



# Petroleum Act 1998

## 1998 CHAPTER 17

### PART I

#### PETROLEUM

##### **Modifications etc. (not altering text)**

- C1** Pt. 1 modified (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), **ss. 15(3)**, 110(2); S.I. 2009/2809, **art. 2** (with **art. 4**)

#### **1 Meaning of “petroleum”.**

In this Part of this Act “petroleum”—

- (a) includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata; but
- (b) does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

#### **2 Rights to petroleum vested in Her Majesty.**

- (1) Her Majesty has the exclusive right of searching and boring for and getting petroleum to which this section applies.
- (2) This section applies to petroleum (including petroleum in Crown land) which for the time being exists in its natural condition in strata in Great Britain or beneath the territorial sea adjacent to the United Kingdom.
- (3) For the purposes of subsection (2), “Crown land” means land which—
  - (a) belongs to Her Majesty or the Duchy of Cornwall;
  - (b) belongs to a government department; or
  - (c) is held in trust for Her Majesty for the purposes of a government department.

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- (4) Subsection (1) is subject to paragraph 4 of Schedule 3 and subsection (2) is subject to paragraph 5(3) of that Schedule.

### 3 Licences to search and bore for and get petroleum.

- (1) The [<sup>F1</sup> appropriate [<sup>F2</sup> authority]], on behalf of Her Majesty, may grant to such persons as [<sup>F3</sup> the appropriate [<sup>F2</sup> authority]] thinks fit licences to search and bore for and get petroleum to which this section applies.
- (2) This section applies to—
- (a) petroleum to which section 2 applies; and
  - (b) petroleum with respect to which rights vested in Her Majesty by section 1(1) of the <sup>M1</sup>Continental Shelf Act 1964 (exploration and exploitation of continental shelf) are exercisable.
- (3) Any such licence shall be granted for such consideration (whether by way of royalty or otherwise) as the [<sup>F4</sup> OGA] with the consent of the Treasury may determine, and upon such other terms and conditions as the [<sup>F5</sup> appropriate [<sup>F6</sup> authority]] thinks fit.
- (4) Subsection (1) is subject to paragraph 4 of Schedule 3.

#### Textual Amendments

- F1** Words in s. 3(1) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(3)(a)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F2** Word in s. 3(1) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3), 3(2)(a)** (with reg. 2); S.I. 2018/163, reg. 2(b)
- F3** Words in s. 3(1) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(3)(b)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F4** Word in s. 3(3) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3), 3(2)(b)(i)** (with reg. 2); S.I. 2018/163, reg. 2(b)
- F5** Words in s. 3(3) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(4)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F6** Word in s. 3(3) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3), 3(2)(b)(ii)** (with reg. 2); S.I. 2018/163, reg. 2(b)

#### Modifications etc. (not altering text)

- C2** S. 3(1): transfer of functions (15.2.2000) by [S.I. 2000/353](#), **art. 2(a)** (with art. 3)
- C3** S. 3 modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 2**

#### Marginal Citations

- M1** 1964 c. 29.

### 4 Licences: further provisions.

- (1) The [<sup>F7</sup> appropriate Minister] shall make regulations prescribing—
- (a) the manner in which and the persons by whom applications for licences under this Part of this Act may be made;
  - (b) the information to be included in or provided in connection with any such application;

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- (c) the fees to be paid on any such application;
- (d) the conditions as to the size and shape of areas in respect of which licences may be granted;
- (e) model clauses which shall, unless [<sup>F8</sup>the appropriate authority] thinks fit to modify or exclude them in any particular case, be incorporated in any such licence.

[<sup>F9</sup>(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).

(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.]

(2) Different regulations may be made for different kinds of licence.

(3) [<sup>F10</sup>Any regulations made by the Secretary of State] shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F11</sup>(3ZA) Before making regulations under this section the Secretary of State must consult the OGA.]

[<sup>F12</sup>(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).]

(4) As soon as practicable after granting a licence under section 3, the [<sup>F13</sup>OGA] shall publish notice of the fact in [<sup>F14</sup>such manner as it thinks appropriate] stating—

- (a) the name of the licensee; and
- (b) the situation of the area in respect of which the licence has been granted,

<sup>F15</sup> .....

[<sup>F16</sup>(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.]

