



Energy Act 2016

2016 CHAPTER 20

PART 1

THE OGA

The OGA and its core functions

1 The OGA

- (1) The company originally incorporated under the Companies Act 2006 as the Oil and Gas Authority Limited is renamed as the Oil and Gas Authority.
- (2) In relation to any of its functions—
 - (a) the Oil and Gas Authority is not to be regarded as acting on behalf of the Crown, and
 - (b) its members, officers and staff are not to be regarded as Crown servants.
- (3) The Oil and Gas Authority is exempt from the requirements of the Companies Act 2006 relating to the use of “limited” as part of its name.
- (4 In this Act “the OGA” means the Oil and Gas Authority.

Commencement Information

- I1** S. 1(1)-(3) in force at 12.7.2016 by S.I. 2016/602, reg. 3(a) (as substituted by S.I. 2016/710, reg. 2)
- I2** S. 1(4) in force at 24.5.2016 by S.I. 2016/602, reg. 2(a)

2 Transfer of functions to the OGA

- (1) Schedule 1 transfers certain functions of the Secretary of State to the OGA.
- (2 The Secretary of State may by regulations provide—

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- (a) for the transfer to the OGA of any relevant functions exercisable by a Minister of the Crown, or
 - (b) for any such functions that are to be transferred to the Scottish Ministers or the Welsh Ministers to be exercisable by the OGA until the transfer to those Ministers takes effect.
- (3) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, any provision contained in—
- (a) Schedule 1, or
 - (b) regulations under subsection (2).
- (4) The provision that may be made under subsection (3) includes provision—
- (a) amending, repealing or revoking any enactment,
 - (b) amending any relevant authorisation (including any model clause incorporated, or having effect as if incorporated, in it) granted or given before the date when the regulations take effect,
 - (c) for anything done by or in relation to a Minister of the Crown in connection with any functions transferred to be treated as done, or to be continued, by or in relation to the OGA, and
 - (d) about the continuation of legal proceedings.
- (5) Regulations under this section may not provide for the transfer to, or exercise by, the OGA of any power to legislate by means of orders, rules, regulations or other subordinate instrument.
- (6) In this section and section 3—
- “enactment” includes an enactment comprised in subordinate legislation, within the meaning of the Interpretation Act 1978;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975, and includes such Ministers acting jointly;
 - “relevant authorisation” means—
 - (a) a licence, authorisation or notice granted or given by a Minister of the Crown in the exercise of a relevant function, or
 - (b) a licence granted under section 2 of the Petroleum (Production) Act 1934 (searching for and getting petroleum);
 - “relevant function” means a function conferred by or under—
 - (a) Schedule 1 to the Oil Taxation Act 1975,
 - (b) the Petroleum Act 1998 (except Part 4),
 - (c) Chapter 2 or 3 of Part 1 of the Energy Act 2008,
 - (d) Part 8 of the Corporation Tax Act 2010,
 - (e) Chapter 3 of Part 2 of the Energy Act 2011,
 - (f) the Hydrocarbons Licensing Directive Regulations 1995 (S.I. 1995/1434),
 - (g) any regulations amended or modified by the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513),
 - (h) the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 (S.I. 2010/2221),

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- (i) the Storage of Carbon Dioxide (Termination of Licences) Regulations 2011 (S.I. 2011/1483),
- (j) the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 (S.I. 2011/2305), or
- (k) any other enactment that relates to matters similar to those to which an enactment mentioned in any of the preceding paragraphs relates.

Commencement Information

I3 S. 2(2)-(6) in force at 24.5.2016 by S.I. 2016/602, reg. 2(b)

3 Transfer of property, rights and liabilities to the OGA

- (1) The Secretary of State may make one or more transfer schemes transferring qualifying property, rights and liabilities of a Minister of the Crown to the OGA.
- (2) A scheme made under this section may, in particular, make provision—
 - (a) for anything done by or in relation to a Minister of the Crown in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the OGA;
 - (b) for references to a Minister of the Crown in any agreement (whether written or not), instrument or other document relating to property, rights or liabilities transferred by the scheme to be treated as references to the OGA;
 - (c) about the continuation of legal proceedings;
 - (d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;
 - (e) for transferring property, rights or liabilities irrespective of any requirement for consent which would otherwise apply;
 - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
 - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
 - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
 - (i) for apportioning property, rights or liabilities;
 - (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
 - (k) for requiring the OGA to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (3) Subsection (2)(b) does not apply to references in an enactment or a relevant authorisation.
- (4) In this section—
 - “property” includes interests of any description, and
 - “qualifying property, rights and liabilities” means property held, and rights and liabilities arising, in connection with functions which were functions of a Minister of the Crown and as a result of this Act have or are to become

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functions of the OGA, but does not include rights and liabilities relating to an individual's employment in the civil service of the State.

