

Energy Bill [HL]

[AS AMENDED IN COMMITTEE]

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[AS AMENDED IN COMMITTEE]

TO

Make provision about the Oil and Gas Authority and its functions; to make provision about rights to use upstream petroleum infrastructure; to make provision about fees in respect of activities relating to oil, gas, carbon dioxide and pipelines; to make provision about wind power; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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. 5
- (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. 10
- (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) The Schedule 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 5
 - (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— 10
- (a) the Schedule, or
 - (b) regulations under subsection (2).
- (4) The provision that may be made under subsection (3) includes provision— 15
- (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, and
 - (c) for the carrying on and completion by or under the authority of the OGA of anything commenced by or under the authority of a Minister of the Crown before the date when the regulations take effect. 20
- (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— 25
- “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 — 30
 - (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 — 35
 - (a) the Petroleum Act 1998 (except Part 4),
 - (b) Chapter 2 or 3 of Part 1 of the Energy Act 2008,
 - (c) Chapter 3 of Part 2 of the Energy Act 2011,
 - (d) the Hydrocarbons Licensing Directive Regulations 1995 (S.I. 1995/1434), 40
 - (e) any regulations amended or modified by the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513),
 - (f) the Storage of Carbon Dioxide (Licensing etc) Regulations 2010 (S.I. 2010/2221), 45
 - (g) the Storage of Carbon Dioxide (Termination of Licences) Regulations 2011 (S.I. 2011/1483),

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

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3 Contracting out of functions to the OGA

- (1) This section 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.

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Exercise of functions

4 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.
 - 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 5 –
 - “function” does not include any function which the OGA is authorised to exercise by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994;
 - “relevant activity” means any activity in relation to which the OGA has functions.

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5 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.

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- (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. 5
- (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 – 10
- (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 – 15
- (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. 20
- (8) In this section “regulatory function” means – 25
- (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. 30

6 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 – 35
- (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.

Information and samples

7 Power of Secretary of State to require information and samples 40

- (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,
 - (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 5
 - (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 – 10
- (a) use protected material only for the purpose for which it is provided, and
 - (b) disclose protected material only –
 - (i) so far as necessary for that purpose, or
 - (ii) in accordance with subsection (4). 15
- (4) The Secretary of State may disclose 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. 20

Funding

8 Powers of the OGA to charge fees

- (1) The OGA may charge fees – 25
- (a) for making a determination under Schedule 1 to the Oil Taxation Act 1975;
 - (b) on an application made to it under section 3, 15, 16 or 17 of the Petroleum Act 1998;
 - (c) on an application of a prescribed description made to it by the holder of a licence granted under – 30
 - (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); 35
 - (d) 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;
 - (e) for carrying out or attending any test, examination or inspection of a prescribed description;
 - (f) on an application made to it under section 4 or 18 of the Energy Act 2008; 40
 - (g) 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;
 - (h) for the storage by it of samples or information in accordance with an information and samples plan (see section 29(2) of this Act). 45

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- (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. 5
- (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). 10
- (6) The functions are –
- (a) extending the term of a licence;
 - (b) giving its consent or approval in relation to any matter; 15
 - (c) objecting in relation to any matter.
- (7) The Secretary of State must consult the OGA before making regulations under this section.
- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State. 20
- 9 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); 25
 - (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); 30
 - (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 – 35
- (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the costs incurred by the OGA in exercising its functions in respect of that period, and
 - (b) that no levy is payable in respect of costs incurred in the exercise of functions – 40
 - (i) for which fees are charged under section 8, 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.

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- (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 10 does not limit the provision that may be made by regulations under this section.
- (10) In this section and section 10 –
- “charging period” means a period in respect of which licensing levy is payable;
 - “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.
- 10 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.

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- (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, 5
 - (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. 10
- (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; 15
 - (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 20
 - (iii) during a particular period.
- (10) In this section –
- “licence” means a licence falling within section 9(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); 25
 - “regulations” means regulations under section 9.
- 11 Payments and financial assistance**
- (1) The Secretary of State may make payments or provide financial assistance to the OGA. 30
- (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. 35

PART 2

FURTHER FUNCTIONS OF THE OGA RELATING TO OFFSHORE PETROLEUM

CHAPTER 1

INTRODUCTION

12	Overview of Part 2	5
(1)	This Part contains provision about functions of the OGA relating to offshore petroleum.	
(2)	Chapter 2 makes provision for the OGA to consider disputes and make recommendations for resolving them.	
(3)	Chapter 3 makes provision about –	10
	(a) the retention of information and samples by relevant persons,	
	(b) the preparation of plans for dealing with information and samples held by an offshore licensee when rights under a licence are terminated,	
	(c) powers of the OGA to require information and samples, and	
	(d) the disclosure of information, and provision of samples, which have been acquired by the OGA.	15
(4)	Chapter 4 makes provision –	
	(a) for the OGA to be informed of meetings,	
	(b) for persons authorised by the OGA to be entitled to participate in meetings, and	20
	(c) for the OGA to be provided with information relating to meetings in which such persons do not participate.	
(5)	Chapter 5 makes provision about sanctions which may be imposed on persons for failures to comply with requirements.	
13	Interpretation of Part 2	25
(1)	In this Part –	
	“items subject to legal privilege” –	
	(a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);	
	(b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002;	30
	(c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (NI 12));	
	“licensee” means a person holding a petroleum licence;	35
	“offshore licence” means a petroleum licence which confers on the holder of that licence rights in respect of offshore waters;	
	“offshore licensee” means a person holding an offshore licence;	
	“offshore waters” means –	
	(a) the waters comprising the territorial sea of the United Kingdom, and	40

- (b) the sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964;
 - “petroleum licence” means a licence granted under –
 - (a) section 3 of the Petroleum Act 1998 (searching for, boring for and getting petroleum), or 5
 - (b) section 2 of the Petroleum (Production) Act 1934 (licences to search for and get petroleum);
 - “the principal objective” means the objective set out in section 9A(1) of the Petroleum Act 1998;
 - “relevant person” means a person listed in section 9A(1)(b) of the Petroleum Act 1998; 10
 - “statutory function” means a function conferred or imposed by or under any Act;
 - “Tribunal” means the First-tier tribunal.
- (2) In this Part a reference to a term or condition of a petroleum licence includes a reference to a condition imposed under a petroleum licence. 15

CHAPTER 2

DISPUTES

14 Qualifying disputes and relevant parties

- (1) For the purposes of this Chapter, a dispute is a qualifying dispute if – 20
 - (a) the dispute relates to qualifying issues, and
 - (b) the parties to the dispute include at least one relevant party.
- (2) In this Chapter, “qualifying issues” means issues which –
 - (a) are relevant to the fulfilment of the principal objective, or
 - (b) relate to activities carried out under an offshore licence, 25
 and are not the subject of a section 82 application.
- (3) If a dispute relates in part to qualifying issues and in part to other issues, the dispute is a qualifying dispute only to the extent that it relates to the qualifying issues.
- (4) For the purposes of subsection (2), an issue is the subject of a section 82 application if – 30
 - (a) an application has been made under section 82(4) of the Energy Act 2011 (acquisition of rights to use upstream petroleum infrastructure) in connection with the issue, and
 - (b) the OGA has made a decision under section 82(6)(a)(iii) of that Act to 35
 consider the application further.
- (5) In this Chapter “relevant party” to a dispute means a party to the dispute who is a relevant person.

15 Reference of disputes to the OGA

- (1) A relevant party to a qualifying dispute may refer it to the OGA. 40
- (2) A reference under this section is to be made in such manner as the OGA may require.

- (3) Requirements under subsection (2) as to the manner in which a reference is to be made –
- (a) may make different provision for different cases;
 - (b) are to be imposed, withdrawn or modified by notice published in such manner as the OGA considers appropriate for bringing the requirement, withdrawal or modification to the attention of the persons who, in the OGA’s opinion, are likely to be affected by it.