(5) Any information which the Commissioners of Inland Revenue possess in connection with petroleum won by virtue of a licence granted under section 3—

- (a) may be disclosed by the Commissioners to the Secretary of State, or to an officer of his who is authorised by him to receive such information, in connection with provisions of the licence relating to royalty payments; but

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- (b) shall not be disclosed by a person to whom it is disclosed under paragraph (a) except—
- (i) as authorised by the licence;
  - (ii) to a person to whom it could have been disclosed under paragraph (a); or
  - (iii) for the purposes of proceedings (which may be arbitration proceedings) in connection with the licence.

#### Textual Amendments

- F7** Words in s. 4(1) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(6)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F8** Words in s. 4(1)(e) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3), 3(3)(a)** (with reg. 2); S.I. 2018/163, reg. 2(b)
- F9** S. 4(1A)-(1C) inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(7)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F10** Words in s. 4(3) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(8)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F11** S. 4(3ZA) inserted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3), 3(3)(b)** (with reg. 2); S.I. 2018/163, reg. 2(b)
- F12** S. 4(3A) inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(9)**, 72(4)(c); S.I. 2018/163, reg. 2(b)
- F13** Word in s. 4(4) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 13(2)(a)** (with reg. 2)
- F14** Words in s. 4(4) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 13(2)(b)** (with reg. 2)
- F15** Words in s. 4(4) omitted (1.10.2016) by virtue of [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 13(2)(c)** (with reg. 2)
- F16** S. 4(4A) inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(10)**, 72(4)(c); S.I. 2018/163, reg. 2(b)

#### Modifications etc. (not altering text)

- C4** S. 4 modified (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 48, 57(7)(b)**
- C5** S. 4(1)(e) modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 2**

#### [<sup>F17</sup>4A Onshore hydraulic fracturing: safeguards

- (1) The [<sup>F18</sup>OGA] must not issue a well consent that is required by an onshore licence for England or Wales unless the well consent imposes—
- (a) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
  - (b) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Secretary of State's consent for it to take place (a “hydraulic fracturing consent”).
- (2) A hydraulic fracturing consent is not to be issued unless an application for its issue is made by, or on behalf of, the licensee.
- (3) Where an application is made, the Secretary of State may not issue a hydraulic fracturing consent unless the Secretary of State—
- (a) is satisfied that—
    - (i) the conditions in column 1 of the following table are met, and

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- (ii) the conditions in subsection (6) are met, and
- (b) is otherwise satisfied that it is appropriate to issue the consent.
- (4) The existence of a document of the kind mentioned in column 2 of the table in this section is sufficient for the Secretary of State to be satisfied that the condition to which that document relates is met.
- (5) But the absence of such a document does not prevent the Secretary of State from being satisfied that that condition is met.

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<i>Column 1: conditions</i>	<i>Column 2: documents</i>
1 The environmental impact of the development which includes the relevant well has been taken into account by the local planning authority	A notice given by the local planning authority that the environmental information was taken into account in deciding to grant the relevant planning permission
2 Appropriate arrangements have been made for the independent inspection of the integrity of the relevant well	A certificate given by the Health and Safety Executive that it— (a) has received a well notification under regulation 6 of the Borehole Sites and Operations Regulations 1995, (b) has received the information required by regulation 19 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996, and (c) has visited the site of the relevant well
3 The level of methane in groundwater has, or will have, been monitored in the period of 12 months before the associated hydraulic fracturing begins	An environmental permit has been given by the relevant environmental regulator which contains a condition that requires compliance with a waste management plan which provides for monitoring of the level of methane in groundwater in the period of 12 months before the associated hydraulic fracturing begins
4 Appropriate arrangements have been made for the monitoring of emissions of methane into the air	An environmental permit which contains a condition requiring compliance with a waste management plan which provides for the monitoring of emissions of methane into the air for the period of the permit
5 The associated hydraulic fracturing will not take place within protected groundwater source areas	A decision document given by the relevant environmental regulator (in connection with an environmental permit) which indicates that the associated hydraulic fracturing will not take place within protected groundwater source areas

