
STATUTORY INSTRUMENTS

2018 No. 980

**PETROLEUM
DEVOLUTION**

**The Scotland Act 2016, Wales Act 2017 and Onshore
Petroleum (Consequential, Transitional and Saving
Provisions and Model Clauses) Regulations 2018**

<i>Made</i>	- - - -	<i>5th September 2018</i>
<i>Laid before Parliament</i>		<i>10th September 2018</i>
<i>Coming into force</i>	- -	<i>1st October 2018</i>

The Secretary of State for Business, Energy and Industrial Strategy, in exercise of the powers conferred by section 4(1B), (2) and (3) of the Petroleum Act 1998⁽¹⁾, sections 49(1) and (3) and 71(1), (2), (5) and (6) of the Scotland Act 2016⁽²⁾, and sections 24(1), (2) and (4), 69(2), (3), (4) and (5) and 70(2), (3), (4) and (7) of the Wales Act 2017⁽³⁾ and having consulted the Oil and Gas Authority in accordance with section 4(3ZA) of the Petroleum Act 1998, makes the following Regulations.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Scotland Act 2016, Wales Act 2017 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 and come into force on 1st October 2018.

(2) An amendment or modification made by these Regulations has the same extent as the provision to which it relates.

(1) 1998 c.17. Section 4 was amended by section 48 of the Scotland Act 2016 (c.11) and S.I. 2016/898. Amendments are also made to section 4 that have not yet entered into force. Section 4(1B) is to be extended to licences granted by Welsh Ministers with the commencement of paragraph 15 of Schedule 6 to the Wales Act 2017 (c.4) from 1 October 2018. Section 4 is further amended by the Wales Act 2017, Schedule 6, paragraph 15 from 1 October 2018.

(2) 2016 c.11.

(3) 2017 c.4.

PART 2

Amendments to secondary legislation

Hydrocarbons Licensing Directive Regulations 1995

- 2.—(1) The Hydrocarbons Licensing Directive Regulations 1995(4) are amended as follows.
- (2) In regulation 1A(1), after “the Scottish onshore area” insert “or the Welsh onshore area”.
- (3) In regulation 1A(2), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”(5).
- (4) In regulation 5(2), for “the OGA or the Scottish Ministers invite” substitute “the OGA, the Scottish Ministers or the Welsh Ministers invite”.

Petroleum (Production) (Landward Areas) Regulations 1995

- 3.—(1) The Petroleum (Production) (Landward Areas) Regulations 1995(6) are amended as follows.
- (2) In regulation 2, after the entry for “supplementary seismic survey licence”—
- (a) omit “and”;
 - (b) insert ““Welsh onshore area” has the meaning given by section 8A of the Petroleum Act 1998; and”.
- (3) In regulation 3(1A), after “Scottish onshore area” insert “or the Welsh onshore area”.

Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014

- 4.—(1) The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014(7) are amended as follows.
- (2) After regulation 1A(1), insert—
- “(1A) Except for regulations 1(2) and 2(1A) and Schedules 2B and 3B, these Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Welsh onshore area.”.
- (3) In regulation 1A(2), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.
- (4) For regulation 2(1A) substitute —
- “(1A) For the purposes of section 4(1B) of the Petroleum Act 1998—
- (a) the model clauses prescribed for petroleum exploration and development licences granted by the Scottish Ministers are those set out in Schedule 2A;
 - (b) the model clauses prescribed for petroleum exploration and development licences granted by the Welsh Ministers are those set out in Schedule 2B;
 - (c) the model clauses prescribed for landward petroleum exploration licences granted by the Scottish Ministers are those set out in Schedule 3A; and

(4) S.I. 1995/1434, amended by S.I. 2016/912 and 2018/56.

(5) Section 8A(5) of the Petroleum Act 1998 (c.17) is inserted by section 23(4) of the Wales Act 2017 (c.4) with effect from 1 October 2018 as provided by regulation 4 of S.I. 2017/1179.

(6) S.I. 1995/1436, revoked by S.I. 2015/766 except in relation to methane drainage licences as specified in regulation 3(2) of that instrument. Regulations 2 and 3 were amended by section 48(21) to (24) of the Scotland Act 2016 (c.11) and by S.I. 2011/1043 and 2016/912. There are other amending instruments but none are relevant.