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16 Action by the OGA on a dispute reference

- (1) On a reference of a dispute made under section 15, the OGA must decide whether the reference is to be –
- (a) rejected,
 - (b) adjourned to enable further negotiation between the parties to the dispute, or
 - (c) accepted (see section 18).

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- (2) The OGA must issue guidance about the matters to which it will have regard when making a decision under subsection (1).

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- (3) As soon as reasonably practicable after the OGA has made a decision under subsection (1), it must give notice in writing stating –

- (a) its decision,
- (b) the reasons for the decision, and
- (c) the date of the decision,

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to each relevant party to the dispute, and to any other parties to the dispute who have contributed (whether by providing information or attending meetings) to the OGA’s decision-making process.

- (4) The grounds on which the OGA may reject a reference include, but are not limited to, grounds that –

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- (a) the dispute is not a qualifying dispute;
- (b) the party that referred the dispute is not a relevant party;
- (c) the reference is frivolous or vexatious;
- (d) there are more appropriate means available for resolving the dispute;
- (e) the dispute is not sufficiently material to the fulfilment of the principal objective to warrant, in the circumstances, its consideration by the OGA;
- (f) the OGA considers it unlikely that, in the circumstances, it would be able to make a satisfactory recommendation in respect of the dispute.

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- (5) Where the OGA adjourns a reference of a dispute –

- (a) it must set a timetable in accordance with which relevant parties to the dispute are to conduct further negotiations and revert to the OGA,
- (b) it may give directions with which relevant parties to the dispute are to comply during the adjournment, and
- (c) it must, when the relevant parties revert to it following the adjournment, make a further decision under subsection (1) in respect of the reference.

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- (6) Requirements imposed by the OGA on relevant parties under subsection (5)(a), and directions given by the OGA under subsection (5)(b), are sanctionable in accordance with Chapter 5.

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17 Power of the OGA to consider disputes on its own initiative

- (1) The OGA may decide, on its own initiative, to consider a qualifying dispute (see section 18).
- (2) If the OGA decides to consider a qualifying dispute under this section, it must notify all parties to the dispute. 5

18 Procedure for consideration of disputes

- (1) This section applies where the OGA –
 - (a) accepts a reference of a dispute under section 16(1), or
 - (b) decides to consider a dispute under section 17(1).
- (2) The OGA must – 10
 - (a) consider the dispute, and
 - (b) make a recommendation for resolving it.
- (3) The OGA –
 - (a) must draw up a timetable for performing its duties under subsection (2), and 15
 - (b) may give directions with which the relevant parties to the dispute are to comply in order to enable the OGA to carry out those duties.
- (4) The OGA’s recommendation must be one which it considers will enable the dispute to be resolved in a way which best contributes to the fulfilment of the principal objective whilst having regard to the need to achieve an economically viable position for the parties to the dispute. 20
- (5) The procedure for considering the dispute and making a recommendation is the procedure that the OGA considers most appropriate.
- (6) Where the OGA makes a recommendation under this section, the OGA may publish – 25
 - (a) the recommendation or any part of it;
 - (b) a summary of the recommendation or of any part of it.
- (7) Before publishing anything under subsection (6), the OGA must give an opportunity to be heard to each relevant party to the dispute.
- (8) The OGA must issue guidance about the matters to which it will have regard when performing its duties under this section. 30
- (9) Directions given by the OGA to relevant parties under subsection (3)(b) are sanctionable in accordance with Chapter 5.

19 Power of the OGA to acquire information

- (1) The OGA may require a relevant party to a dispute to provide it with such information as may be required by the OGA for the purposes of – 35
 - (a) deciding whether to reject, adjourn or accept a reference of the dispute under section 16(1),
 - (b) setting a timetable in respect of an adjournment of a reference of the dispute under section 16(5), 40
 - (c) assessing progress of further negotiations during such an adjournment,

- (d) making a decision under section 17(1) to consider the dispute on its own initiative, or
 - (e) considering the dispute and making a recommendation under section 18(2),
subject to subsection (3). 5
- (2) A person required to provide information under subsection (1) must provide it in such manner and within such reasonable period as may be specified by the OGA in the request for information.
 - (3) Information requested under subsection (1) may not include items subject to legal privilege. 10
 - (4) Requirements imposed under this section are sanctionable in accordance with Chapter 5.
- 20 Power of the OGA to require attendance at meetings**
- (1) The OGA may require a relevant party to a dispute to send an individual to act as its representative at a meeting with the OGA for the purpose of participating in proceedings relating to – 15
 - (a) whether a reference of the dispute is to be rejected, adjourned or accepted under section 16(1),
 - (b) whether the OGA is to make a decision to consider the dispute under section 17(1), or 20
 - (c) the consideration of the dispute and the making of a recommendation under section 18(2).
 - (2) The OGA may require that the individual sent to attend the meeting has the necessary knowledge and expertise for the purpose of participating in the proceedings in question. 25
 - (3) The OGA must give reasonable notice of any meeting at which attendance is required under this section.
 - (4) Requirements imposed by the OGA on relevant parties under this section are sanctionable in accordance with Chapter 5.
- 21 Disputes: disclosure** 30
- The OGA may disclose any information obtained by it under this Chapter only if –
- (a) the person by whom or on whose behalf the information was provided consents to the disclosure,
 - (b) the disclosure is required by virtue of an obligation imposed on the OGA by or under any Act, or 35
 - (c) the disclosure is made in the exercise of the OGA’s powers under –
 - (i) section 18(6) (publication of recommendations for resolving disputes), or
 - (ii) section 52 (publication of details of sanctions). 40
- 22 Appeals against decisions of the OGA: disputes**
- (1) This section applies to any decision of the OGA to which effect is given by one of the actions set out in an entry in column 1 of the table below.

- (2) A person affected by any such decision may appeal against it to the Tribunal –
- (a) on the grounds that the decision was not within the powers of the OGA, or
 - (b) on the grounds set out in the corresponding entry in column 2 of the table.

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<i>(1) Action by the OGA</i>	<i>(2) Grounds for appeal</i>	
The setting of a timetable under section 16(5)(a).	The timetable is unreasonable.	
The giving of directions under section 16(5)(b).	A direction, or a number of directions taken together, are unreasonable.	10
The giving of directions under section 18(3)(b).	A direction, or a number of directions taken together, are unreasonable.	
The imposition of a requirement to provide information under section 19(1).	Either – (a) the information requested is not relevant to the dispute in question, or (b) the period specified under section 19(2) is unreasonable.	15 20
The imposition of a requirement under section 20(1) or (2) in relation to attendance at a meeting.	Either – (a) the requirement to attend the meeting is unreasonable, (b) reasonable notice of the meeting was not given, or (c) the requirement as to the knowledge and expertise of the person attending the meeting is unreasonable.	25 30

- (3) On an appeal under this section the Tribunal may –
- (a) affirm, vary or quash the decision under appeal,
 - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
 - (c) substitute its own decision for the decision under appeal.

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CHAPTER 3

INFORMATION AND SAMPLES

Interpretation

23 Petroleum-related information and samples

- In this Chapter – 5
- “petroleum-related information” means –
- (a) in relation to any relevant person, information acquired or created by or on behalf of the person in the course of carrying out activities which are relevant to the fulfilment of the principal objective, and 10
 - (b) in relation to a relevant person who is an offshore licensee, information acquired or created by or on behalf of the person in the course of carrying out activities under the licensee’s licence, which is not information falling within paragraph (a);
- “petroleum-related samples” means samples of substances acquired by or on behalf of an offshore licensee in the course of carrying out activities under the licensee’s licence. 15

Retention

24 Retention of information and samples

- (1) Regulations made by the Secretary of State may require – 20
 - (a) specified relevant persons to retain specified petroleum-related information;
 - (b) specified offshore licensees to retain specified petroleum-related samples.
- (2) Regulations under this section may include provision about – 25
 - (a) the form or manner in which information or samples are to be retained;
 - (b) the period for which information or samples are to be retained;
 - (c) the event that triggers the commencement of that period.
- (3) In this section, “specified” means specified, or of a description specified, in regulations under this section. 30
- (4) Requirements imposed by regulations under this section are sanctionable in accordance with Chapter 5.
- (5) Before making regulations under this section the Secretary of State must consult the OGA.