Commencement Information

I4 S. 3 in force at 12.7.2016 by S.I. 2016/602, reg. 3(b) (as substituted by S.I. 2016/710, reg. 2)

4 Transfer of staff to the OGA

- (1) The Secretary of State may make one or more transfer schemes under which persons who hold employment in the civil service of the State become employees of the OGA (but this is subject to any provision contained in the scheme that allows a person to object to becoming an employee of the OGA).
- (2) A scheme made under this section—
 - (a) may make provision for giving full effect for a person's transfer into the employment of the OGA as a result of the scheme, and
 - (b) may (in particular) include provision that is the same as, or similar to, the provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (whether or not those regulations would otherwise apply in relation to the transfer).

Commencement Information

I5 S. 4 in force at 12.7.2016 by S.I. 2016/602, reg. 3(c) (as substituted by S.I. 2016/710, reg. 2)

5 Transfer schemes: supplementary

- (1) A scheme made under section 3 or 4 may—
 - (a) contain incidental, supplementary and consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.
- (2) Subject to subsection (3), the Secretary of State may modify a scheme made under section 3 or 4.
- (3) If a transfer under the scheme has taken effect, any modification under subsection (2) that relates to the transfer may be made only with the agreement of the person (or persons) affected by the modification.
- (4) A modification takes effect from such date as the Secretary of State may specify; and that date may be the date when the original scheme came into effect.

Commencement Information

I6 S. 5 in force at 12.7.2016 by S.I. 2016/602, reg. 3(d) (as substituted by S.I. 2016/710, reg. 2)

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6 Pensions

- (1) The persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include the employees of the OGA.
- (2) Accordingly, in Schedule 1 to that Act (employment to which superannuation schemes may extend), in the list of other bodies, at the appropriate place insert— “The Oil and Gas Authority.”
- (3) The employees of the OGA are to be treated for the purposes of paragraph (1)(b) of regulation 3 of the Public Service (Civil Servants and Others) Pensions Regulations 2014 (S.I. 2014/1964) as persons—
 - (a) to whom the scheme established under that regulation may potentially relate by virtue of paragraph (2) of that regulation, and
 - (b) in respect of whom the Minister for the Civil Service has made a determination under section 25(5) of the Public Service Pensions Act 2013.
- (4) The OGA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to this section in the sums payable out of money provided by Parliament under the Superannuation Act 1972 and the Public Service Pensions Act 2013.

VALID FROM 01/10/2016

7 Contracting out of functions to the OGA

- (1) Subsection (2) applies if, under section 69 of the Deregulation and Contracting Out Act 1994, the OGA is, or employees of the OGA are, authorised to exercise a function to which that section applies.
- (2) Subsection (5)(a) of that section applies in relation to the authorisation as if the words “, not exceeding 10 years,” were omitted.
- (3) The Welsh Ministers may enter into an agreement with the OGA authorising the OGA to exercise any functions of the Welsh Ministers.
- (4) The reference in subsection (3) to functions does not include functions of making, confirming or approving subordinate legislation contained in a statutory instrument.
- (5) An agreement under subsection (3) does not affect the responsibility of the Welsh Ministers.
- (6) An agreement under subsection (3) does not prevent the Welsh Ministers from exercising a function to which the agreement relates.
- (7) The Welsh Ministers must arrange for a copy of any agreement under subsection (3) to be published in such manner as the Welsh Ministers consider appropriate for bringing it to the attention of the persons who, in the Welsh Ministers' opinion, are likely to be affected by it.

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Exercise of functions

8 Matters to which the OGA must have regard

- (1) The matters to which the OGA must have regard when exercising its functions include the following, so far as relevant—

Minimising future public expenditure The need to minimise public expenditure relating to, or arising from, relevant activities.

Security of supply The need for the United Kingdom to have a secure supply of energy.