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| 6  | The associated hydraulic fracturing will not take place within other protected areas  | A notice given by the local planning authority that the area in respect of which the relevant planning permission has been granted does not include any land which is within any other protected areas                      |
| 7  | In considering an application for the relevant planning permission, the local planning authority has (where material) taken into account the cumulative effects of— (a) that application, and (b) other applications relating to exploitation of onshore petroleum obtainable by hydraulic fracturing | A notice given by the local planning authority that it has taken into account those cumulative effects  |
| 8  | The substances used, or expected to be used, in associated hydraulic fracturing— (a) are approved, or (b) are subject to approval, by the relevant environmental regulator  | An environmental permit has been given by the relevant environmental regulator which contains a condition that requires substances used in associated hydraulic fracturing to be approved by that regulator                 |
| 9  | In considering an application for the relevant planning permission, the local planning authority has considered whether to impose a restoration condition in relation to that development   | A notice given by the local planning authority that it has considered whether to impose such a condition  |
| 10 | The relevant undertaker has been consulted before grant of the relevant planning permission   | A notice given by the local planning authority that the relevant undertaker has been consulted  |
| 11 | The public was given notice of the application for the relevant planning permission   | A notice given by the local planning authority which confirms that the applicant for the relevant planning permission has certified that public notification requirements, as set out in a development order, have been met |

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- (6) The conditions mentioned in subsection (3)(a)(ii) are—
- (a) that appropriate arrangements have been made for the publication of the results of the monitoring referred to in condition 4 in the table;
  - (b) that a scheme is in place to provide financial or other benefit for the local area.
- (7) A hydraulic fracturing consent may be issued subject to any conditions which the Secretary of State thinks appropriate.
- (8) A breach of such a condition is to be treated as if it were a breach of a condition of a well consent.

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### Textual Amendments

- F17** Ss. 4A, 4B inserted (E.W.) (30.7.2015 for the insertion of s. 4B(4)-(7), 6.4.2016 in so far as not already in force) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 50, 57\(7\)\(c\)](#); [S.I. 2015/1576, reg. 2](#); [S.I. 2016/455, reg. 2](#)
- F18** Word in s. 4A(1) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), [regs. 1\(2\), 13\(3\)](#) (with [reg. 2](#))

## 4B Section 4A: supplementary provision

- (1) “Associated hydraulic fracturing” means hydraulic fracturing of shale or strata encased in shale which—
  - (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
  - (b) involves, or is expected to involve, the injection of—
    - (i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or
    - (ii) more than 10,000 cubic metres of fluid in total.
- (2) For the purposes of deciding the depth at which associated hydraulic fracturing is taking place in land—
  - (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
  - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (3) Subsections (1) and (2) apply for the purposes of section 4A and this section.
- (4) The Secretary of State must, by regulations made by statutory instrument, specify—
  - (a) the descriptions of areas which are “protected groundwater source areas”, and
  - (b) the descriptions of areas which are “other protected areas”,for the purposes of section 4A.
- (5) A statutory instrument which contains regulations under subsection (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) The Secretary of State must lay a draft of the first such regulations before each House of Parliament on or before 31 July 2015.
- (7) The Secretary of State must consult—
  - (a) the Environment Agency before making any regulations under subsection (4) (a) in relation to England;
  - (b) the Natural Resources Body for Wales before making any regulations under subsection (4)(a) in relation to Wales.
- (8) These expressions have the meanings given—

“development order” has the meaning given in section 59 of the Town and Country Planning Act 1990;

“environmental permit” means a permit granted under regulation 13 of <sup>[F19]</sup>the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154);

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“hydraulic fracturing consent” has the meaning given in subsection (1)(b);  
 “licensee” means the holder of the onshore licence for England or Wales;

“local planning authority” means—

- (a) the planning authority to which the application for the relevant planning permission was made (unless the Secretary of State or Welsh Ministers are responsible for determining the application), or
- (b) the Secretary of State or Welsh Ministers (if responsible for determining the application);

“onshore licence for England or Wales” means a licence granted under section 3 which authorises a person to search or bore for or get petroleum in those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) that are in England or Wales or are beneath waters (other than waters adjacent to Scotland);

“relevant environmental regulator” means—

- (a) the Environment Agency, if the relevant well is situated in England, or
- (b) the Natural Resources Body for Wales, if the relevant well is situated in Wales;

“relevant planning permission” means planning permission to be granted, or granted, in respect of development which includes the relevant well;

“relevant undertaker” means the water undertaker or sewerage undertaker in whose area of appointment the relevant well is located;

“relevant well” means the well to which a well consent relates;

“well consent” means a consent in writing of the [F20OGA] to the commencement of drilling of a well.

