



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 4

#### OTHER LEGISLATIVE COMPETENCE

#### **48 Onshore petroleum: consequential amendments**

- (1) The Petroleum Act 1998 is amended as follows.
- (2) Section 3 (licences to search and bore for and get petroleum) is amended as follows.
- (3) In subsection (1)—
  - (a) for “Secretary of State” substitute “ appropriate Minister ”;
  - (b) for “he” substitute “ the appropriate Minister ”.
- (4) In subsection (3) for “Secretary of State” in the second place substitute “ appropriate Minister ”.
- (5) Section 4 (licences: further provisions) is amended as follows.
- (6) In subsection (1) for “Secretary of State” substitute “ appropriate Minister ”.
- (7) After that subsection insert—
  - “(1A) The Scottish Ministers may not make regulations under subsection (1)(e) prescribing model clauses that may be prescribed under subsection (1B).
  - (1B) The Secretary of State may make regulations prescribing model clauses on the consideration payable for a licence granted by the Scottish Ministers, and the following so far as they relate to such consideration—
    - (a) the measurement of petroleum obtained from the licenced area (including the facilitation of such measurement);
    - (b) the keeping of accounts;
    - (c) cancellation of a licence by the Secretary of State if there has been a failure to pay consideration or to comply with a clause on a matter falling within paragraph (a) or (b).

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*Changes to legislation: Scotland Act 2016, Section 48 is up to date with all changes known to be in force on or before 17 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (1C) Model clauses prescribed under subsection (1B) shall, unless the Secretary of State thinks fit to modify or exclude them in any particular case, be incorporated in any licence granted by the Scottish Ministers.”
- (8) In subsection (3) for “Any such regulations” substitute “ Any regulations made by the Secretary of State ”.
- (9) After that subsection insert—
- “(3A) Any regulations made by the Scottish Ministers shall be subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (10) After subsection (4) insert—
- “(4A) As soon as practicable after granting a licence under section 3, the Scottish Ministers shall publish notice of the fact in the Edinburgh Gazette stating—
- (a) the name of the licensee; and
- (b) the situation of the area in respect of which the licence has been granted.”
- (11) In section 5(9) (existing licences) for “the Secretary of State” in each place substitute “ the appropriate Minister ”.
- (12) In section 5A (rights transferred without consent) for “Secretary of State” in each place substitute “ appropriate Minister ”.
- (13) In section 5B(1) (information) for “the Secretary of State” in each place substitute “ the appropriate Minister ”.
- (14) In section 7 (ancillary rights) in subsection (2)—
- (a) at the end of paragraph (b) omit “and”, and
- (b) at the end of paragraph (c) insert “; and
- (d) references to the Secretary of State (or the Minister) in sections 4 and 9 of that Act included references to the Scottish Ministers in relation to licences granted in relation to the Scottish onshore area.”
- (15) In section 8 (power to inspect plans of mines) for “the Secretary of State” in each place substitute “ the appropriate Minister ”.
- (16) After section 8 insert—

**“8A Interpretation of Part 1**

- (1) This section applies for the purposes of this Part.
- (2) The “appropriate Minister” means—
- (a) in relation to the Scottish onshore area, the Scottish Ministers;
- (b) otherwise, the Secretary of State.
- (3) The Scottish onshore area is the area of Scotland that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

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- (4) In subsection (3) “Scotland” has the same meaning as in the Scotland Act 1998.”
- (17) In section 188(12) of the Energy Act 2004, in the substituted subsection (7A), before paragraph (a) insert—  
“(za) Part 1 of the Petroleum Act 1998;”.
- (18) The Oil Taxation Act 1975 is amended as follows.
- (19) In section 12(1A)(a)(ii) (authorities that can revoke licences) after [F1“OGA”] insert “, the Scottish Ministers ”.
- (20) In paragraph 1(2) of Schedule 1 (determination of oil fields)—  
(a) in paragraph (a) after “granted” insert “ by the [F2OGA] ”;  
(b) after paragraph (a) insert—  
“(aa) is the Scottish Ministers if the area is such that licences can be granted by the Scottish Ministers for all of it under Part 1 of the Petroleum Act 1998;  
(ab) is the [F2OGA] and the Scottish Ministers acting jointly if the area is such that licences can be granted for part of it by the [F2OGA] and for part of it by the Scottish Ministers;”.
- (21) The Petroleum (Production) (Landward Areas) Regulations 1995 are amended as follows.
- (22) In regulation 2 (interpretation) after the entry for “principal licence” insert—  
““Scottish onshore area” has the meaning given by section 8A of the Petroleum Act 1998;”.
- (23) In regulation 3 (application of the regulations) at the beginning of paragraph (1) insert “ Subject to paragraph (1A), ”.
- (24) After that paragraph insert—  
“(1A) These regulations do not apply to applications for licences to search and bore for, and get, petroleum within the Scottish onshore area.”

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#### Textual Amendments

- F1** Word in s. 48(19) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(2), **16(2)**
- F2** Word in s. 48(20) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(2), **16(3)**
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#### Commencement Information

- I1** [S. 48](#) in force at 9.2.2018 by [S.I. 2018/163](#), **reg. 2(b)**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)