Storage of carbon dioxide The development and use of facilities for the storage of carbon dioxide, and of anything else (including, in particular, pipelines) needed in connection with the development and use of such facilities, and how that may assist the Secretary of State to meet the target in section 1 of the Climate Change Act 2008.

Collaboration The need for the OGA to work collaboratively with the government of the United Kingdom and with persons who carry on, or wish to carry on, relevant activities.

Innovation The need to encourage innovation in technology and working practices in relation to relevant activities.

System of regulation The need to maintain a stable and predictable system of regulation which encourages investment in relevant activities.

- (2) In this section and section 9—

“function” means any function of the OGA, including any function under Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide), other than a function which the OGA is authorised to exercise by virtue of—

- (a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or
- (b) an agreement under section 7(3);

“relevant activity” means any activity in relation to which the OGA has functions.

9 Directions: national security and public interest

- (1) The Secretary of State may give directions to the OGA as to the exercise by it of any of its functions if the Secretary of State considers that the directions—

- (a) are necessary in the interests of national security, or
- (b) are otherwise in the public interest.

- (2) Directions may be given under subsection (1)(b) in relation to the exercise of a regulatory function in a particular case only if the Secretary of State considers that the circumstances are exceptional.

- (3) Directions given under this section may be varied or revoked by further directions given under this section.

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- (4) The Secretary of State must lay before Parliament a copy of any directions given under this section.
- (5) The Secretary of State may exclude from any directions laid before Parliament under subsection (4) any material the publication of which the Secretary of State considers would—
 - (a) be contrary to the interests of national security, or
 - (b) otherwise not be in the public interest.
- (6) If the Secretary of State considers that publication of the directions (whether with or without the exclusion of material under subsection (5)) would fall within paragraph (a) or (b) of that subsection, the Secretary of State may, instead of laying the directions, lay before Parliament a memorandum stating—
 - (a) that the directions have been given, and
 - (b) the date on which they were given.
- (7) The OGA must notify the Secretary of State of any cases, matters or circumstances which have arisen, or which the OGA considers are likely to arise, in respect of which the OGA considers that the power to give directions under this section should be exercised by the Secretary of State.
- (8) In this section “regulatory function” means—
 - (a) a function of granting or revoking a licence or other authorisation in relation to any relevant activity;
 - (b) a function of imposing conditions or requirements in relation to any relevant activity;
 - (c) a function that relates to securing, monitoring or investigating compliance with conditions or requirements in relation to any relevant activity.

10 Directions: requirements to notify Secretary of State

- (1) The Secretary of State may give directions to the OGA specifying cases, matters or circumstances of which the OGA must notify the Secretary of State—
 - (a) when they arise, or
 - (b) if the OGA considers that they are likely to arise.
- (2) Directions given under this section may be varied or revoked by further directions given under this section.

VALID FROM 01/10/2016

Information and samples

11 Power of Secretary of State to require information and samples

- (1) The Secretary of State may require the OGA to provide the Secretary of State with such information or samples held by or on behalf of the OGA as the Secretary of State may require for the purpose of—
 - (a) carrying out any function conferred by or under any Act,

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- (b) monitoring the OGA's performance of its functions, or
 - (c) any Parliamentary proceedings.
- (2) In this section—
- (a) references to “protected material” are references to information or samples acquired by the Secretary of State under subsection (1), and
 - (b) references to disclosing protected material include references to making the protected material available to other persons (in a case where the protected material includes samples).
- (3) The Secretary of State may use protected material only for the purpose for which it is provided.
- (4) Protected material must not be disclosed—
- (a) by the Secretary of State, or
 - (b) by a subsequent holder,
- except in accordance with this section.
- (5) For the purposes of subsection (4)(b), “subsequent holder”, in relation to protected material, means a person who receives protected material directly or indirectly from the Secretary of State by virtue of a disclosure, or disclosures, in accordance with this section.
- (6) Subsection (4) does not prohibit the Secretary of State from disclosing protected material so far as necessary for the purpose for which it was provided.
- (7) Subsection (4) does not prohibit a disclosure of protected material if—
- (a) the disclosure is required by virtue of an obligation imposed by or under any Act, or
 - (b) the OGA consents to the disclosure and, in a case where the protected material in question was provided to the OGA by or on behalf of another person, confirms that that person also consents to the disclosure.