(7) S.I. 2014/1686, amended by S.I. 2016/912, 2016/1029, 2017/426, 2017/855, 2017/1012 and 2018/56.

- (d) the model clauses prescribed for landward petroleum exploration licences granted by the Welsh Ministers are those set out in Schedule 3B.”.
- (5) After Schedule 2A, insert Schedule 2B as set out in Schedule 1 to these Regulations.
- (6) After Schedule 3A, insert Schedule 3B as set out in Schedule 2 to these Regulations.

Petroleum Licensing (Applications) Regulations 2015

- 5.—(1) The Petroleum Licensing (Applications) Regulations 2015⁽⁸⁾ are amended as follows.
- (2) In regulation 3(1A), after “the Scottish onshore area” insert “or the Welsh onshore area”.
- (3) In regulation 3(1B), after “the Petroleum Act 1998” insert “and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.

Oil and Gas Authority (Fees) Regulations 2016

- 6.—(1) The Oil and Gas Authority (Fees) Regulations 2016⁽⁹⁾ are amended as follows.
- (2) In regulation 1A(1), after “Scottish onshore area” insert “ or the Welsh onshore area”.
- (3) In regulation 1A(2), after “Petroleum Act 1998” insert “ and “Welsh onshore area” has the meaning given in section 8A(5) of that Act”.

Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018

- 7.—(1) The Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018⁽¹⁰⁾ are amended as follows.
- (2) For regulation 7(1)(c) substitute—
 - “(c) clauses or parts of clauses corresponding to clauses 9, 25(5), 31, 32 or 36(2)(a) of the relevant Schedule were omitted;”.
- (3) Omit regulation 7(1)(d).
- (4) For regulation 9(4)(b)(v) substitute—
 - “(v) the following were omitted—
 - (aa) clause 12;
 - (bb) clause 30(5);
 - (cc) clauses 36 and 37;
 - (dd) clause 41(2)(a);
 - (ee) clause 44(4), and”.

⁽⁸⁾ S.I. 2015/766, amended by S.I. 2016/912, 2017/855 and 2018/56.

⁽⁹⁾ S.I. 2016/904, amended by S.I. 2017/426 and 2018/56.

⁽¹⁰⁾ S.I. 2018/56.

PART 3

Amendments to existing Welsh licences

Interpretation

8. In this Part, “existing Welsh licence” means a licence, granted before the day on which section 23 of the Wales Act 2017 comes into force⁽¹¹⁾, under—

- (a) section 3 of the Petroleum Act 1998⁽¹²⁾, or
- (b) section 2 of the Petroleum (Production) Act 1934⁽¹³⁾,

in respect of an area all of which is within the Welsh onshore area⁽¹⁴⁾ or which has effect as if it comprised such an area as a result of a direction made under section 24(3)(a) of the Wales Act 2017.

Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 3 to the Petroleum (Production) (Landward Areas) Regulations 1995

9.—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 3 to the Petroleum (Production) (Landward Areas) Regulations 1995⁽¹⁵⁾ has effect as if—

- (a) in clauses or parts or clauses corresponding to clause 1(1) of that Schedule—
 - (i) in the definition of “block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”, and
 - (ii) the definitions of “appropriate percentage” and “chargeable period” were omitted;
- (b) in clauses or parts or clauses corresponding to clause 2 of that Schedule, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
- (c) in clauses or parts or clauses corresponding to clauses 4(1) or 5(1) of that Schedule, the words “paying the payments and royalties hereinafter provided and” were omitted;
- (d) clauses or parts or clauses corresponding to clauses 9 to 11, 27(5), 33, 34 or 38(2)(a) of that Schedule were omitted, and
- (e) references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.

