



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.

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—
 - (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.

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- (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](#)),
 - (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.

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

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

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- (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).

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.

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.

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.