

**Changes to legislation:** *Wales Act 2017, Part 2 is up to date with all changes known to be in force on or before 04 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULES

### SCHEDULE 6

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 2

##### AMENDMENTS RELATING TO ONSHORE PETROLEUM

###### *Petroleum Act 1998 (c. 17)*

- 15 (1) Section 4 of the Petroleum Act 1998 (licences: further provisions) is amended as follows.
- (2) In subsections (1A), (1B) and (1C), after ““Scottish Ministers”” insert “ or the Welsh Ministers ”.
- (3) After subsection (3A) insert—
- “(3B) Any regulations made by the Welsh Ministers shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (4) After subsection (4A) insert—
- “(4B) As soon as practicable after granting a licence under section 3, the Welsh Ministers shall publish notice of the fact in such manner as they think appropriate stating—
- (a) the name of the licensee; and
  - (b) the situation of the area in respect of which the licence has been granted.”

#### Commencement Information

**II** [Sch. 6 para. 15](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

- 16 (1) Section 4A of that Act (onshore hydraulic fracturing: safeguards) is amended as follows.
- (2) In subsection (1), after ““well consent”” insert “ for a well situated in the English onshore area ”.
- (3) After subsection (1) insert—
- “(1A) The Welsh Ministers must not issue a well consent for a well situated in the Welsh onshore area that is required by an onshore licence for England or Wales unless the well consent imposes—

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- (a) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
  - (b) a condition that prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Welsh Ministers' consent for it to take place (a “hydraulic fracturing consent”).
- (4) In subsection (3), after “made” insert “ to the Secretary of State ”.
- (5) After subsection (3) insert—
- “(3A) Where an application is made to the Welsh Ministers, the Welsh Ministers may not issue a hydraulic fracturing consent unless—
- (a) they are satisfied that—
    - (i) the conditions in column 1 of the following table are met, and
    - (ii) the conditions in subsection (6) are met, and
  - (b) they are otherwise satisfied that it is appropriate to issue the consent.”
- (6) In subsections (4) and (5), after “Secretary of State” insert “ or the Welsh Ministers ”.
- (7) In subsection (7), for “which the Secretary of State thinks appropriate” substitute “ thought to be appropriate by the Secretary of State or the Welsh Ministers ”.

#### Commencement Information

**I2** Sch. 6 para. 16 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

- 17 (1) Section 4B of that Act (section 4A: supplementary provision) is amended as follows.
- (2) In subsection (4)(a) and (b), after “areas” insert “ in the English onshore area ”.
- (3) In subsection (7)—
- (a) in paragraph (a) omit “in relation to England”;
  - (b) omit paragraph (b).
- (4) After subsection (7) insert—
- “(7A) The Welsh Ministers may, by regulations made by statutory instrument, specify—
- (a) the descriptions of areas in the Welsh onshore area that are “protected groundwater source areas”, and
  - (b) the descriptions of areas in the Welsh onshore area that are “other protected areas”,
- for the purposes of section 4A.
- (7B) A statutory instrument that contains regulations under subsection (7A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.
- (7C) Before making regulations under subsection (7A)(a), the Welsh Ministers must consult the Natural Resources Body for Wales.”