(2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004

10.—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004⁽¹⁶⁾ has effect as if—

(11) Section 23 comes into force on 1 October 2018 as provided by regulation 4 of [S.I. 2017/1179](#).
 (12) [1998 c.17](#). Section 3 is amended by section 48(2) to (4) of the Scotland Act [2016 \(c.11\)](#) and [S.I. 2016/898](#).
 (13) [1934 c.36](#). The whole Act was repealed by Part 1 of Schedule 5 to the Petroleum Act 1998.
 (14) “Welsh onshore area” is defined in section D2 in Part 2 of Schedule 7A to the Government of Wales Act [2006 \(c.32\)](#) to mean the area of Wales that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act [1987 \(c.49\)](#).
 (15) Schedule 3 is amended by section 77 of, and paragraph 1 of Schedule 3 to, the Energy Act [2008 \(c.32\)](#).
 (16) [S.I. 2004/352](#), amended by section 77 of, and paragraph 20 of Schedule 3 to, the Energy Act 2008, [S.I. 2006/784](#), [S.I. 2009/229](#) and [S.I. 2009/3283](#). Schedule 6 is disapplied by regulation 2(2) of [S.I. 2014/1686](#) in relation to any licence granted on or after the commencement of that instrument.

- (a) in clauses or parts of clauses corresponding to clause 1(1) of that Schedule, in the definition of “Block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
 - (b) in clauses or parts of clauses corresponding to clauses 4(1)(a) or 5(1) of that Schedule, the words “to payments of those sums hereinafter provided for and” were omitted;
 - (c) clauses or parts of clauses corresponding to clauses 9, 25(5), 31, 32 or 36(2)(a) of that Schedule were omitted, and
 - (d) references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.
- (2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

Amendments to existing Welsh licences incorporating model clauses prescribed in Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014

11.—(1) Subject to paragraph (2), any existing Welsh licence which incorporates clauses or parts of clauses prescribed in Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 has effect as if—

- (a) in clauses or parts or clauses corresponding to clause 1(1) of that Schedule, in the definition of “Block”, for the words “London, SW1” there were substituted “Cardiff, CF10 3NQ”;
 - (b) in clauses or parts or clauses corresponding to clause 5(1)(a) or 7(1) of that Schedule, the words “to payment of those sums hereinafter provided for and” were omitted;
 - (c) in clauses or parts of clauses corresponding to clause 6(2) of that Schedule, the words “to payment of the sums specified in Schedule 2 and” were omitted;
 - (d) clauses or parts or clauses corresponding to clauses 12, 30(5), 36, 37 or 41(2)(a) of that Schedule were omitted;
 - (e) in clauses or parts of clauses corresponding to clause 20(11), references to “the OGA” (including references having effect as such) were references to “the Welsh Ministers or the Secretary of State”, and
 - (f) any other references to “the OGA” (including references having effect as such), the “Secretary of State” or “the Minister” were references to “the Welsh Ministers”.
- (2) Paragraph (1) does not apply to any clause incorporated under regulation 12.

Amendment to existing Welsh licences to incorporate new model clauses relating to reserved matters

12. Any existing Welsh licence has effect as if the clauses in Schedule 3 to these Regulations were incorporated in the licence.

PART 4

Transitional provision and savings

Transitional modification of the Hydrocarbons Licensing Directive Regulations 1995

13.—(1) This regulation applies until any legislation made by the Welsh Ministers or the National Assembly for Wales relating to any matter to which the Hydrocarbons Licensing Directive Regulations 1995 relate comes into force.

(2) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Licensing Directive Regulations 1995 have effect as if they had been made by the Welsh Ministers.

(3) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Licensing Directive Regulations 1995 have effect as if—

- (a) the words inserted in regulation 1A(1) by regulation 2(2) of these Regulations were omitted;
- (b) the words inserted in regulation 1A(2) by regulation 2(3) of these Regulations were omitted, and
- (c) with the exception of regulation 5(2), references to the “the OGA” were references to “the Welsh Ministers”.

Transitional modification of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014

14.—(1) This regulation applies until the Welsh Ministers exercise section 4(1)(e) of the Petroleum Act 1998(17).

(2) Subject to paragraph (3), in relation to any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if they had been made by the Welsh Ministers.

(3) Paragraph (2) does not apply for the purposes of regulation 2(1A) and Schedules 2B and 3B as inserted by regulation 4(4), (5) and (6) of these Regulations.