- (9) The power of the Secretary of State to make regulations under section 4 includes power to make such amendments of the definition of “onshore licence for England or Wales” in this section as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4.
- (10) The Secretary of State may, by regulations made by statutory instrument—
  - (a) make such amendments of column 2 of the table in section 4A as the Secretary of State considers appropriate, and
  - (b) make such other amendments of section 4A or this section as the Secretary of State considers appropriate in consequence of provision made under paragraph (a).
- (11) A statutory instrument which contains regulations under subsection (10) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.]

#### Textual Amendments

- F17** Ss. 4A, 4B inserted (E.W.) (30.7.2015 for the insertion of s. 4B(4)-(7), 6.4.2016 in so far as not already in force) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 50, 57(7)(c)**; S.I. 2015/1576, **reg. 2**; S.I. 2016/455, **reg. 2**
- F19** Words in s. 4B(8) substituted (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), **reg. 1(1)**, **Sch. 29 para. 14** (with regs. 1(3), 77-79, Sch. 4)
- F20** Word in s. 4B(8) substituted (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(2), 13(4)** (with **reg. 2**)



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## 5 Existing licences.

- (1) In this section, the “current model clauses” means, in relation to any paragraph of Schedule 1, the model clauses which, immediately before the commencement of this Act, would be incorporated in a licence granted under section 2 of the <sup>M2</sup>Petroleum (Production) Act 1934 if the licence, when granted, had incorporated the model clauses mentioned in that paragraph.
- (2) The reference in subsection (1) to the model clauses which, immediately before the commencement of this Act, would be incorporated in a licence is a reference to those model clauses as they would then have effect but as if any reference (however expressed) in a model clause to an enactment repealed and re-enacted by this Act were, or (where the context requires) included, a reference to the corresponding provision of this Act.
- (3) For the purposes of subsection (2), any provision of a model clause which would have effect (or would have a particular effect) only in relation to a licence of a description of which none is in force immediately before the commencement of this Act shall be treated as not then having effect (or as not then having that effect).
- (4) The Secretary of State shall, in an order made before the commencement of this Act, reproduce the current model clauses in relation to each paragraph of Schedule 1.
- (5) Subject to subsections (7) and (8), any licence granted under section 2 of the Petroleum (Production) Act 1934 which—
  - (a) is in force immediately before the commencement of this Act; and
  - (b) when granted, incorporated any of the model clauses mentioned in any paragraph of Schedule 1,shall on the commencement of this Act have effect as if it incorporated, in place of the relevant model clauses, the current model clauses reproduced in relation to that paragraph in the order under subsection (4).
- (6) For the purposes of subsection (5), the relevant model clauses, in relation to any licence, are the model clauses which the licence incorporates immediately before the commencement of this Act other than any model clause which—
  - (a) was incorporated into the licence when it was granted; and
  - (b) is not within any paragraph of Schedule 1.
- (7) Where immediately before the commencement of this Act any such licence incorporates model clauses subject to any amendment or modification, or with the omission of any model clause, the current model clauses reproduced under subsection (4) shall have effect in relation to that licence—
  - (a) subject to the same amendment or modification; or
  - (b) as the case may be, with the omission of the model clause corresponding to the model clause omitted from the licence.
- (8) Where before the commencement of this Act model clauses (the “substitute model clauses”) set out in any regulations made under section 6 of the <sup>M3</sup>Petroleum (Production) Act 1934 have been substituted for the model clauses originally incorporated in any licence granted under section 2 of that Act, the licence shall be treated for the purposes of this section as if, when granted, it had incorporated the substitute model clauses.
- (9) It is hereby declared that any provision incorporated in a licence by virtue of subsection (5) may be altered or deleted by [<sup>F21</sup>deed] executed by [<sup>F22</sup>the

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appropriate [<sup>F23</sup>authority]] and the licensee or, as respects Scotland, by an instrument subscribed [<sup>F24</sup>or authenticated] by [<sup>F22</sup>the appropriate [<sup>F23</sup>authority]] and the licensee in accordance with the <sup>M4</sup>Requirements of Writing (Scotland) Act 1995.

- (10) Where any provision is replaced by virtue of subsection (5)—
- (a) a reference in any document to that provision (or which immediately before the commencement of this Act is to be construed as a reference to that provision) shall, except so far as the nature of the document or context otherwise requires, be construed as a reference to the replacement; and
  - (b) anything done under or for the purposes of that provision shall, except where the context otherwise requires, be treated as having been done under or for the purposes of the replacement.
- (11) The order to be made under subsection (4) shall be made by statutory instrument, shall be laid before Parliament after being made and shall come into force on the commencement of this Act.