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- (5) In subsection (8)—
- (a) in paragraph (a) of the definition of ““relevant environmental regulator””, for ““England”” substitute “ the English onshore area ”;
  - (b) in paragraph (b) of that definition, for ““Wales”” substitute “ the Welsh onshore area ”;
  - (c) in the definition of ““well consent””, after ““OGA”” insert “ or the Welsh Ministers ”.
- (6) In subsection (9)—
- (a) after ““this section”” insert “ (as it applies to the English onshore area) ”;
  - (b) after ““of the power”” insert “ by the Secretary of State ”.
- (7) After subsection (9) insert—
- “(9A) The power of the Welsh Ministers to make regulations under section 4 includes power to make such amendments of the definition of ““onshore licence for England and Wales”” in this section (as it applies to the Welsh onshore area) as they consider appropriate in consequence of any exercise by them of the power under section 4.”
- (8) In subsection (10)(a), after ““appropriate”” insert “ as regards an application for a hydraulic fracturing consent in relation to land in the English onshore area ”.
- (9) At the end insert—
- “(12) The Welsh Ministers may, by regulations made by statutory instrument—
- (a) make such amendments of column 2 of the table in section 4A as the Welsh Ministers consider appropriate as regards an application for a hydraulic fracturing consent in relation to land in the Welsh onshore area, and
  - (b) make such other amendments of section 4A or this section as the Welsh Ministers consider appropriate in consequence of provision made under paragraph (a).
- (13) A statutory instrument that contains regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

#### Commencement Information

**I3** [Sch. 6 para. 17](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

- 18 In section 7(2)(d) of that Act (ancillary rights)—
- (a) omit ““and”” at the end of sub-paragraph (i);
  - (b) after sub-paragraph (i) insert—

“(ia) the Welsh Ministers, in relation to licences granted in relation to the Welsh onshore area, and”.

#### Commencement Information

**I4** [Sch. 6 para. 18](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

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*Oil Taxation Act 1975 (c. 22)*

- 19 (1) Section 12 of the Oil Taxation Act 1975 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1), in paragraph (b) of the definition of ““licensee””, for ““the OGA”” substitute “—
- (i) the Welsh Ministers, where the rights relate to oil in the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), or
- (ii) the OGA, where the rights relate to oil elsewhere.”.
- (3) In subsection (1A)(a)(ii) (authorities that can revoke licences), after ““Scottish Ministers”” insert “, the Welsh Ministers ”.

**Commencement Information**

**I5** Sch. 6 para. 19 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

- 20 In Schedule 1 to that Act (determination of oil fields), in paragraph 1(2), after paragraph (ab) insert—
- “(ac) is the Welsh Ministers if the area is such that licences can be granted by the Welsh Ministers for all of it under Part 1 of the Petroleum Act 1998;
- (ad) is the OGA and the Welsh Ministers acting jointly if the area is such that licences can be granted for part of it by the OGA and for part of it by the Welsh Ministers;”.

**Commencement Information**

**I6** Sch. 6 para. 20 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

*Taxation of Chargeable Gains Act 1992 (c. 12)*

- 21 (1) Section 196 of the Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In subsection (1)(a) and (b), for ““Oil and Gas Authority”” substitute “ appropriate authority ”.
- (3) Omit subsection (3).
- (4) In subsection (5), after ““section—”” insert—
- ““appropriate authority””, in relation to a UK licence means—
- (a) in the case of a licence under Part 1 of the Petroleum Act 1998—
- (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
- (ii) otherwise, the Oil and Gas Authority;
- (b) in the case of a licence under the Petroleum (Production) Act (Northern Ireland) 1964, the Department for the Economy;”.

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**I7** [Sch. 6 para. 21](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

#### *Finance Act 1993 (c. 34)*

- 22 (1) Section 185 of the Finance Act 1993 (abolition of petroleum revenue tax for oil fields with development consent on or after 16 March 1993) is amended as follows.
- (2) In subsection (1C)(a) and (b), for ““OGA”” substitute “ appropriate authority ”.
- (3) In subsection (2)(b), for ““OGA”” substitute “ appropriate authority ”.
- (4) After subsection (2) insert—
- “(2A) In subsections (1C) and (2), “the appropriate authority” means—
- (a) in relation to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
  - (b) otherwise, the OGA.”

#### Commencement Information

**I8** [Sch. 6 para. 22](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

#### *Capital Allowances Act 2001 (c. 2)*

- 23 In section 556(2)(a) of the Capital Allowances Act 2001 (definition of ““relevant authority””), for ““, the Oil and Gas Authority”” substitute “—
- (i) the Welsh Ministers, in relation to the Welsh onshore area (as defined in section 8A of that Act);
  - (ii) otherwise the Oil and Gas Authority, and”.