(4) In relation to any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if—

- (a) regulation 1A(1A) as inserted by regulation 4(2) of these Regulations were omitted;
- (b) the words inserted in regulation 1A(2) by regulation 4(3) of these Regulations were omitted;
- (c) in Schedule 2—
 - (i) in clause 1(1)—
 - (aa) in the definition of “Block”, for the words “Aberdeen, AB10” there were substituted “Cardiff, CF10 3NQ”, and
 - (bb) the definition of “the OGA” were omitted;
 - (ii) in clauses 5(1)(a) and 7(1), the words “to payment of those sums hereinafter provided for and” were omitted;
 - (iii) in clause 6(2), the words “to payment of those sums specified in Schedule 2 and” were omitted;
 - (iv) in clause 20(11), the reference to “OGA” were a reference to “Welsh Ministers or the Secretary of State”;
 - (v) the following were omitted—
 - (aa) clause 12;
 - (bb) clause 30(5);
 - (cc) clauses 36 and 37;

(17) Section 4(1) is amended by section 48(6) of the Scotland Act 2016 and [S.I. 2016/898](#). Section 8A(2)(aa), inserted by section 23(3) of the Wales Act 2017 ([c.4](#)) with effect from 1 October 2018, provides that in relation to the Welsh onshore area, the Welsh Ministers are the “appropriate minister” for the purposes of section 4(1).

- (dd) clause 41(2)(a);
- (ee) clause 44(3) and (4), and
- (vi) any other references to “the OGA” were references to “the Welsh Ministers”, and
- (d) in Schedule 3—
 - (i) in clause 1(1), the definition of “the OGA” were omitted;
 - (ii) in clause 2(1), for the words “payments provided for in clause 7” there were substituted “sums payable to the Oil and Gas Authority”;
 - (iii) clauses 7 and 18(2)(a) were omitted;
 - (iv) clause 20(3) were omitted, and
 - (v) any other references to “the OGA” were references to “the Welsh Ministers”.

(5) In relation to any review under regulation 3 of the 2014 Regulations, regulation 3(1)(a) has effect as if after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Welsh Ministers”.

(6) In this regulation, the “2014 Regulations” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014.

Transitional modification of the Petroleum Licencing (Applications) Regulations 2015

15.—(1) This regulation applies until the Welsh Ministers exercise section 4(1)(a), (b) or (d) of the Petroleum Act 1998.

(2) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if they had been made by the Welsh Ministers.

(3) In relation to any application for a licence to be determined by the Welsh Ministers or any licence granted by the Welsh Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if—

- (a) in regulation 2—
 - (i) in the definition of “model clauses” after the words “section 4(1)(e)” there were inserted “or section 4(1B)”;
 - (ii) the definition of “the OGA” were omitted, and
 - (iii) in the definition of “seaward petroleum exploration licence”, the words after “seaward area” were omitted;
- (b) the words inserted in regulation 3(1A) by regulation 5(2) of these Regulations were omitted;
- (c) the words inserted in regulation 3(1B) by regulation 5(3) of these Regulations were omitted;
- (d) for regulation 4(2) there were substituted—
 - “(2) Applications must be—
 - (a) made in writing, and
 - (b) accompanied by such evidence and particulars or documents in support as are specified in these Regulations in respect of the licence being applied for, and are appropriate to that application.”;
- (e) any other references to “the OGA” were references to “the Welsh Ministers”.

(4) In relation to any review under regulation 9 of the 2015 Regulations, regulation 9(1)(a) has effect as if after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Welsh Ministers”.

(5) In this regulation, the 2015 Regulations means the Petroleum Licensing (Applications) Regulations 2015.

Savings

16.—(1) Anything which, at the commencement of these Regulations, is in the process of being done by or in relation to the OGA⁽¹⁸⁾ in connection with a transferred function may be continued by or in relation to the Welsh Ministers.

(2) Anything done (or having effect as if done) by or in relation to the OGA before the commencement of these Regulations in connection with a transferred function has effect, so far as is necessary for continuing its effect after the commencement of these Regulations, as if done by or in relation to the Welsh Ministers.

(3) Any instrument (except an existing licence, an Act or subordinate legislation) made, granted or given before the commencement of these Regulations has effect, so far as is appropriate in connection with a transferred function, as if references to the OGA (and references which are to be read as references to the OGA) were or included references to the Welsh Ministers.

(4) These Regulations do not affect the validity of anything done (or having effect as if done) by or in relation to the OGA in connection with a transferred function before the commencement of the Regulations.

(5) In this regulation—

- (a) “instrument” includes awards, authorisations, consents, approvals, judgments, decrees and other documents granted or given in connection with a transferred function but does not include any enactment;
- (b) “OGA” means the Oil and Gas Authority; and
- (c) “transferred function” means a function transferred to the Welsh Ministers in respect of the Welsh onshore area as a result of section 23 of, or Part 2 of Schedule 6 to, the Wales Act 2017⁽¹⁹⁾.