Funding

VALID FROM 01/10/2016

12 Powers of the OGA to charge fees

- (1) The OGA may charge fees—
- (a) for making a determination under Schedule 1 to the Oil Taxation Act 1975;
 - (b) on an application made to it under section 12A of the Energy Act 1976;
 - (c) on an application made to it under section 3, 15, 16 or 17 of the Petroleum Act 1998;
 - (d) on an application of a prescribed description made to it by the holder of a licence granted under—
 - (i) section 3 of that Act (searching for, boring and getting petroleum), or
 - (ii) section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);

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- (e) on an application of a prescribed description made to it by the holder of an authorisation issued under section 15 of the Petroleum Act 1998;
 - (f) for carrying out or attending any test, examination or inspection of a prescribed description;
 - (g) on an application made to it under section 4 or 18 of the Energy Act 2008;
 - (h) on an application of a prescribed description made to it by the holder of a licence granted under section 4 or 18 of that Act;
 - (i) for the storage by it of samples or information in accordance with an information and samples plan (see section 33(4) of this Act).
- (2) The fees—
- (a) are to be determined by or in accordance with regulations made by the Secretary of State, and
 - (b) are to be payable by such persons as the regulations may provide.
- (3) The OGA must pay into the Consolidated Fund any amount which it receives in respect of fees charged by it under this section.
- (4) Subsection (3) does not apply where the Secretary of State, with the consent of the Treasury, otherwise directs.
- (5) Where in relation to any matter the OGA has a function mentioned in subsection (6), that function is treated for the purposes of this section as carried out pursuant to an application made to the OGA (whether or not there is any requirement to make such an application).
- (6) The functions are—
- (a) extending the term of a licence;
 - (b) giving its consent or approval in relation to any matter;
 - (c) objecting in relation to any matter.
- (7) The OGA may not charge fees under this section for the exercise of any function which it is authorised to exercise by virtue of—
- (a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or
 - (b) an agreement under section 7(3).
- (8) The Secretary of State must consult the OGA before making regulations under this section.
- (9) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

13 Levy on licence holders

- (1) The Secretary of State may, by regulations, provide for a levy to be imposed on, and be payable by, one or more of the following kinds of persons—
- (a) persons who hold licences (other than excluded licences) granted under section 3 of the Petroleum Act 1998 (searching for, boring and getting petroleum);

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- (b) persons who hold licences (other than excluded licences) granted under section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);
 - (c) persons who hold licences granted under section 4 of the Energy Act 2008 (unloading and storing gas);
 - (d) persons who hold licences granted under section 18 of the Energy Act 2008 by the Secretary of State or the OGA (storage of carbon dioxide).
- (2) The Secretary of State must exercise the power conferred by subsection (1) so as to secure—
- (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the sum of—
 - (i) the costs incurred by the OGA in exercising its functions in respect of that period, and
 - (ii) the costs incurred in respect of that period by the Lord Chancellor in connection with the provision of Tribunals to consider appeals against decisions of the OGA, and
 - (b) that no levy is payable in respect of costs incurred in the exercise of functions—
 - (i) for which fees are charged under section 12, or
 - (ii) which the OGA is authorised to exercise by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 or an agreement under section 7(3) of this Act.
- (3) In determining for the purposes of subsection (2)(a) the total amount of licensing levy payable in respect of a charging period, an amount of levy payable in respect of that period may be ignored if (during that period or subsequently)—
- (a) having been paid, it is repaid or credit for it is given against other licensing levy that is payable, or
 - (b) having not been paid, the requirement to pay it is cancelled.
- (4) The amount or amounts of licensing levy payable by licence holders must be—
- (a) set out in the regulations, or
 - (b) calculated in accordance with a method set out in the regulations.
- (5) The licensing levy is payable to the OGA.
- (6) The OGA must pay into the Consolidated Fund any amount which it receives in respect of the licensing levy.
- (7) Subsection (6) does not apply where the Secretary of State, with the consent of the Treasury, otherwise directs.
- (8) The Secretary of State must consult the OGA before making regulations under this section.
- (9) Section 14 does not limit the provision that may be made by regulations under this section.
- (10) In this section and section 14—
- “charging period” means a period in respect of which licensing levy is payable;

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“excluded licence”, in relation to a charging period, means a licence that, if granted at the beginning of the period, would fall to be granted by the Scottish Ministers or the Welsh Ministers (and for these purposes a licence within subsection (1)(b) is to be treated as granted under section 3 of the Petroleum Act 1998);

“licensing levy” means the levy provided for in regulations under this section.