#### Commencement Information

**I9** [Sch. 6 para. 23](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

#### *Energy Act 2004 (c. 20)*

- 24 In section 188 of the Energy Act 2004 (power to impose charges to fund energy functions), at the end insert—
- “(13) This section applies in relation to the Welsh Ministers as it applies in relation to the Secretary of State, and in its application to the Welsh Ministers it is to be read as if—
- (a) for subsections (6) and (7) there were substituted—
- “(6) Regulations under this section must be made by statutory instrument and are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (7) Section 192(4) applies in relation to the power of the Welsh Ministers to make regulations under subsection (6) as it applies in relation to an order or regulations made by the Secretary of State or the Treasury.
- (7A) The references in this section to relevant energy functions are references to the functions of the Welsh Ministers under Part 1 of the Petroleum Act 1998.”, and
- (b) the reference in subsection (11) to the Consolidated Fund were a reference to the Welsh Consolidated Fund.”

#### Commencement Information

**I10** Sch. 6 para. 24 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

#### *Corporation Tax Act 2010 (c. 4)*

- 25 (1) Section 332DA of the Corporation Tax Act 2010 (restriction where field qualified for field allowance as new field) is amended as follows.
- (2) In subsection (5), for ““OGA”” substitute “relevant national authority”.
- (3) After subsection (5) insert—
- “(5A) The relevant national authority” is—
- (a) where the relevant project relates to a field that is wholly within the Welsh onshore area (as defined in section 8A of the Petroleum Act 1998), the Welsh Ministers;
  - (b) otherwise, the OGA.”

#### Commencement Information

**I11** Sch. 6 para. 25 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

- 26 In section 356IB of that Act (authorisation of development: oil fields), in subsection (2), in the definition of ““national authority””—
- (a) omit ““or”” at the end of paragraph (a);
  - (b) after paragraph (a) insert—
- “(aa) the Welsh Ministers, or”.

#### Commencement Information

**I12** Sch. 6 para. 26 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

- 27 In section 356J of that Act (authorisation of development: drilling and extraction sites), in subsection (4), in the definition of ““national authority””—
- (a) omit ““or”” or at the end of paragraph (a);
  - (b) after paragraph (a) insert—
- “(aa) the Welsh Ministers, or”.

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**I13** [Sch. 6 para. 27](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

#### *Infrastructure Act 2015 (c. 7)*

- 28 (1) Section 45 of the Infrastructure Act 2015 (payment schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.
- (2) In subsection (4)—
- (a) for ““The regulations”” substitute “ Regulations under subsection (1) ”;
  - (b) in paragraph (a), at the end insert “ to which the regulations relate ”;
  - (c) in paragraph (b), for ““this section”” substitute “ subsection (1) ”.
- (3) After subsection (4) insert—
- “(4A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—
- (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;
  - (b) the making of payments in accordance with regulations under subsection (1A).”
- (4) In subsection (5), for ““this section”” substitute “ subsection (1) ”.
- (5) At the end insert—
- “(6) Before making any regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”

#### Commencement Information

**I14** [Sch. 6 para. 28](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

- 29 (1) Section 46 of that Act (notice schemes relating to right to use deep-level land for purposes of exploiting petroleum or geothermal energy) is amended as follows.
- (2) In subsection (3), in paragraph (b), at the end insert “ to which the regulations relate ”.
- (3) In subsection (5)—
- (a) for ““The regulations”” substitute “ Regulations under subsection (1) ”;
  - (b) in paragraph (a), at the end insert “ to which the regulations relate ”;
  - (c) in paragraph (b), for ““this section”” substitute “ subsection (1) ”.
- (4) After subsection (5) insert—
- “(5A) Regulations under subsection (1A) may require relevant energy undertakings to provide the Welsh Ministers, or any other specified person, with specified information about—
- (a) the proposed exercise, or exercise, of the right of use to which the regulations relate;

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(b) the giving of notice in accordance with regulations under subsection (1A).”

