

Status: Point in time view as at 14/07/2014.

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SCHEDULE

Section 1

AMENDMENTS OF DEEP SEA MINING (TEMPORARY PROVISIONS) ACT 1981

- 1 The Deep Sea Mining (Temporary Provisions) Act 1981 is amended as follows.
- 2 (1) Section 1 (prohibition of unlicensed deep sea mining) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) A person to whom this section applies (“P”) may not explore for mineral resources of any description in any area of the deep sea bed unless—
- (a) P holds an exploration licence (see section 2) which is in force or is the agent or employee of the holder of such a licence (acting in that capacity), and
- (b) the licence relates to mineral resources of that description and to that area of the deep sea bed.
- (2) A person to whom this section applies (“P”) may not exploit mineral resources of any description in any area of the deep sea bed unless—
- (a) P holds an exploitation licence (see section 2) which is in force or is the agent or employee of the holder of such a licence (acting in that capacity), and
- (b) the licence relates to mineral resources of that description and to that area of the deep sea bed.
- (2A) Subsections (1) and (2) are subject to section 3A.”
- (3) In subsection (6) for the definitions of “deep sea bed” and “hard mineral resources” substitute—
- ““deep sea bed” means the area of the sea bed situated beyond the limits of national jurisdiction of the United Kingdom or any other State;
- “mineral resource” means a solid, liquid or gaseous mineral resource;”.
- (4) In subsection (7) for the words from “certifying” to “Power” substitute “ or the Scottish Ministers certifying that an area of the sea bed is beyond the limits of national jurisdiction of the United Kingdom or any other State ”.
- 3 (1) Section 2 (exploration and exploitation licences) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) In this Act—
- “the Authority” means the International Seabed Authority;
- “corresponding contract” means—
- (a) in relation to an exploration licence, a contract which is granted by the Authority to the licensee and authorises exploration for the licensed mineral resource in the licensed area, and
- (b) in relation to an exploitation licence, a contract which is granted by the Authority to the licensee and authorises the exploitation of the licensed mineral resource in the licensed area;

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“exploration licence” means a licence under this section authorising the licensee to explore for mineral resources of a description specified in the licence in an area so specified;

“exploitation licence” means a licence under this section authorising the licensee to exploit mineral resources of a description specified in the licence in an area so specified;

“granted by the Authority”, in relation to a contract, means granted by the Authority in accordance with Article 153 of the Convention;

“plan of work” means a programme of activities and expenditure.”

(3) In subsection (2)—

(a) omit “subsection (4) and”, and

(b) for the words from “the Secretary of State” to the end substitute “—

(a) the Secretary of State may on payment of such fee as may with the consent of the Treasury be prescribed grant to such persons as the Secretary of State thinks fit exploration or exploitation licences, except where the Scottish Ministers have power to grant the exploration or exploitation licence in question;

(b) the Scottish Ministers may on payment of such fee as may be prescribed grant to such persons as they think fit exploration or exploitation licences.”.

(4) For subsection (3) substitute—

“(3) An exploration or exploitation licence—

(a) may be granted for such period as the Secretary of State thinks fit or, as the case may be, the Scottish Ministers think fit, and

(b) must not come into force before the date on which a corresponding contract comes into force.

(3A) An exploration or exploitation licence may contain such terms and conditions as the Secretary of State thinks fit or, as the case may be, the Scottish Ministers think fit, including, in particular, terms and conditions—

(a) relating to the safety, health or welfare of persons employed in the licensed operations or in the ancillary operations;

(b) relating to the processing or other treatment of any mineral resources extracted in pursuance of the licence which is carried out by or on behalf of the licensee on any ship;

(c) relating to the disposal of any waste material resulting from such processing or other treatment;

(d) requiring plans, returns, accounts or other records with respect to any matter connected with the licensed mineral resource and the licensed area or licensed operations or ancillary operations, to be provided to the Secretary of State or, as the case may be, the Scottish Ministers;

(e) requiring samples of the licensed mineral resource discovered in or extracted from the licensed area, or assays of such samples, to be provided to the Secretary of State or, as the case may be, the Scottish Ministers;