#### Textual Amendments

- F21** Word in s. 5(9) substituted (6.4.2009) by [Energy Act 2008 \(c. 32\), s. 110\(2\), Sch. 5 para. 8; S.I. 2009/45, art. 4\(d\)\(i\)](#)
- F22** Words in s. 5(9) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\), ss. 48\(11\), 72\(4\)\(c\); S.I. 2018/163, reg. 2\(b\)](#)
- F23** Word in s. 5(9) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\), regs. 1\(3\), 3\(4\) \(with reg. 2\); S.I. 2018/163, reg. 2\(b\)](#)
- F24** Words in s. 5(9) inserted (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\), ss. 122, 123, sch. 5 para. 36 \(with s. 121, sch. 4 paras. 13, 16\); S.S.I. 2014/127, art. 2](#)

#### Modifications etc. (not altering text)

- C6** S. 5(9) modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\), regs. 1\(2\), 2](#)

#### Commencement Information

- I1** S. 5 wholly in force at 15.2.1999; s. 5 partly in force: s. 5(1)-(4)(11) in force at Royal Assent, see s. 52(1)-(4); s. 5(5)(6)(7)(8)(9)(10) in force at 15.2.1999 by [S.I. 1999/161, art. 2\(1\)](#)

#### Marginal Citations

- M2** [1934 c. 36.](#)
- M3** [1934 c. 36.](#)
- M4** [1995 c. 7.](#)

### [<sup>F25</sup>5A Rights transferred without the consent of [<sup>F26</sup>appropriate [<sup>F27</sup>authority]]

- (1) This section applies if—
- (a) a person is (or two or more persons are) the licensee in respect of a licence under section 2 of the Petroleum (Production) Act 1934 or section 3 above (“the transferor”),
  - (b) the transferor transfers a right granted by the licence, or derived from a right so granted, to another person (“the transferee”) after commencement in circumstances where the consent of the [<sup>F26</sup>appropriate [<sup>F27</sup>authority]] is required for the transfer, and

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- (c) that consent is not obtained.
- (2) The [F26appropriate [F27authority]] may, by notice given to the transferor and the transferee, direct that the right is to revert to the transferor from a date specified in the notice.
- (3) The date specified must not be earlier than the date on which the notice is given.
- (4) Before giving a notice to a person under subsection (2), the [F26appropriate [F27authority]] must—
- notify the person of the proposal to give the notice, and
  - give the person a reasonable period within which to make written representations.
- (5) The [F26appropriate [F27authority]] may not give a notice under subsection (2) after the end of the period of 3 months beginning with the date on which the [F26appropriate [F27authority]] learns of the transfer.
- (6) In this section—
- “commencement” means the time when this section comes into force;
- “transfer” does not include a transfer by way of security for a loan.

#### Textual Amendments

- F25** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), ss. 76, 110(2); S.I. 2009/45, art. 2(c)(i)
- F26** Words in s. 5A substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), ss. 48(12), 72(4)(c); S.I. 2018/163, reg. 2(b)
- F27** Word in s. 5A substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(3), 3(5) (with reg. 2); S.I. 2018/163, reg. 2(b)

#### Modifications etc. (not altering text)

- C7** S. 5A modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(2), 2

## 5B Information

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose to [F28the appropriate [F29authority]] information relating to the transfer of a right granted by a licence under section 2 of the Petroleum (Production) Act 1934 or section 3 above, or derived from a right so granted, for the purpose of enabling [F28the appropriate [F29authority]] to determine whether a transfer to which section 5A applies has taken place.
- (2) This section applies despite any statutory or other restriction on the disclosure of information.
- (3) Information disclosed under this section must not be further disclosed except—
- for the purpose mentioned in subsection (1), with the consent (which may be general or specific) of the Commissioners,
  - in pursuance of an order of a court, or
  - with the consent of each person to whom the information relates.

