything done (or having effect as if done) by or in relation to the OGA in connection with a transferred function before the commencement of the Regulations.

(5) In this regulation—

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<sup>(15)</sup> The “OGA” is defined as the Oil and Gas Authority in section 1(4) of the Energy Act 2016 (c.20).

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- (a) “instrument” includes awards, authorisations, consents, approvals, judgments, decrees and other documents granted or given in connection with a transferred function but does not include any enactment;
- (b) “OGA” means the Oil and Gas Authority; and
- (c) “transferred function” means a function transferred to the Welsh Ministers in respect of the Welsh onshore area as a result of section 23 of, or Part 2 of Schedule 6 to, the Wales Act 2017<sup>(16)</sup>.

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