Claire Perry
Minister of State for Energy and Clean Growth
Department for Business, Energy and Industrial
Strategy

5th September 2018

⁽¹⁸⁾ The “OGA” is defined as the Oil and Gas Authority in section 1(4) of the Energy Act 2016 (c.20).

⁽¹⁹⁾ 2017 c.4.

SCHEDULES

SCHEDULE 1

Regulation 4(5)

New Schedule 2B to the Petroleum Licensing (Exploration and Production (Landward Areas) Regulations 2014

“SCHEDULE 2B

Model clauses for petroleum exploration and development licences granted by the Welsh Ministers

Interpretation

1. In these clauses, the following expressions have the following meanings—

“the Licensed Area” means the area for the time being in which the Licensee may exercise the rights granted by this licence;

“the Licensee” means the person (or all the persons) specified as such in this licence or the licence holder, as relevant to this licence;

“OGA” means the Oil and Gas Authority;

“Petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Provision of contact details to the OGA

2.—(1) A notice, direction or other document authorised or required (in whatever terms) to be given to the Licensee by virtue of these clauses is treated as given to the Licensee if it is given to the person specified by the Licensee under paragraph (2) at the address so specified.

(2) The Licensee must supply the OGA with the name and address of a person to whom notices, directions or other documents are to be given.

(3) The Licensee must ensure that, where there is a change in the person to whom, or the address to which, notices, directions or other documents should be sent in accordance with paragraph (2), the OGA is notified of the change as soon as is reasonably practicable.

(4) If the Licensee fails to comply with paragraph (2) the OGA may give the Licensee a notice which—

(a) requires the Licensee to comply with paragraph (2) within the period of one month beginning with the date of the notice; and

(b) states that, if the Licensee fails to do so, the Licensee will be treated as having supplied under paragraph (2) the name and address specified by the OGA in the notice.

Payment of consideration for Licence

3.—(1) The Licensee must make to the OGA, as consideration for the grant of this licence, payments in accordance with the Schedule setting out the consideration payable under the licence.

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(2) The Licensee may not by reason of the determination of this licence or the surrender of any part of the Licensed Area be entitled to be repaid or allowed any sum payable to the OGA pursuant to this licence before the date of such determination or surrender.

Right of Secretary of State to revoke licence

4.—(1) The Secretary of State may revoke the licence for failure to pay any consideration payable under the licence.

(2) Any revocation under paragraph (1) is without prejudice to any obligation or liability incurred by the Licensee or imposed upon the Licensee by or under the terms and conditions of the licence.

Right of Distress

5. If and whenever any of the payments mentioned in clause 3(1) of this licence or any part thereof are in arrears or unpaid for 28 days after any of the days whereon the same ought to be paid (whether the same has been legally demanded or not), then and so often as the same may happen the OGA may (as an additional remedy and without prejudice to any other rights and remedies to which it would be entitled) enter into and upon any land which shall for the time being be possessed or occupied by the Licensee for the purposes of the licence or the exercise of any of the rights thereby granted or into and upon any of the Licensee's installations and equipment used or to be used in connection with searching, boring for or getting Petroleum in the Licensed Area and may seize and distrain and sell as a landlord may do for rent all or any of the stocks of Petroleum, engines, machinery, tools, implements, chattels and effects belonging to the Licensee which shall be found in or upon or about the land installations and equipment so entered upon and out of the moneys arising from the sale of such distress may retain and pay all the arrears of the said payments and also the costs and expenses of and incident to any such distress and sale rendering the surplus (if any) to the Licensee.

Indemnity against third party claims

6. The Licensee must at all times keep the Secretary of State and the OGA effectually indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever which may be made or brought against the Secretary of State or the OGA by any third party in relation to or in connection with these clauses or any matter or thing done or purported to be done in pursuance thereof.

Arbitration

7.—(1) If at any time any dispute, difference or question arises between the licensee and the Secretary of State or the OGA as to any matter arising under or by virtue of these clauses or as to their respective rights and liabilities in respect thereof then the same may, except where it is expressly provided by these clauses that the matter or thing to which the same relates is to be determined, decided, directed, approved or consented to by the Secretary of State, be referred to arbitration as provided by paragraph (2).