Commencement Information

I7 S. 13 in force at 12.7.2016 by S.I. 2016/602, reg. 3(e) (as substituted by S.I. 2016/710, reg. 2)

14 The licensing levy: regulations

- (1) Regulations may provide for the licensing levy payable in respect of a charging period to increase or decrease over that period.
- (2) Regulations may provide for an amount of licensing levy payable by a licence holder to be calculated by reference to the size of an area to which a licence held by that person relates.
- (3) Regulations may provide for different categories of licence holders to pay—
 - (a) different amounts of licensing levy, or
 - (b) amounts of licensing levy calculated, set or determined in different ways.
- (4) Regulations may provide for a category of licence holder to be exempt from payment of the licensing levy.
- (5) Regulations may provide for interest (at a rate specified in, or determined under, the regulations) to be charged in respect of unpaid amounts of licensing levy.
- (6) Regulations may provide for unpaid amounts of licensing levy (together with any interest charged) to be recoverable as a civil debt.
- (7) Regulations may confer a function (including a function involving the exercise of a discretion) on—
 - (a) the Secretary of State,
 - (b) the OGA, or
 - (c) any other person, apart from the Scottish Ministers or the Welsh Ministers.
- (8) Regulations (including regulations of the kinds mentioned in subsections (3) and (4)) may provide for a category of licence holder to consist of persons who hold a kind of licence that is specified in the regulations.
- (9) The regulations may (in particular) specify any of the following kinds of licence—
 - (a) licences granted under a particular enactment;
 - (b) licences of a particular description granted under a particular enactment;
 - (c) licences, or licences of a particular description (including a description falling within paragraph (a) or (b)), granted—
 - (i) before a particular time,
 - (ii) after a particular time, or
 - (iii) during a particular period.

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(10) In this section—

“licence” means a licence falling within section 13(1);

“licence holder” means a person who holds a licence (whether the person was granted it or has, after its grant, acquired it by assignment or other means);

“regulations” means regulations under section 13.

Commencement Information

18 S. 14 in force at 12.7.2016 by S.I. 2016/602, reg. 3(f) (as substituted by S.I. 2016/710, reg. 2)

VALID FROM 01/10/2016

15 Payments and financial assistance

- (1) The Secretary of State may make payments or provide financial assistance to the OGA.
- (2) The payments or financial assistance may be made or provided subject to such conditions as may be determined by the Secretary of State.
- (3) In the case of a grant such conditions may, in particular, include conditions requiring repayment in specified circumstances.
- (4) In this section “financial assistance” means grants, loans, guarantees or indemnities, or any other kind of financial assistance.

VALID FROM 01/10/2016

Review

16 Review of OGA and guidance from Secretary of State

- (1) The Secretary of State must review the OGA's performance for each review period.
- (2) The first review period—
 - (a) begins with the day on which section 1 comes into force, and
 - (b) ends at the end of the period of three years beginning with that day, or on such earlier day as the Secretary of State may determine.
- (3) Subsequent review periods—
 - (a) begin with the day (“the first day”) after the last day of the preceding review period,
 - (b) end at the end of the period of three years beginning with the first day, or on such earlier day as the Secretary of State may determine.
- (4) A review must, in particular—
 - (a) assess how effective the OGA has been in exercising its functions, and
 - (b) consider the OGA's functions under—

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- (i) Part 2, and
 - (ii) Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide),
- with regard to their fitness for purpose and scope.
- (5) As soon as practicable after a review period, the Secretary of State must—
- (a) publish a report of the findings of the review for that period, and
 - (b) lay a copy of the report before Parliament.
- (6) As a result of the findings of a review, the Secretary of State may give guidance to the OGA about any matter relating to the OGA's functions.
- (7) The OGA must take account of any such guidance in carrying out its functions.
- (8) For the purposes of this section “function” does not include any function which the OGA is authorised to exercise by virtue of—
- (a) an order under section 69 of the Deregulation and Contracting Out Act 1994, or
 - (b) an agreement under section 7(3).

Status:

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Changes to legislation:

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