25 Retention: supplementary

- (1) Subsection (2) applies in relation to regulations under section 24 imposing requirements on an offshore licensee to retain information or samples.
- (2) The regulations may provide for those requirements to continue following a termination of rights under the licensee’s licence (whether by transfer,

surrender, expiry or revocation and whether in relation to all or only part of the licence).

- (3) Regulations under section 24 may not impose requirements which have effect in relation to particular petroleum-related information or particular petroleum-related samples at any time when an information and samples plan dealing with the information or samples has effect (see sections 26 to 29). 5

Information and samples plans

26 Information and samples plans: termination of rights under offshore licences

- (1) This section and sections 27 to 29 make provision in relation to the preparation of information and samples plans in connection with licence events. 10
- (2) The following definitions apply for the purposes of this section and those sections.
- (3) “Licence event” means –
- (a) a transfer of rights under an offshore licence, whether in relation to all or part of the area in respect of which the licence was granted, 15
 - (b) a surrender of rights under an offshore licence in relation to all of the area in respect of which the licence was granted, or in relation to so much of that area in respect of which the licence continues to have effect,
 - (c) the expiry of an offshore licence, or 20
 - (d) the revocation of an offshore licence by the OGA.
- (4) “Relevant licence”, in relation to a licence event, means the licence in respect of which the licence event occurs.
- (5) “Responsible person” in relation to a licence event, means the person who is or was, or the persons who are or were, the licensee in respect of the relevant licence immediately before the licence event. 25
- (6) “Information and samples plan”, in relation to a licence event, means a plan dealing with what is to happen, following the event, to –
- (a) petroleum-related information held by the responsible person before the event, and 30
 - (b) petroleum-related samples held by that person before the event.

27 Preparation and agreement of information and samples plans

- (1) The responsible person must prepare an information and samples plan in connection with a licence event.
- (2) The responsible person must agree the information and samples plan with the OGA – 35
- (a) in the case of a licence event mentioned in section 26(3)(a), (b) or (c) (transfer, surrender or expiry), before the licence event takes place, or
 - (b) in the case of a licence event mentioned in section 26(3)(d) (revocation), within a reasonable period after the revocation of the relevant licence. 40
- (3) An information and samples plan has effect once it is agreed with the OGA.

-
- (4) If an information and samples plan is not agreed with the OGA as mentioned in subsection (2)(a) or (b), the OGA –
- (a) may itself prepare an information and samples plan in connection with the licence event, and
 - (b) may require the responsible person to provide it with such information as the OGA may require to enable it to do so. 5
- (5) The OGA must inform the responsible person of the terms of any information and samples plan it prepares in connection with a licence event.
- (6) Where the OGA –
- (a) prepares an information and samples plan in connection with a licence event, and 10
 - (b) informs the responsible person of the terms of the plan, the plan has effect as if it had been prepared by the responsible person and agreed with the OGA.
- (7) Where an information and samples plan has effect in connection with a licence event, the responsible person must comply with the plan. 15
- (8) The requirements imposed by subsections (2) and (7), or under subsection (4)(b), are sanctionable in accordance with Chapter 5.
- 28 Changes to information and samples plans**
- (1) Where an information and samples plan has effect in relation to a licence event, the OGA and the responsible person may agree changes to the plan. 20
- (2) Once changes are agreed, the plan has effect subject to those changes.
- (3) Where –
- (a) two or more persons are the responsible person in relation to a licence event, and 25
 - (b) those persons include a company that has, since the licence event, been dissolved,
- the reference to the responsible person in subsection (1) does not include that company.
- 29 Information and samples plans: supplementary** 30
- (1) An information and samples plan, in relation to a licence event, may provide as appropriate for –
- (a) the retention, by the responsible person, of any petroleum-related information or petroleum-related samples held by or on behalf of that person before the licence event, 35
 - (b) the transfer of any such information or samples to a new licensee, or
 - (c) appropriate storage of such information or samples.
- (2) An information and samples plan may provide for the storage of information or samples as mentioned in subsection (1)(c) to be the responsibility of the OGA. 40
- (3) Subsection (4) applies where a transfer of rights under an offshore licence relates to only part of the area in relation to which the licence was granted.

- (4) In those circumstances, the information and samples plan prepared in connection with the transfer is to relate to all petroleum-related information and petroleum-related samples held by the responsible person before the licence event, and not only petroleum-related information and petroleum-related samples in respect of that part of the area. 5

Power to require information and samples

30 Power of the OGA to require information and samples

- (1) The OGA may by notice in writing, for the purpose of carrying out any functions of the OGA which are relevant to the fulfilment of the principal objective, require – 10
- (a) a relevant person to provide it with any petroleum-related information, or a portion of any petroleum-related sample, held by or on behalf of the person;
 - (b) a person who holds information or samples in accordance with an information and samples plan (see sections 26 to 29) to provide it with any such information or a portion of any such sample, 15
- subject to subsection (3).
- (2) The notice must specify –
- (a) the form or manner in which the information or the portion of a sample must be provided; 20
 - (b) the time at which, or period within which, the information or the portion of a sample must be provided.
- (3) Information requested under subsection (1) may not include items subject to legal privilege.
- (4) Requirements imposed by a notice under this section are sanctionable in accordance with Chapter 5. 25
- (5) Where a person provides information or a portion of a sample to the OGA in accordance with a notice under this section, any requirements imposed on the person in respect of that information or sample by regulations under section 24 are unaffected. 30

Disclosure

31 Disclosure of information and provision of samples

- (1) Where information and samples are acquired by the OGA under this Chapter –
- (a) the information may be disclosed, and 35
 - (b) the samples may be made available to other persons, only in accordance with this section.
- (2) In this section and section 32 –
- (a) references to “protected material” are references to information and samples acquired by the OGA under this Chapter, and 40
 - (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 OGA may –
 - (a) use protected material for the purpose of preparing such returns and reports as may be required under obligations imposed by or under any Act;
 - (b) provide protected material to the Natural Environment Research Council, or any other similar body carrying on geological activities, for the purpose of preparing reports and surveys of a general nature. 5
- (4) The OGA and any body to whom protected material is provided under subsection (3)(b) may prepare and publish reports and surveys of a general nature using information derived from the protected material. 10
- (5) Protected material may be disclosed by the OGA if –
 - (a) the person by whom or on whose behalf the protected material was provided consents to the disclosure,
 - (b) the disclosure is required by virtue of an obligation imposed on the OGA by or under any Act, 15
 - (c) the disclosure is made in accordance with subsection (8), or
 - (d) the disclosure is made in the exercise of OGA’s power under section 52 (publication of details of sanctions).
- (6) Where protected material is provided to a person under subsection (3)(b), that person may – 20
 - (a) use the protected material only for the purpose for which it is provided, and
 - (b) disclose the protected material only –
 - (i) so far as necessary for that purpose, or
 - (ii) in accordance with subsection (7) or (8). 25
- (7) A person to whom protected material is provided under subsection (3)(b) may disclose the 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. 30
- (8) Protected material may, at such time as may be specified in regulations made by the Secretary of State, be – 35
 - (a) published, or
 - (b) made available to the public (in a case where the protected material includes samples).

32 Timing of disclosure etc: supplementary

- (1) Regulations under section 31(8) may include provision permitting protected material to be published, or made available to the public, immediately after it is provided to a person. 40
- (2) Before making regulations under section 31(8), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) Subsection (2) does not apply if the Secretary of State is satisfied that consultation is unnecessary having regard to consultation carried out by the 45

OGA in relation to what time should be specified in regulations under section 31(8).