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- (f) requiring any exploration for or exploitation of the licensed mineral resource in the licensed area to be diligently carried out;
- (g) requiring the licensee to comply with such provisions of the Convention and the Agreement, interpreted in accordance with Article 2 of the Agreement, as are applicable to contractors;
- (h) requiring compliance with any other rules, regulations and procedures issued or adopted by the Authority, as are applicable to contractors;
- (i) requiring compliance with a corresponding contract;
- (j) requiring compliance with any plan of work authorised by a corresponding contract;
- (k) requiring payment to the Secretary of State of such sums as may with the consent of the Treasury be prescribed at such times as may be prescribed;
- (l) requiring payment to the Scottish Ministers of such sums as may be prescribed at such times as may be prescribed; and
- (m) permitting the transfer of the licence in prescribed cases or with the written consent of the Secretary of State or, as the case may be, the Scottish Ministers.”

(5) Omit subsection (4).

(6) For subsection (5) substitute—

- “(5) Where the Secretary of State has, or the Scottish Ministers have, granted an exploration licence, neither the Secretary of State nor the Scottish Ministers may grant an exploitation licence which relates to any part of the licensed area in relation to the exploration licence and to any of the mineral resources to which that licence relates unless the exploitation licence is granted—
- (a) to the holder of the exploration licence, or
 - (b) with that person's written consent.”

4 For section 3 substitute—

“3 Contracts granted by the Authority

- (1) Neither the Secretary of State nor the Scottish Ministers may grant an exploration or exploitation licence which relates to—
 - (a) any area of the deep sea bed in respect of which a contract granted by the Authority is in force, and
 - (b) any description of mineral resources to which the contract relates.
- (2) Subsection (1) does not apply where the contract is a corresponding contract in relation to a licence previously granted by the Secretary of State or the Scottish Ministers.
- (3) For the purposes of any proceedings a contract granted by the Authority may be proved by the production of a copy of the contract certified to be a true copy by an official of the Authority; and any document purporting to be such a copy is to be received in evidence and is to be deemed to be such a contract unless the contrary is proved.

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3A Exemptions from prohibition in section 1

- (1) A person to whom section 1 applies (“P”) is not prohibited by that section from prospecting for mineral resources in any area of the deep sea bed if P does so in accordance with the terms of a notification of prospecting—
 - (a) given by P to the Authority under the Convention, and
 - (b) recorded by the Authority as complying with the requirements of the Convention.
- (2) Where a person to whom section 1 applies holds a contract for exploration granted by the Authority or is the agent or employee of the holder of such a contract (acting in that capacity), that person is not prohibited by that section from exploring for any of the description of mineral resources to which the contract relates in any area of the deep sea bed in respect of which the contract is in force.
- (3) Where a person to whom section 1 applies holds a contract for exploitation granted by the Authority or is the agent or employee of the holder of such a contract (acting in that capacity), that person is not prohibited by that section from exploiting any of the description of mineral resources to which the contract relates in any area of the deep sea bed in respect of which the contract is in force.”

5 In section 4 (prevention of interference with licensed operations), in subsection (1), for the words from “pursuance” onwards substitute “pursuance of—

- (a) a contract granted by the Authority; or
- (b) an exploration or exploitation licence.”

6 In section 5 (protection of the marine environment)—

- (a) in subsection (1)—
 - (i) after “State”, in the first place, insert “ or, as the case may be, the Scottish Ministers ”,
 - (ii) after “State”, in the second place, insert “ or the Scottish Ministers ”, and
 - (iii) after “him” insert “ (or them) ”, and
- (b) in subsection (2)—
 - (i) for “section 2(3)” substitute “ section 2(3A) ”,
 - (ii) after “State” insert “ or the Scottish Ministers ”, and
 - (iii) after “considers” insert “ (or they consider) ”.

7 In section 6 (variation or revocation of licences), after subsection (2) insert—

“(3) This section applies in relation to an exploration or exploitation licence granted by the Scottish Ministers as if references to the Secretary of State were references to the Scottish Ministers.”