(5) In subsection (6), for ““this section”” substitute “ subsection (1) ”.

(6) After subsection (6) insert—

“(6A) Before making regulations under subsection (1A), the Welsh Ministers must consult such persons as they consider appropriate.”

#### Commencement Information

**I15** Sch. 6 para. 29 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

30 (1) Section 47 of that Act (payment and notice schemes: supplementary provision) is amended as follows.

(2) In subsection (2), after ““Regulations”” insert “ made by the Secretary of State ”.

(3) After subsection (2) insert—

“(2A) Regulations made by the Welsh Ministers under section 45 or 46 may confer a function on—

- (a) the Welsh Ministers, or
- (b) any other person apart from a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).”

(4) In subsection (5), after ““review of”” insert “ the Secretary of State's powers under ”.

(5) In subsection (6)—

- (a) in paragraph (a), for ““45””, in both places, substitute “ 45(1) ”;
- (b) in paragraph (b), for ““46””, in both places, substitute “ 46(1) ”.

(6) In subsection (7)—

- (a) for ““45”” substitute “ 45(1) ”;
- (b) for ““46”” substitute “ 46(1) ”.

#### Commencement Information

**I16** Sch. 6 para. 30 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

31 (1) Section 48 of that Act (interpretation) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Secretary of State may make regulations setting out the definition of ““landward area”” as it applies in relation to—

- (a) the right to use deep-level land in England for the purposes of exploiting petroleum, and
- (b) the right to use deep-level land for the purposes of exploiting deep geothermal energy.

(1B) The Welsh Ministers may make regulations setting out the definition of ““landward area”” as it applies in relation to the right to use deep-level land



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in Wales for the purposes of exploiting petroleum within the Welsh onshore area.

(1C) Until regulations are made under subsection (1A) or (1B), “landward area” means those parts of the landward area, within the meaning of the 2014 Regulations, that are in England and Wales.”

(3) In subsection (2)—

(a) before the definition of “deep geothermal energy” insert—

““the 2014 Regulations” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 (S.I. 2014/1686), as in force on the day on which subsections (1A) to (1C) come into force;”

(b) after the definition of “deep-level land” insert—

““England” includes the sea adjacent to England out as far as—

- (a) the seaward boundary of the territorial sea, or
- (b) if nearer to the land, any boundary between waters that are treated as part of the sea adjacent to Wales and those that are not, as determined by an order made under section 158(3) of the Government of Wales Act 2006;”

(c) omit the definition of “landward area”;

(d) at the end insert—

““Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act);

“Welsh onshore area” has the same meaning as in Section D2 in Part 2 of Schedule 7A to the Government of Wales Act 2006.”

(4) Omit subsection (3).

#### Commencement Information

**I17** Sch. 6 para. 31 in force at 1.10.2018 by S.I. 2017/1179, reg. 4(b)

32 (1) Section 55 of that Act (regulations and orders) is amended as follows.

(2) In subsection (4)—

- (a) in the opening words, after “instrument” insert “ made by the Secretary of State ”;
- (b) in paragraph (c), after “47” insert “ , 48 ”.

(3) After subsection (5) insert—

“(5A) A statutory instrument made by the Welsh Ministers containing regulations under section 45, 46 or 48 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.”

(4) In subsection (6)(b), after “(4)” insert “ or (5A) ”.

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#### **Commencement Information**

**I18**   [Sch. 6 para. 32](#) in force at 1.10.2018 by [S.I. 2017/1179](#), [reg. 4\(b\)](#)

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**Changes and effects yet to be applied to :**

- specified provision(s) transitional and savings provisions for commencing S.I. 2017/1179 by [S.I. 2018/278](#) reg. 2Sch.