- (4) In determining the time to be specified in respect of protected material in regulations under section 31(8), the Secretary of State must have regard to the following factors – 5
- (a) whether the specified time will allow owners of protected material a reasonable period of time to satisfy the main purpose for which they acquired or created the material;
 - (b) any potential benefits to the petroleum industry of protected material being published or made available at the specified time; 10
 - (c) any potential risk that the specified time may discourage persons from acquiring or creating petroleum-related information or petroleum-related samples;
 - (d) any other factors the Secretary of State considers relevant.
- (5) In balancing the factors mentioned in subsection (4)(a) to (d), the Secretary of State must take into account the principal objective. 15
- (6) For the purposes of subsection (4)(a), the owner of protected material is the person by whom, or on whose behalf, the protected material was provided to the OGA under this Chapter.

Coordinators 20

33 Information and samples coordinators

- (1) A relevant person must –
- (a) appoint an individual to act as an information and samples coordinator, and
 - (b) notify the OGA of that individual’s name and contact details. 25
- (2) The information and samples coordinator is to be responsible for monitoring the relevant person’s compliance with its obligations under this Chapter.
- (3) A relevant person must comply with subsection (1) within a reasonable period after –
- (a) the date on which this section comes into force, if the person is a relevant person on that date, or
 - (b) becoming a relevant person, in any other case. 30
- (4) The relevant person must notify the OGA of any change in the identity or contact details of the information and samples coordinator within a reasonable period of the change taking place. 35
- (5) The requirements imposed by this section are sanctionable in accordance with Chapter 5.

Appeals

34 Appeals against decisions of the OGA: information and samples plans

- (1) This section applies to any decision of the OGA to which effect is given by one of the actions set out in an entry in column 1 of the table below. 40

- (2) A person affected by any such decision may appeal against it to the Tribunal –
- (a) on the grounds that the decision was not within the powers of the OGA, or
 - (b) on the grounds set out in the corresponding entry in column 2 of the table.

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<i>(1) Action by the OGA</i>	<i>(2) Grounds for appeal</i>
The preparation of an information and samples plan.	The plan is unreasonable.
The giving of a notice requiring the provision of information or samples under section 30(1).	The length of time given to comply with the notice is unreasonable.

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- (3) On an appeal under this section the Tribunal may –
- (a) affirm, vary or quash the decision under appeal,
 - (b) remit the decision under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate, or
 - (c) substitute its own decision for the decision under appeal.

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CHAPTER 4

MEETINGS

35 Meetings: interpretation

- (1) A meeting is a relevant meeting for the purposes of this Chapter if –
- (a) two or more relevant persons are represented at the meeting, and
 - (b) the meeting involves discussion of relevant issues.
- (2) A relevant person is represented at a meeting if an employee of, or a person acting on behalf of, the relevant person participates in the meeting.
- (3) In this Chapter “meeting” includes a meeting which is conducted in such a way that those who are not present together at the same place may by electronic means participate in it.
- (4) In this Chapter “relevant issues” means issues which –
- (a) are relevant to the fulfilment of the principal objective, or
 - (b) relate to activities carried out under an offshore licence,
- but does not include anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in any legal proceedings.
- (5) A notice given by the OGA may provide that –
- (a) a meeting specified, or of a description specified, in the notice is not a relevant meeting for the purposes of this Chapter;
 - (b) an issue specified, or of a description specified, in the notice is not a relevant issue for those purposes.

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36 Duty to inform the OGA of meetings

- (1) This section applies where a relevant person, or an employee of or person acting on behalf of the relevant person, knows or should know that a meeting arranged by, or on behalf of, the relevant person will be or is likely to be a relevant meeting. 5
- (2) The relevant person must, in writing –
 - (a) inform the OGA of the fact that the meeting is to take place, and
 - (b) provide such details of the meeting as are necessary for a person authorised by the OGA to be able to participate in it.
- (3) The relevant person must comply with subsection (2) – 10
 - (a) at least 14 days before the day on which the meeting is to take place, or
 - (b) if that is not reasonably practicable, so as to give as much notice of the meeting as is reasonably practicable.
- (4) In a case within subsection (3)(b) the relevant person must, when complying with subsection (2), explain in writing to the OGA why it was not reasonably practicable to comply with subsection (2) at least 14 days before the day on which the meeting is to take place. 15
- (5) The relevant person must inform the OGA in writing as soon as is reasonably practicable of any changes to the information provided under subsection (2)(b).
- (6) The relevant person must also provide the OGA with any information that is provided (whether by the relevant person or any other person) to other persons attending the meeting, including (in particular) – 20
 - (a) the agenda, and
 - (b) any other documents relevant to the meeting.
- (7) That information must be provided to the OGA – 25
 - (a) at the same time as it is provided to other persons attending the meeting, or
 - (b) if it not possible for the relevant person to provide it to the OGA at that time, as soon after that time as is reasonably practicable.
- (8) Subsection (6) does not require the relevant person to provide the OGA with information that does not relate to relevant issues. 30
- (9) The information required under subsections (2), (5) and (6), and any explanation provided under subsection (4), must be provided to the OGA in such manner as may be required by a notice given by the OGA.
- (10) The requirements imposed by this section are sanctionable in accordance with Chapter 5. 35

37 Participation by the OGA in meetings

- (1) A person authorised by the OGA under this section is entitled to participate in any relevant meeting.
- (2) But such a person is not entitled – 40
 - (a) to participate in any part of the meeting that does not relate to relevant issues, or
 - (b) if any matter is decided on by a vote, to take part in the voting.

- (3) The relevant person who arranged the meeting, or on whose behalf the meeting was arranged, must secure that the right conferred by subsection (1) may be exercised.
- (4) The requirement imposed by subsection (3) is sanctionable in accordance with Chapter 5. 5

38 Provision of information to the OGA after meetings

- (1) This section applies where the right conferred by section 37(1) (right of person authorised by the OGA to participate) is not exercised in relation to a relevant meeting.
- (2) The relevant person by, or on behalf of whom, the meeting was arranged must provide the OGA with a written summary of – 10
 - (a) the meeting, and
 - (b) any decisions reached at the meeting.
- (3) The written summary must be provided to the OGA within a reasonable period after the end of the meeting. 15
- (4) Subsection (2) does not require the relevant person to provide the OGA with any information that does not relate to relevant issues.
- (5) The requirement imposed by this section is sanctionable in accordance with Chapter 5.

39 Meetings: disclosure 20

The OGA may disclose any information obtained by it under this Chapter only if –

- (a) the person by whom the information was provided consents to the disclosure,
- (b) the disclosure is required by virtue of an obligation imposed on the OGA by or under any Act, or 25
- (c) the disclosure is made in the exercise of the OGA’s power under section 52 (publication of details of sanctions).

40 Notices

- (1) This section applies to a notice given by the OGA under this Chapter. 30
- (2) The notice –
 - (a) may make different provision for different cases, and
 - (b) may be varied or revoked by a further notice given by the OGA.
- (3) The notice, and any variation or revocation, must be published in such manner as the OGA considers appropriate for bringing it to the attention of the persons 35 who, in its opinion, are likely to be affected by it.