8 In section 8 (foreign discriminatory action)—

- (a) in subsection (1), after “State” insert “ or, as the case may be, the Scottish Ministers ”,
- (b) in subsection (2)—

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- (i) for “section 2(3) above, the Secretary of State” substitute “section 2(3A) above, the Secretary of State or the Scottish Ministers”, and
- (ii) after “considers” insert “ (or they consider) ”, and
- (c) in subsection (4), after “State” insert “ or, as the case may be, the Scottish Ministers ”.

9 After section 8 insert—

“8A Enforcement of decisions of the Seabed Disputes Chamber

- (1) A decision of the Seabed Disputes Chamber of the Tribunal in relation to a dispute of a type described in Article 187(c), (d) or (e) of the Convention may be registered in the High Court or the Court of Session (“the registering court”) in such manner as may be prescribed by rules of court.
- (2) Where a decision is registered under this section, it is to be treated for the following purposes as if it had been originally given by the registering court and had (where relevant) been entered—
 - (a) its force and effect for the purposes of enforcement;
 - (b) the powers of the registering court in relation to its enforcement;
 - (c) the taking of proceedings for or with respect to its enforcement.
- (3) Where a decision registered under this section provides for payment of a sum of money, the debt resulting from the registration is to carry interest as if the decision were a judgment of the registering court and the debt had become due on the date of registration.
- (4) Where a decision is registered under this section, the reasonable costs and expenses of and incidental to its registration are to be recoverable as if they were sums recoverable under the decision.
- (5) Costs or expenses recoverable by virtue of subsection (4) are to carry interest as if they were the subject of an order for costs and expenses made by the registering court on the date of registration.
- (6) Subsection (2) is subject to any provision made by rules of court as to the manner in which and conditions subject to which a decision registered under this section may be enforced.
- (7) In the application of this section in relation to Scotland references to costs are to be disregarded.

8B Proof and admissibility of decisions of the Seabed Disputes Chamber

- (1) For the purposes of section 8A a document, duly authenticated, which purports to be a copy of a decision given by the Seabed Disputes Chamber of the Tribunal is without further proof to be taken to be a true copy, unless the contrary is shown
- (2) A document purporting to be a copy of a decision given by the Seabed Disputes Chamber of the Tribunal is duly authenticated for the purposes of this section if it purports—
 - (a) to bear the seal of the Tribunal, or

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- (b) to be certified by any person in the person's capacity as a judge of the Tribunal, the Registrar of the Tribunal or a member of the staff of the Registrar to be a true copy of a decision given by the Tribunal.
- (3) Nothing in this section prejudices the admission in evidence of any document which is admissible apart from this section.

8C Recognition and enforcement of arbitration awards

An award made in pursuance of Article 188(2)(a) of the Convention (disputes concerning interpretation or application of contracts)—

- (a) is to be treated for the purposes of Part 3 of the Arbitration Act 1996 (recognition and enforcement of certain foreign awards) as a New York Convention award, and
- (b) is to be treated for the purposes of sections 18 to 22 of the Arbitration (Scotland) Act 2010 (which make similar provision for Scotland) as a Convention award,

whether or not (in either case) it would be so treated apart from this section.”

10 Omit section 9 (the deep sea mining levy) and section 10 (the Deep Sea Mining Fund).

11 In section 11 (inspectors)—

- (a) in subsection (1)—
 - (i) after “State” insert “ or the Scottish Ministers ”,
 - (ii) after “him”, in both places, insert “ (or them) ”, and
 - (iii) after “considers” insert “ (or they consider) ”, and
- (b) in subsection (2)—
 - (i) after “State”, in the first place, insert “ or the Scottish Ministers ”, and
 - (ii) for “may determine with the approval” substitute “ or, as the case may be, the Scottish Ministers, may determine with the approval (in the case of an appointment by the Secretary of State) ”.