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- (4) A person who discloses information contrary to subsection (3) commits an offence if the identity of the person to whom the information relates—
- (a) is specified in the disclosure, or
  - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed that—
- (a) the disclosure was lawful, or
  - (b) the information had already and lawfully been made available to the public.
- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

#### Textual Amendments

**F25** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 76**, 110(2); S.I. 2009/45, art. 2(c)(i)

**F28** Words in s. 5B(1) substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(13)**, 72(4)(c); S.I. 2018/163, reg. 2(b)

**F29** Word in s. 5B(1) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(3), **3(6)** (with reg. 2); S.I. 2018/163, reg. 2(b)

#### Modifications etc. (not altering text)

**C8** [S. 5B](#) modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), regs. 1(2), 2

### 5C Offences under section 5B: supplemental

- (1) No proceedings for an offence under section 5B may be instituted in England and Wales [<sup>F30</sup>except by or with the consent of the Director of Public Prosecutions.]
- (2) No proceedings for an offence under section 5B may be instituted in Northern Ireland except—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) with the consent of the Director of Public Prosecutions for Northern Ireland.
- (3) In the application of section 5B to Northern Ireland the reference in section 5B(6)(a) to 12 months is to be read as a reference to 6 months.
- (4) In the application of section 5B to England and Wales in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (short sentences) the reference in section 5B(6)(a) to 12 months is to be read as a reference to 6 months.]

#### Textual Amendments

**F25** Ss. 5A-5C inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 76**, 110(2); S.I. 2009/45, art. 2(c)(i)

*Status: Point in time view as at 09/02/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

**F30** Words in s. 5C(1) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 2 para. 12](#)

## 6 Repayments for development.

- (1) Where any person has paid to the Secretary of State a sum by way of royalty under the terms of a licence granted under section 3, the Secretary of State may with the approval of the Treasury repay to him the whole or a part of that sum if the Secretary of State considers it expedient to do so for the purpose of facilitating or maintaining the development of the petroleum resources of the United Kingdom.
- (2) Where for any chargeable period for the purpose of a licence granted under section 3 any person has been required to deliver petroleum to the Secretary of State under the terms of that licence, subsection (1) shall have effect as if for that period that person had paid to the Secretary of State by way of royalty such sum, or (where he has been required to deliver some but not all of the petroleum which he could have been required to deliver) such additional sum, as he would have been required to pay under the terms of the licence if he had not been required to deliver the petroleum.
- (3) Any repayment and right to a repayment under this section shall be disregarded for the purposes of income tax, corporation tax and petroleum revenue tax.

### Modifications etc. (not altering text)

- C9** S.6: transfer of functions (15.2.2000) by [S.I. 2000/353](#), [art. 2\(b\)](#) (with [art. 3](#))

## 7 Ancillary rights.

- (1) Subject to the provisions of this section, the <sup>M5</sup>Mines (Working Facilities and Support) Act 1966 shall apply (in England and Wales and Scotland) for the purpose of enabling a person holding a licence under this Part of this Act to acquire such ancillary rights as may be required for the exercise of the rights granted by the licence.
- (2) In its application for the purposes of this section, the Mines (Working Facilities and Support) Act 1966 shall have effect as if—
  - (a) references to a person having a right to work minerals included references to a person holding a licence under this Part of this Act;
  - (b) references to minerals included references to petroleum; <sup>F31</sup>...
  - (c) references to the working of minerals included references to the getting, carrying away, storing, treating and converting of petroleum<sup>F32</sup>; 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 <sup>F33</sup>(i) Scottish onshore area, and
    - (ii) the OGA, in relation to other licences].]
- (3) Without prejudice to the generality of subsection (1) of section 2 of the <sup>M6</sup>Mines (Working Facilities and Support) Act 1966, that Act shall have effect for the purposes of this section as if the ancillary rights mentioned in that subsection included—

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- (a) a right to enter upon land and to sink boreholes in the land for the purpose of searching for and getting petroleum; and
  - (b) a right to use and occupy land for—
    - (i) the erection of such buildings;
    - (ii) the laying and maintenance of such pipes; and
    - (iii) the construction of such other works,
 as may be required for the purpose of searching and boring for and getting, carrying away, storing, treating and converting petroleum.
- (4) Where an application is made to the court under the Mines (Working Facilities and Support) Act 1966 by virtue of this section—
- (a) in deciding—
    - (i) whether to grant any right applied for; or
    - (ii) what terms and conditions, if any, should be imposed upon the grant of such a right,
 the court shall have regard, among other considerations, to the effect on the amenities of the locality of the proposed use and occupation of the land in respect of which the right is applied for;
  - (b) in determining the amount of any compensation to be paid in respect of the grant of any right, an additional allowance of not less than 10 per cent. shall be made on account of the acquisition of the right being compulsory;
  - (c) the costs in connection with the application incurred by the applicant shall not be ordered to be paid by any person from whom a right is sought to be obtained; and
  - (d) the costs in connection with the application incurred by each person from whom a right is sought to be obtained shall be ordered to be paid by the applicant unless the court is satisfied that an unconditional offer in writing was made by the applicant to that person of a sum as compensation equal to or greater than the amount of any compensation awarded to him by the court.