CHAPTER 5

SANCTIONS

Power to give sanction notices

- 41 Power of OGA to give sanction notices**
- (1) If the OGA considers that a person has failed to comply with a petroleum-related requirement imposed on the person, it may give the person a sanction notice in respect of that failure. 5
- (2) If the OGA considers that there has been a failure to comply with a petroleum-related requirement imposed jointly on two or more persons, it may give a sanction notice in respect of that failure – 10
- (a) to one only of those persons,
- (b) jointly to two or more of them, or
- (c) jointly to all of them,
- but it may not give separate sanction notices to each of them in respect of the failure. 15
- (3) In this Chapter “petroleum-related requirement” means –
- (a) a duty imposed under section 9C of the Petroleum Act 1998 to act in accordance with the current strategy or strategies produced under section 9A(2) of that Act for enabling the principal objective to be met,
- (b) a term or condition of an offshore licence, or 20
- (c) a requirement imposed on a person by or under a provision of this Act which, by virtue of the provision, is sanctionable in accordance with this Chapter.
- (4) In this Chapter “sanction notice” means – 25
- (a) an enforcement notice (see section 42),
- (b) a financial penalty notice (see sections 43 to 45),
- (c) a revocation notice (see section 46), or
- (d) an operator removal notice (see section 47).
- (5) Sanction notices, other than enforcement notices, may be given in respect of a failure to comply with a petroleum-related requirement even if, at the time the notice is given, the failure to comply has already been remedied. 30
- (6) Where the OGA gives a sanction notice to a person in respect of a particular failure to comply with a petroleum-related requirement – 35
- (a) it may, at the same time, give another type of sanction notice to the person in respect of that failure to comply;
- (b) it may give subsequent sanction notices in respect of that failure only in accordance with section 53 (subsequent sanction notices).
- (7) The OGA’s power to give sanction notices under this section is subject to section 48 (duty of OGA to give sanction warning notices).

Sanction notices

42 Enforcement notices

- (1) This section contains provision about enforcement notices which may be given under section 41 (failure to comply with a petroleum-related requirement).
- (2) An enforcement notice is a notice which – 5
 - (a) specifies the petroleum-related requirement in question,
 - (b) gives details of the failure to comply with the requirement,
 - (c) informs the person or persons to whom the notice is given that the person or persons must comply with – 10
 - (i) the petroleum-related requirement, and
 - (ii) any directions included in the notice as mentioned in subsection (3),
before the end of the period specified in the notice.
- (3) The notice may include directions as to the measures to be taken for the purposes of compliance with the petroleum-related requirement. 15
- (4) Directions included in an enforcement notice as mentioned in subsection (3) are sanctionable in accordance with this Chapter.

43 Financial penalty notices

- (1) This section and sections 44 and 45 contain provision about financial penalty notices which may be given under section 41 (failure to comply with a petroleum-related requirement). 20
- (2) A financial penalty notice is notice which – 25
 - (a) specifies the petroleum-related requirement in question,
 - (b) gives details of the failure to comply with the requirement,
 - (c) informs the person or persons to whom the notice is given that the person or persons must – 30
 - (i) comply with the petroleum-related requirement before the end of a period specified in the notice (if the failure to comply with the requirement has not already been remedied at the time the notice is given), and
 - (ii) pay the OGA a financial penalty of the amount specified in the notice before the end of a period specified in the notice.
- (3) The period specified under subsection (2)(c)(ii) must not end earlier than the period within which an appeal may be brought in relation to the financial penalty notice (see section 49(2)). 35

44 Amount of financial penalty

- (1) The financial penalty payable under a financial penalty notice in respect of a failure to comply with a petroleum-related requirement (whether payable by one person, or jointly by two or more persons) must not exceed £1 million.
- (2) The OGA must – 40
 - (a) issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice, and

- (b) have regard to the guidance when determining the amount of the penalty in any particular case.
- (3) The OGA may from time to time review the guidance and, if it considers appropriate, revise it.
- (4) Before issuing or revising guidance under this section, the OGA must consult such persons as it considers appropriate. 5
- (5) The OGA must lay any guidance issued under this section, and any revision of it, before each House of Parliament.
- (6) The OGA must publish any guidance issued under this section, and any revision of it, in such manner as the OGA considers appropriate. 10
- (7) The Secretary of State may by regulations amend subsection (1) to change the amount specified to an amount not exceeding £5 million.
- 45 Payment of financial penalty**
- (1) If a financial penalty notice is given jointly to two or more persons, those persons are jointly and severally liable to pay the financial penalty under it. 15
- (2) A financial penalty payable under a financial penalty notice is to be recoverable as a civil debt if it is not paid before the end of the period specified under section 43(2)(c)(ii).
- (3) Money received by the OGA under a financial penalty notice must be paid into the Consolidated Fund. 20
- 46 Revocation notices**
- (1) This section contains provision about revocation notices which may be given under section 41 (failure to comply with a petroleum-related requirement).
- (2) A revocation notice may be given only to a licensee.
- (3) Where two or more persons are the licensee in respect of a petroleum licence, the revocation notice may be given jointly to some or all of those persons. 25
- (4) A revocation notice is a notice which –
- (a) specifies the petroleum-related requirement in question,
 - (b) gives details of the failure to comply with the requirement,
 - (c) informs the person or persons to whom the notice is given that the petroleum licence held by that person or those persons is to be revoked in relation to that person, or those persons, on the date specified in the notice (“the revocation date”). 30
- (5) The revocation date must not be earlier than the end of the period within which an appeal may be brought in relation to the revocation notice (see section 49(2)). 35
- (6) Where a licence is revoked in relation to a person in accordance with a revocation notice, the rights granted to the person by the licence cease on the revocation date.
- (7) The cessation of rights mentioned in subsection (6) does not affect any obligation or liability incurred by or imposed on the person under the terms and conditions of the licence. 40

- (8) Where two or more persons are the licensee in respect of a petroleum licence and a revocation notice is given in relation to some of those persons, but not in relation to others (the “continuing licence holders”), the OGA must inform the continuing licence holders that –
- (a) the revocation notice has been given, and 5
 - (b) the licence will continue to have effect in respect of them following the revocation date.

47 Operator removal notices

- (1) This section contains provision about operator removal notices which may be given under section 41 (failure to comply with a petroleum-related requirement). 10
- (2) An operator removal notice may be given only to an operator under a petroleum licence.
- (3) An operator removal notice is a notice which – 15
- (a) specifies the petroleum-related requirement;
 - (b) gives details of the failure to comply with the requirement;
 - (c) informs the operator to whom it is given that, with effect from a date specified in the notice (“the removal date”), the licensee under whose licence the operator operates (“the relevant licensee”) is to be required to remove the operator (see subsection (5)). 20
- (4) The OGA must –
- (a) give a copy of the operator removal notice to the relevant licensee, and
 - (b) require the relevant licensee to remove the operator with effect from the removal date.
- (5) Where a licensee is required to remove an operator from a specified date, the licensee must ensure that, with effect from that date, the operator does not exercise any function of organising or supervising any of the operations of searching for, boring for, or getting petroleum in pursuance of the licensee’s petroleum licence. 25
- (6) The removal date must not be earlier than the end of the period within which an appeal may be brought in relation to the operator removal notice (see section 49(2)). 30
- (7) A requirement imposed on a licensee under subsection (4)(b) is sanctionable in accordance with this Chapter.
- (8) In this Chapter, “operator under a petroleum licence” has the same meaning as in Part 1A of the Petroleum Act 1998 (see section 9I of that Act). 35

Sanction warning notices

48 Duty of OGA to give sanction warning notices

- (1) This section applies where the OGA proposes to give a sanction notice in respect of a failure to comply with a petroleum-related requirement. 40
- (2) The OGA must give a sanction warning notice in respect of the petroleum-related requirement to –

- (a) the person or persons to whom it proposes to give a sanction notice, and
 - (b) where it proposes to give an operator removal notice, the relevant licensee (see section 47(3)(c)).
- (3) A sanction warning notice, in respect of a petroleum-related requirement, is a notice which – 5
- (a) specifies the petroleum-related requirement,
 - (b) informs the person or persons to whom it is given that the OGA proposes to give a sanction notice in respect of a failure to comply with the requirement, 10
 - (c) gives details of the failure to comply with the petroleum-related requirement,
 - (d) informs the person or persons to whom it is given that the person or persons may, within the period specified in the notice (“the representations period”), make representations to the OGA in relation to the matters dealt with in the notice. 15
- (4) The representations period is to be such period as the OGA considers appropriate in the circumstances.
- (5) Subsections (6) and (7) apply where the OGA gives a sanction warning notice to a person or persons in respect of a petroleum-related requirement. 20
- (6) The OGA must not give a sanction notice to the person or persons in respect of a failure to comply with the requirement until after the end of the representations period specified in the sanction warning notice.
- (7) Having regard to representations made during the representations period specified in the sanction warning notice, the OGA may decide – 25
- (a) to give the person or persons a sanction notice in respect of the failure to comply with the requirement detailed in the sanction warning notice under subsection (3)(c),
 - (b) to give the person or persons a sanction notice in respect of a failure to comply with the requirement which differs from the failure detailed in the sanction warning notice under subsection (3)(c), or 30
 - (c) not to give the person or persons a sanction notice in respect of a failure to comply with the requirement.