12 For section 12 substitute—

“12 Regulations and orders

- (1) The Secretary of State may make regulations—
 - (a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Secretary of State;
 - (b) generally for carrying this Act into effect, except where the Scottish Ministers have power to make provision under subsection (2)(b).
- (2) The Scottish Ministers may make regulations—
 - (a) prescribing anything required or authorised to be prescribed under this Act in relation to an exploration or exploitation licence granted or to be granted by the Scottish Ministers;
 - (b) generally for carrying this Act into effect.
- (3) Regulations under this section may, in particular, make provision with respect to any of the matters mentioned in the Schedule.

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- (4) Regulations under this section may make different provision for different cases or classes of case and may exclude the operation of any provision of the regulations in specified cases.
 - (5) Any power of the Secretary of State to make regulations or an order under this Act is exercisable by statutory instrument.
 - (6) A statutory instrument containing regulations made under this Act by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (7) Regulations under subsection (2) are subject to the negative procedure, within the meaning of section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010.”
- 13 In section 13(1) (disclosure of information)—
- (a) in paragraph (b), for “or the Secretary of State” substitute “, the Secretary of State or the Scottish Ministers”; and
 - (b) for paragraph (e) substitute—
 - “(e) to the Authority.”
- 14 For sections 16 and 17 substitute—

“16 Exclusion of certain legislation

- (1) Nothing in the following enactments applies to anything done in pursuance of an exploration or exploitation licence or a contract granted by the Authority.
- (2) Those enactments are—
 - (a) Part 2 of the Food and Environment Protection Act 1985 (deposits in the sea);
 - (b) Part 4 of the Marine and Coastal Access Act 2009 (marine licensing);
 - (c) Part 4 of the Marine (Scotland) Act 2010 (marine licensing).

17 Interpretation

In this Act—

“the Agreement” means the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of December 1982;

“ancillary operations”, in relation to any licensed operations, means any activity carried on by or on behalf of the licensee which is ancillary to the licensed operations (including the processing and transportation of any substances recovered);

“the Authority” has the meaning given by section 2;

“the Convention” means the United Nations Convention on the Law of the Sea;

“corresponding contract” has the meaning given by section 2;

“deep sea bed” has the meaning given by section 1;

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“deep sea bed mining operations” means any exploration or exploitation of the mineral resources of the deep sea bed;

“exploitation” means commercial exploitation;

“exploitation licence” has the meaning given by section 2;

“exploration”, in relation to the mineral resources of any area of the deep sea bed, means the investigation of that area of the deep sea bed for the purpose of ascertaining whether or not the mineral resources of that area of the deep sea bed can be commercially exploited;

“exploration licence” has the meaning given by section 2;

“granted by the Authority”, in relation to a contract, has the meaning given by section 2;

“inspector” means a person appointed as inspector under section 11;

“licensed area” in relation to a licence, means the area of the deep sea bed specified in the licence;

“licensed mineral resource” in relation to a licence, means the description of mineral resource specified in the licence;

“licensed operations” means any activities which the licensee may carry on by virtue of their licence;

“licensee” means the holder of an exploration or exploitation licence;

“mineral resource” has the meaning given by section 1;

“plan of work” has the meaning given by section 2;

“prescribed” (except where used in relation to rules of court) means prescribed by regulations under section 12;

“prospecting” in relation to the mineral resources of any area of the deep sea bed, means searching for mineral resources in that area of the deep sea bed and may include estimating the composition, size, distribution and economic values of such mineral resources;

“ship” includes every description of vessel used in navigation;

“the Tribunal” means the International Tribunal for the Law of the Sea.”

15 After section 17 insert—

“17A Exercise of functions by the Scottish Ministers

Any provision of this Act which confers a function on the Scottish Ministers is to be read as conferring a function exercisable only so far as within devolved competence (within the meaning of section 54 of the Scotland Act 1998).”

16 (1) Section 18 (short title etc.) is amended as follows.

(2) In subsection (1) omit “(Temporary Provisions)”.

(3) Omit subsections (3) to (5).

17 In the Schedule, in paragraph 5, after “Secretary of State” insert “ (or, in the case of regulations made under section 12(2), the Scottish Ministers) ”.

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