#### Textual Amendments

- F31** Word in s. 7(2)(b) omitted (9.2.2018) by virtue of [Scotland Act 2016 \(c. 11\), ss. 48\(14\)\(a\), 72\(4\)\(c\)](#); [S.I. 2018/163, reg. 2\(b\)](#)
- F32** S. 7(2)(d) and preceding word inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\), ss. 48\(14\)\(b\), 72\(4\)\(c\)](#); [S.I. 2018/163, reg. 2\(b\)](#)
- F33** Words in s. 7(2)(d) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\), regs. 1\(3\), 3\(7\)](#) (with [reg. 2](#)); [S.I. 2018/163, reg. 2\(b\)](#)

#### Modifications etc. (not altering text)

- C10** S. 7(2) modified (temp.) (1.10.2016) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\), regs. 1\(2\), 2](#)

#### Marginal Citations

- M5** [1966 c. 4.](#)
- M6** [1966 c. 4.](#)

*Status: Point in time view as at 09/02/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part I. (See end of Document for details)*

## 8 Power to inspect plans of mines.

- (1) For the purpose of ascertaining on behalf of [<sup>F34</sup>the appropriate [<sup>F35</sup>authority]] the position of the workings, actual and prospective, of any mines or abandoned mines through or near which it is proposed to sink any borehole for the purpose of searching for or getting petroleum, any officer appointed by [<sup>F34</sup>the appropriate [<sup>F35</sup>authority]] shall have the same powers with respect to the production and inspection and the taking of copies of relevant documents as may under section 20 of the <sup>M7</sup>Health and Safety at Work etc. Act 1974 be exercised by an inspector acting for the purpose mentioned in subsection (1) of that section.
- (2) For the purposes of subsection (1)—
- (a) “relevant documents” means plans, sections, drawings or other similar documents which, by virtue of paragraph 16 of Schedule 3 to that Act of 1974, are required to be kept;
  - (b) “an inspector” means an inspector appointed under section 19 of that Act; and
  - (c) subsections (2) and (3) of section 19 of that Act shall be disregarded.

### Textual Amendments

**F34** Words in s. 8 substituted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(15)**, 72(4)(c); S.I. 2018/163, reg. 2(b)

**F35** Word in s. 8(1) substituted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3)**, **3(8)** (with reg. 2); S.I. 2018/163, reg. 2(b)

### Marginal Citations

**M7** 1974 c. 37.

## [<sup>F36</sup>8A Interpretation of Part 1

- (1) This section applies for the purposes of this Part.

[ The “appropriate authority” means—

- <sup>F37</sup>(1A) (a) in relation to the Scottish onshore area, the Scottish Ministers;  
(b) otherwise, the OGA.]

- (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).

- (4) In subsection (3) “Scotland” has the same meaning as in the Scotland Act 1998.]

### Textual Amendments

**F36** S. 8A inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 48(16)**, 72(4)(c); S.I. 2018/163, reg. 2(b)

**F37** S. 8A(1A) inserted (9.2.2018) by [The Petroleum \(Transfer of Functions\) Regulations 2016 \(S.I. 2016/898\)](#), **regs. 1(3)**, **3(9)** (with reg. 2); S.I. 2018/163, reg. 2(b)

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*Changes to legislation: There are currently no known outstanding effects  
for the Petroleum Act 1998, Part I. (See end of Document for details)*

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## **9 Supplementary.**

- (1) Nothing in this Part of this Act shall be construed as imposing any liability on any person where in the course of mining or other lawful operations petroleum is set free.
- (2) Nothing in this Part of this Act shall be construed as conferring, or as enabling the Secretary of State to confer, on any person, whether acting on behalf of Her Majesty or not, any right which he does not enjoy apart from this Part of this Act to enter on or interfere with land.
- (3) The issue of an authorisation within the meaning of Part III of this Act shall be deemed not to derogate from a licence granted under section 3 which is for the time being in force.



**Status:**

Point in time view as at 09/02/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Petroleum Act 1998, Part I.