Appeals

- 49 Appeals in relation to sanction notices** 35
- (1) Where a sanction notice is given under this Chapter in respect of a failure to comply with a petroleum-related requirement, an appeal may be made –
- (a) under section 50 (on the grounds that there was no such failure to comply);
 - (b) under section 51 (against the sanction imposed by the notice). 40
- (2) An appeal in relation to a sanction notice must be made before the end of the period of 28 days beginning with the day on which the notice was given.
- (3) Where an appeal is made in relation to a sanction notice, the notice ceases to have effect until a decision is made by the Tribunal in respect of the appeal.

50 Appeals against finding of failure to comply

- (1) This section applies where a sanction notice is given in respect of a failure to comply with a petroleum-related requirement.
- (2) An appeal may be made to the Tribunal by the person, or by any of the persons, to whom the notice was given, on the grounds that the person, or persons, did not fail to comply with a petroleum-related requirement. 5
- (3) On an appeal under this section, the Tribunal may confirm or cancel the sanction notice.
- (4) Where sanction notices are given on more than one occasion in respect of the same failure to comply with a petroleum-related requirement – 10
 - (a) an appeal under this section may be made only in relation to the sanction notice, or any of the sanction notices, given on the first of those occasions, and
 - (b) appeals in relation to sanction notices given on subsequent occasions in respect of that failure to comply may be made only under section 51 (appeals against sanction imposed). 15

51 Appeals against sanction imposed

- (1) This section applies where a sanction notice is given in respect of a failure to comply with a petroleum-related requirement.
- (2) An appeal may be made to the Tribunal – 20
 - (a) by the person, or by any of the persons, to whom the notice was given, and
 - (b) in the case of an operator removal notice under section 47, by the licensee under whose licence the operator operates,against any of the decisions of the OGA mentioned in subsection (3) (as to the sanction imposed by the notice) on the grounds mentioned in subsection (4). 25
- (3) Those decisions are –
 - (a) in a case where an enforcement notice has been given, the decision as to –
 - (i) the measures that are required to be taken for the purposes of compliance with the petroleum-related requirement, or 30
 - (ii) the period for compliance with the petroleum-related requirement;
 - (b) in a case where a financial penalty notice has been given, the decision –
 - (i) to impose a financial penalty, or 35
 - (ii) as to the amount of the financial penalty imposed;
 - (c) in a case where a revocation of licence notice has been given, the decision to revoke the licence, whether in relation to some or all of the persons to whom it was granted;
 - (d) in a case where an operator removal notice has been given, the decision to require the removal of the operator. 40
- (4) The grounds are that the decision of the OGA –
 - (a) was unreasonable, or
 - (b) was not within the powers of the OGA.

-
- (5) On an appeal under this section against a decision made in relation to an enforcement notice, the Tribunal may –
- (a) confirm or quash the decision, in the case of a decision as mentioned in subsection (3)(a)(i) (remedial action), or
 - (b) confirm or vary the decision, in the case of a decision as mentioned in subsection (3)(a)(ii) (period for compliance),
- and confirm, vary or cancel the enforcement notice accordingly 5
- (6) On an appeal under this section against a decision made in relation to a financial penalty notice, the Tribunal may –
- (a) confirm or quash the decision, in the case of a decision as mentioned in subsection (3)(b)(i) (imposition of penalty), or
 - (b) confirm or vary the decision, in the case of a decision as mentioned in subsection (3)(b)(ii) (amount of penalty),
- and confirm, vary or cancel the financial penalty notice accordingly. 10
- (7) The Tribunal must have regard to any guidance issued by the OGA under section 44(2)(a) when deciding whether to confirm or vary a decision as to the amount of a financial penalty under subsection (6)(b). 15
- (8) On an appeal under this section against a decision –
- (a) to revoke a licence, or
 - (b) to require the removal of an operator,
- the Tribunal may confirm, vary or quash the decision, and confirm, vary or cancel the sanction notice in question accordingly. 20
- (9) Where a decision is quashed under subsection (5)(a), (6)(a) or (8), the Tribunal may remit the decision to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate. 25

Supplementary

52 Publication of details of sanctions

- (1) The OGA may publish details of any sanction notice given in accordance with this Chapter.
- (2) But the OGA may not publish anything that, in the OGA’s opinion – 30
- (a) is commercially sensitive,
 - (b) is not in the public interest to publish, or
 - (c) is otherwise not appropriate for publication.
- (3) If, after details of a sanction notice are published by the OGA, the sanction notice is – 35
- (a) cancelled on appeal, or
 - (b) withdrawn under section 54,
- the OGA must publish details of the cancellation or withdrawal.

53 Subsequent sanction notices

- (1) This section applies where the OGA gives a sanction notice in respect of a particular failure to comply with a petroleum-related requirement (whether the notice is given alone or at the same time as another type of sanction notice). 40

- (2) If the sanction notice given is a revocation notice or an operator removal notice, no further sanction notices may be given in respect of the failure to comply.
- (3) Subsection (4) applies if the sanction notice given is an enforcement notice or a financial penalty notice.
- (4) No further sanction notices may be given in respect of the failure to comply before the end of the period specified under section 42(2)(c) or 43(2)(c)(i), as the case may be (period for compliance with petroleum-related requirement). 5

54 Withdrawal of sanction notices

- (1) The OGA may, at any time after giving a sanction notice, withdraw the sanction notice. 10
- (2) If a sanction notice is withdrawn by the OGA –
 - (a) the notice ceases to have effect, and
 - (b) the OGA must notify the following persons of the withdrawal of the notice –
 - (i) the person or persons to whom the notice was given, 15
 - (ii) in the case of a revocation notice, the persons who were required to be informed of the giving of the revocation notice under section 46(8), and
 - (iii) in the case of an operator removal notice, the licensee under whose licence the operator operates. 20

55 Alternative means of enforcement

- (1) Where the OGA gives a sanction notice to an offshore licensee in respect of a failure to comply with a petroleum-related requirement, the matter is to be dealt with in accordance with this Chapter.
- (2) Any requirement under the licensee’s licence to deal with the matter in a certain way (including by arbitration) does not apply in respect of that failure to comply. 25

Information

56 Sanctions: information powers

- (1) This section applies for the purposes of an investigation by the OGA which – 30
 - (a) concerns whether a person has failed to comply with a petroleum-related requirement, and
 - (b) is carried out for the purpose of enabling the OGA to decide whether to give the person a sanction notice, or on what terms a sanction notice should be given to the person. 35
- (2) The OGA may by notice in writing, for the purposes of that investigation, require the person to provide specified documents or other information.
- (3) A requirement under subsection (2) only applies to the extent that the documents or information requested are –
 - (a) documents that are in the person’s possession or control, or 40
 - (b) other information that is in the person’s possession or control.