(2) The arbitration referred to in the foregoing paragraph must be by a single arbitrator who, in default of agreement between the Secretary of State or the OGA and the Licensee as to the appointment, must be appointed by the Lord Chief Justice of England.”

SCHEDULE 2

Regulation 4(6)

New Schedule 3B to the Petroleum Licensing (Exploration and Production (Landward Areas) Regulations 2014

“SCHEDULE 3B

Model clauses for landward petroleum exploration licences granted by the Welsh Ministers

Interpretation

1. In these clauses, the following expressions have the following meanings—

“the Exploration Area” means the area comprising all the areas in which the Licensee may for the time being exercise any of the rights granted by this licence;

“the Licensee” means the person (or all the persons) specified as such in this licence or the licence holder, as relevant to this licence;

“OGA” means the Oil and Gas Authority.

Provision of contact details to the OGA

2.—(1) A notice, direction or other document authorised or required (in whatever terms) to be given to the Licensee by virtue of these clauses is treated as given to the Licensee if it is given to the person specified by the Licensee under paragraph (2) at the address so specified.

(2) The Licensee must supply the OGA with the name and address of a person to whom notices, directions or other documents are to be given.

(3) The Licensee must ensure that, where there is a change in the person to whom, or the address to which, notices, directions or other documents should be sent in accordance with paragraph (2), the OGA is notified of the change as soon as is reasonably practicable.

(4) If the Licensee fails to comply with paragraph (2) the OGA may give the Licensee a notice which—

(a) requires the Licensee to comply with paragraph (2) within the period of one month beginning with the date of the notice; and

(b) states that, if the Licensee fails to do so, the Licensee will be treated as having supplied under paragraph (2) the name and address specified by the OGA in the notice.

Payment of consideration for Licence

3.—(1) The Licensee must make to the OGA, as consideration for the grant of this licence, payments in accordance with the Schedule setting out the consideration payable under the licence.

(2) The Licensee may not by reason of the determination of this licence or any reduction in the Exploration Area be entitled to be repaid or allowed any part of any sum payable to the OGA pursuant to this licence.

Right of Secretary of State to revoke licence

4.—(1) The Secretary of State may revoke the licence for failure to pay any consideration payable under the licence.

(2) Any revocation under paragraph (1) is without prejudice to any obligation or liability incurred by the Licensee or imposed upon the Licensee by or under the terms and conditions of the licence.

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Indemnity against third party claims

5. The Licensee must at all times keep the Secretary of State and the OGA effectually indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever which may be made or brought against the Secretary of State or the OGA by any third party in relation to or in connection with these clauses or any matter or thing done or purported to be done in pursuance thereof.

Arbitration

6.—(1) If at any time any dispute, difference or question arises between the Licensee and the Secretary of State or the OGA as to any matter arising under or by virtue of these clauses or as to their respective rights and liabilities in respect thereof then the same may, except where it is expressly provided by these clauses that the matter or thing to which the same relates is to be determined, decided, directed, approved or consented to by the Secretary of State, be referred to arbitration as provided by paragraph (2).

(2) The arbitration referred to in the foregoing paragraph must be by a single arbitrator who, in default of agreement between the Secretary of State or the OGA and the Licensee as to the appointment, must be appointed by the Lord Chief Justice of England.”

SCHEDULE 3

Regulation 12

New model clauses relating to reserved matters for existing Welsh licences

Interpretation

1. In these clauses, the following expressions have the following meanings—

“the Licensed Area” means the area for the time being in which the Licensee may exercise the rights granted by this licence;

“the Licensee” means the person or persons to whom this licence is granted, his personal representatives and any person or persons to whom the rights conferred by this licence may lawfully have been assigned;

“OGA” means the Oil and Gas Authority;

“Petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Payment of consideration for Licence

2.—(1) The Licensee must make to the OGA, as consideration for the grant of this licence, payments in accordance with the Schedule setting out the consideration payable under the licence.

(2) The Licensee may not by reason of the determination of this licence or the surrender of any part of the Licenced Area be entitled to be repaid or allowed any sum payable to the OGA pursuant to this licence before the date of such determination or surrender.