(4)	A requirement imposed by a notice under subsection (2) is sanctionable in accordance with this Chapter.	
(5)	The documents or information requested –	
(a)	may include documents or information held in any form (including in electronic form);	5
(b)	may include documents or information that may be regarded as commercially sensitive;	
(c)	may not include items that are subject to legal privilege.	
(6)	The notice must specify –	
(a)	to whom the information is to be provided;	10
(b)	where it is to be provided;	
(c)	when it is to be provided;	
(d)	the form and manner in which it is to be provided.	
(7)	In this section, “specified” in a notice, means specified, or of a description specified, in the notice.	15
57	Appeals against information requests	
(1)	A person to whom a notice is given under section 56 may appeal against it to the Tribunal on the grounds that –	
(a)	the giving of the notice is not within the powers of the OGA, or	
(b)	the length of time given to comply with the notice is unreasonable.	20
(2)	On an appeal under this section the Tribunal may –	
(a)	confirm, vary or cancel the notice, or	
(b)	remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.	
58	Sanctions: disclosure	25
	The OGA may disclose any information obtained by it under this Chapter only if –	
(a)	the person by whom or on whose behalf the information was provided consents to the disclosure,	
(b)	the disclosure is required by virtue of an obligation imposed on the OGA by or under any Act, or	30
(c)	the disclosure is made in the exercise of the OGA’s powers under section 52 (publication of details of sanctions).	
<i>The OGA’s procedures</i>		
59	Procedure for enforcement decisions	35
(1)	The OGA must determine the procedure that it proposes to follow in relation to enforcement decisions.	
(2)	That procedure must be designed to secure, among other things, that an enforcement decision is taken –	
(a)	by a person falling within subsection (3), or	40
(b)	by two or more persons, each of whom falls within subsection (3).	

- (3) A person falls within this subsection if the person was not directly involved in establishing the evidence on which the enforcement decision is based.
 - (4) The OGA must issue a statement of its proposals.
 - (5) The statement must be published in a way appearing to the OGA to be best calculated to bring the statement to the attention of the public. 5
 - (6) When the OGA takes an enforcement decision, the OGA must follow its stated procedure.
 - (7) If the OGA changes its procedure in a material way, it must publish a revised statement.
 - (8) A failure of the OGA in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of an enforcement decision taken in that case. 10
 - (9) But subsection (8) does not prevent the Tribunal from taking into account any such failure in considering an appeal under section 50 or 51 in relation to a sanction notice. 15
 - (10) In this section “enforcement decision” means either of the following—
 - (a) a decision to give a sanction notice in respect of a failure to comply with a petroleum-related requirement;
 - (b) a decision as to the details of the sanction to be imposed by the notice.
- Interpretation* 20
- 60 Sanctions: interpretation**
- In this Chapter—
- “operator under a petroleum licence” has the meaning given in section 47(8);
 - “petroleum-related requirement” has the meaning given in section 41(3); 25
 - “sanction notice” has the meaning given in section 41(4).

PART 3

INFRASTRUCTURE

61 Requirements to provide information

- (1) The Energy Act 2011 is amended as follows. 30
- (2) In section 87 (powers to require information), after subsection (5) insert—
 - “(5A) A notice under subsection (1), (2) or (3) that imposes a requirement on a person must specify when the requirement is to be complied with.”
- (3) After that section insert—

“87A Appeals against requirements to provide information 35

 - (1) Any person on whom a requirement is imposed by a notice under section 87(1), (2) or (3) may appeal against the notice to the Tribunal on the grounds that—

(a) the information required by the notice is not relevant to the exercise by the OGA of its functions under this Chapter, or	
(b) the length of time given to comply with the notice is unreasonable.	
(2) On an appeal under this section the Tribunal may –	5
(a) confirm, vary or cancel the notice, or	
(b) remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.	
(3) In this section “the Tribunal” means the First-tier Tribunal.	10
87B Sanctions for failure to provide information	
(1) A requirement imposed by a notice under section 87(1), (2) or (3) is to be treated for the purposes of Chapter 5 of Part 2 of the Energy Act 2016 (power of the OGA to impose sanctions) as a petroleum-related requirement.	15
(2) But the OGA may not give a revocation notice or an operator removal notice under that Chapter by virtue of this section.”	
62 Applications to use infrastructure: changes of applicant and owner	
(1) The Energy Act 2011 is amended as follows.	
(2) In section 82(13) (contents of notice securing rights to use infrastructure), omit paragraph (b).	20
(3) In section 87(6) (circumstances in which information may be disclosed) –	
(a) omit the “or” at the end of paragraph (a), and	
(b) after paragraph (b) insert “or	
(c) the disclosure is made under section 89A or 89B.”	25
(4) After section 89 insert –	
“89A Assignments and assignments of applications	
(1) This section applies where –	
(a) there is an assignment or assignment of an application made under section 82 from one person (“A”) to another (“B”), and	30
(b) the following are notified of the assignment or assignment –	
(i) the owner of the pipeline or facility that is the subject of the application, and	
(ii) the OGA.	
(2) A notice under subsection (1)(b) must –	35
(a) be in writing, and	
(b) specify the date of the assignment or assignment.	
(3) For the purposes of this Chapter, anything done (or treated as done) by or in relation to A in connection with the application is treated after the assignment or assignment as having been done by or in relation to B. This subsection is subject to subsections (4) and (5) and does not apply for the purposes of subsections (6) and (7).	40

- (4) Any provision of this Chapter that requires the OGA to give the applicant an opportunity to be heard has effect after the assignment or assignation as requiring the OGA to give B an opportunity to be heard (whether or not the applicant was heard under that provision before the assignment or assignation). 5
- (5) Subsection (3) does not apply in relation to any notice given under section 87 before the assignment or assignation (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it).
- (6) Any information relating to the application obtained by the OGA before the assignment or assignation from any person who at the time was the applicant may be disclosed to B. 10
- (7) Before disclosing any such information to B, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained. 15

89B Transfers of ownership

- (1) This section applies where the ownership of a pipeline or facility that is the subject of an application under section 82, or to which a notice under subsection (11) of that section relates, is transferred from one person (“C”) to another (“D”). 20
- (2) For the purposes of this Chapter –
 - (a) anything done (or treated as done) by or in relation to C in connection with C’s ownership of the pipeline or facility is treated after the transfer as having been done by or in relation to D, and 25
 - (b) any obligations imposed or rights conferred (or treated as imposed or conferred) by or under this Chapter on C in connection with C’s ownership of the pipeline or facility are treated after the transfer as imposed or conferred on D.

This subsection is subject to subsections (3) and (4) and does not apply for the purposes of subsections (5) and (6). 30
- (3) Any provision of this Chapter that requires the OGA to give the owner of the pipeline or facility an opportunity to be heard has effect after the transfer as requiring the OGA to give D an opportunity to be heard (whether or not the owner was heard under that provision before the transfer). 35
- (4) Subsection (2) does not affect the obligation to comply with any notice given under section 87 before the transfer (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it). 40
- (5) Any information relating to the application obtained by the OGA before the transfer from any person who at the time was the owner may be disclosed to D.
- (6) Before disclosing any such information to D, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained.” 45

PART 4

FEES

63 Powers to charge fees

- (1) In Part 4A of the Energy Act 2008 (works detrimental to navigation: oil, gas, carbon dioxide and pipelines), before section 82P insert – 5
- “82OAFees**
- (1) The Secretary of State may charge fees in connection with carrying out functions under this Part.
- (2) The fees are to be determined by or in accordance with regulations made by the Secretary of State. 10
- (3) The regulations may authorise the fees to be determined by or in accordance with a scheme made by the Secretary of State.”
- (2) In Part 4 of the Marine and Coastal Access Act 2009 (marine licences), after section 110 insert –

“Fees 15

110A Fees: oil and gas activities for which marine licence needed

- (1) The Secretary of State may charge fees in connection with carrying out functions under this Part, so far as relating to oil and gas activities for which a marine licence is needed.
- (2) The fees are to be determined by or in accordance with regulations made by the Secretary of State. 20
- (3) The regulations may authorise the fees to be determined by or in accordance with a scheme made by the Secretary of State.
- (4) If the regulations provide for determining fees in connection with functions of the Secretary of State under section 67, the fees are to be those provided for by the regulations, and not those (if any) provided for by regulations under section 67(2) or determined under section 67(5). 25
- (5) “Oil and gas activities” are activities which relate to operations regulated under any of the provisions listed in subsection (6). 30
- (6) The provisions are –
- (a) section 2 of the Petroleum (Production) Act 1934 (searching and boring for, and getting, petroleum);
 - (b) Part 1 of the Petroleum Act 1998 (searching and boring for, and getting, petroleum); 35
 - (c) Part 3 of the Petroleum Act 1998 (submarine pipelines);
 - (d) Part 4 of the Petroleum Act 1998 (abandonment of offshore installations);
 - (e) Part 1 of the Energy Act 2008 (gas importation and storage);
 - (f) Part 4 of the Energy Act 2008 (oil and gas). 40
- (7) See Chapter 1 for when a marine licence is needed for activities.”