Right of Secretary of State to revoke licence

3.—(1) The Secretary of State may revoke the licence for failure to pay any consideration payable under the licence.

(2) Any revocation under paragraph (1) is without prejudice to any obligation or liability incurred by the Licensee or imposed upon the Licensee by or under the terms and conditions of this licence

Right of Distress

4. If and whenever any of the payments mentioned in clause 2(1) of this licence or any part thereof are in arrears or unpaid for 28 days after any of the days whereon the same ought to be paid (whether the same has been legally demanded or not), then and so often as the same may happen the OGA may (as an additional remedy and without prejudice to any other rights and remedies to which it would be entitled) enter into and upon any land which shall for the time being be possessed or occupied by the Licensee for the purposes of the licence or the exercise of any of the rights thereby granted or into and upon any of the Licensee's installations and equipment used or to be used in connection with searching, boring for or getting Petroleum in the Licensed Area and may seize and distrain and sell as a landlord may do for rent all or any of the stocks of Petroleum, engines, machinery, tools, implements, chattels and effects belonging to the Licensee which shall be found in or upon or about the land installations and equipment so entered upon and out of the moneys arising from the sale of such distress may retain and pay all the arrears of the said payments and also the costs and expenses of and incident to any such distress and sale rendering the surplus (if any) to the Licensee.

Indemnity against third party claims

5. The Licensee must at all times keep the Secretary of State and the OGA effectually indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever which may be made or brought against the Secretary of State or the OGA by any third party in relation to or in connection with these clauses or any matter or thing done or purported to be done in pursuance thereof.

Arbitration

6.—(1) If at any time any dispute, difference or question arises between the licensee and the Secretary of State or the OGA as to any matter arising under or by virtue of these clauses or as to their respective rights and liabilities in respect thereof then the same may, except where it is expressly provided by these clauses that the matter or thing to which the same relates is to be determined, decided, directed, approved or consented to by the Secretary of State, be referred to arbitration as provided by paragraph (2).

(2) The arbitration referred to in the foregoing paragraph must be by a single arbitrator who, in default of agreement between the OGA or the Secretary of State and the Licensee as to the appointment, must be appointed by the Lord Chief Justice of England.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments and modifications to the existing regime for the licensing of petroleum consequent on sections 3 and 23 of, and Schedules 1 and 6 to, the Wales Act 2017 (c. 4) (“the 2017 Act”), which devolve legislative competence to the Welsh Assembly and transfer certain functions and powers to the Welsh Ministers for the granting and regulation of licences to search and bore for and get petroleum within the “Welsh onshore area” (as defined in section 23 of that Act), and related matters.

The Regulations also amend the Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018 (S.I. 2018/56) (“the

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Scottish Regulations”) which made similar provision in respect of petroleum licensing within the Scottish onshore area (as defined in section 47 of the Scotland Act 2016 (c.11)).

The Regulations come into force on 1st October 2018, which is the date of commencement of section 23 of, and Part 2 of Schedule 6 to, the 2017 Act. These Regulations also amend existing licences in the Welsh onshore area as provided for in section 24 of the 2017 Act and prescribe the model clauses relating to reserved matters which must be included in any licence granted by the Welsh Ministers (pursuant to section 4(1B) of the Petroleum Act 1998, as amended by paragraph 15 of Schedule 6 to the 2017 Act).

Part 2 amends secondary legislation relevant to the licensing of petroleum. Regulation 4(4) to (6) prescribes new model clauses relating to reserved matters for incorporation in licences granted by the Welsh Ministers. Regulations 2, 3, 4(2) and (3), 5 and 6 make consequential amendments to secondary legislation to reflect the transfer of functions to the Welsh Ministers. Regulation 7 amends the Scottish Regulations to reinstate clauses relating to the measurement of petroleum and keeping of accounts in existing licences and the model clauses for new licences.

Part 3 of these Regulations amends existing licences in the Welsh onshore area consequent on the division of competence between the Welsh Ministers and the Secretary of State and transfer of functions to the former (regulations 8 to 12).

Part 4 modifies the secondary legislation relevant to petroleum licensing in the Welsh onshore area until such time as the Welsh Ministers make their own legislation (regulations 13 to 15) and makes provision for savings (regulation 16).

A full regulatory impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.