64 Validation of fees charged

- (1) A fee charged by the Secretary of State at any time before the date on which this Act is passed (“the relevant time”) is taken to have been lawfully charged if the condition in subsection (2) is met.
- (2) The condition is that the fee was charged in connection with carrying out functions under any of the provisions listed in subsection (3), as the provision in question had effect at the relevant time. 5
- (3) The provisions are –
 - (a) Part 4A of the Energy Act 2008 (works detrimental to navigation: oil, gas, carbon dioxide and pipelines); 10
 - (b) Part 4 of the Marine and Coastal Access Act 2009 (marine licences), so far as relating to oil and gas activities for which a marine licence under that Part is needed;
 - (c) the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (S.I. 1998/1056); 15
 - (d) the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360);
 - (e) the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754).
- (4) “Oil and gas activities” are activities which relate to operations regulated under any of the provisions listed in subsection (5). 20
- (5) The provisions are –
 - (a) section 2 of the Petroleum (Production) Act 1934 (searching and boring for, and getting, petroleum);
 - (b) Part 1 of the Petroleum Act 1998 (searching and boring for, and getting, petroleum); 25
 - (c) Part 3 of the Petroleum Act 1998 (submarine pipelines);
 - (d) Part 4 of the Petroleum Act 1998 (abandonment of offshore installations);
 - (e) Part 1 of the Energy Act 2008 (gas importation and storage); 30
 - (f) Part 4 of the Energy Act 2008 (oil and gas).
- (6) See Chapter 1 of Part 4 of the Marine and Coastal Access Act 2009 for when a marine licence under that Part is needed for activities.

PART 5

WIND POWER 35

65 Onshore wind generating stations in England and Wales

In section 36 of the Electricity Act 1989 (consent of Secretary of State required for construction or extension of generating stations), after subsection (1C) insert –

- “(1D) Subsection (1) does not apply to an English or Welsh onshore wind generating station. 40
- (1E) “English or Welsh onshore wind generating station” means a generating station that –
 - (a) generates electricity from wind, and

- (b) is situated in England or Wales, but not in waters in or adjacent to England or Wales up to the seaward limits of the territorial sea.”

66 Onshore wind power: closure of renewables obligation on 31 March 2016

- (1) The Electricity Act 1989 is amended as follows. 5
- (2) After section 32LB (renewables obligation closure orders: procedure) insert—
- “32LC Onshore wind generating stations: closure of renewables obligation**
- (1) No renewables obligation certificates are to be issued under a renewables obligation order in respect of electricity generated after 31 March 2016 by an onshore wind generating station which is accredited after that date. 10
- (2) In subsection (1) —
- “accredited” is to be construed in accordance with the definition of “accreditation” in article 2 of the Renewables Obligation Order 2009 (S.I. 2009/785); 15
- “onshore wind generating station” means a generating station that—
- (a) generates electricity from wind, and
- (b) is situated in England, Wales or Scotland, but not in waters in or adjacent to England, Wales or Scotland up to the seaward limits of the territorial sea. 20
- (3) The Secretary of State may by regulations make further provision for the purposes of giving effect to subsection (1).
- (4) The reference in subsection (1) to a renewables obligation order is to any renewables obligation order made under section 32 (whenever made, and whether or not made by the Secretary of State). 25
- (5) Power to make provision in a renewables obligation order or a renewables obligation closure order (and any provision contained in such an order) is subject to subsection (1) and regulations under this section. 30
- (6) This section is not otherwise to be taken as affecting power to make provision in a renewables obligation order or renewables obligation closure order.
- (7) Regulations under this section are not to be made unless a draft of the the instrument containing them has been laid before and approved by a resolution of each House of Parliament.” 35
- (3) In section 106(2)(a) (negative procedure for regulations under Act), after “Secretary of State” insert “(other than regulations under section 32LC)”.
- (4) The Renewables Obligation Closure Order 2014 (S.I. 2014/2388) is amended as follows. 40
- (5) In article 2(1) (interpretation), after the definition of “network operator” insert—
- ““onshore wind generating station” means a generating station that—

- (a) generates electricity from wind, and
 - (b) is situated in England, Wales or Scotland, but not in waters in or adjacent to England, Wales or Scotland up to the seaward limits of the territorial sea;”.
- (6) In article 3 (closure of renewables obligation on 31st March 2017)— 5
 - (a) in the heading, after “not large solar pv stations” insert “or onshore wind generating stations accredited after 31st March 2016”;
 - (b) in paragraph (1), after “not a large solar pv station” insert “or an onshore wind generating station accredited after 31st March 2016”.

PART 6 10

FINAL PROVISIONS

67 Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) A power to make regulations under this Act includes power— 15
 - (a) to make different provision for different purposes (including areas);
 - (b) to make provision generally or in relation to specific cases.
- (3) A power to make regulations under this Act (except the power conferred by section 68) includes power to make incidental, consequential, supplemental, transitional or transitory provision or savings. 20
- (4) A statutory instrument containing—
 - (a) regulations under section 2 which amend or repeal any Act or provision of an Act,
 - (b) regulations under section 31(8), or
 - (c) regulations under section 44, 25may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing any other regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (6) Subsection (5) does not apply to a statutory instrument containing regulations under section 68.

68 Commencement

- (1) This Part comes into force on the day on which this Act is passed.
- (2) Part 4 comes into force two months after the day on which this Act is passed. 35
- (3) The remaining provisions of this Act come into force on such day or days as the Secretary of State may by regulations appoint.
- (4) Regulations under subsection (3) may include transitional or transitory provision or savings.

69 Short title and extent

- (1) This Act may be cited as the Energy Act 2016.
- (2) An amendment or repeal made by this Act has the same extent as the provision to which it relates.
- (3) Subject to subsection (2), this Act extends to the whole of the United Kingdom.

SCHEDULE

Section 2

TRANSFER OF FUNCTIONS TO THE OGA

PART 1

PRIMARY LEGISLATION

<i>Petroleum Act 1998</i>	5
1 The Petroleum Act 1998 is amended as follows.	
2 In section 9A(2) (principal objective and the strategy), for “Secretary of State” substitute “OGA”.	
3 In section 9B (exercise of certain functions) –	
(a) for “Secretary of State” (including in the heading) substitute “OGA”, and	10
(b) after paragraph (c) insert –	
“(ca) exercising functions under Part 2 of the Energy Act 2016,”.	
4 Omit section 9D.	15
5 (1) Section 9E (security and resilience functions) is amended as follows.	
(2) In subsection (1), for “Secretary of State’s” substitute “OGA’s”.	
(3) In subsection (2), for “Secretary of State” substitute “OGA”.	
(4) In the heading, for “Secretary of State’s” substitute “OGA’s”.	
6 (1) Section 9F (producing and revising a strategy) is amended as follows.	20
(2) Omit subsection (1).	
(3) For subsection (2) substitute –	
“(2) After the first strategy has been produced, the OGA may –	
(a) produce a new strategy, or	
(b) revise a current strategy,	25
whenever the OGA thinks appropriate.”	
(4) In subsection (3), for “Secretary of State” substitute “OGA”.	
(5) Omit subsection (4).	
7 (1) Section 9G (procedure for producing and revising a strategy) is amended as follows.	30
(2) In subsection (1) –	
(a) omit paragraph (a), and	
(b) for “Secretary of State” substitute “OGA”.	

-
- (3) In subsection (2), for “Secretary of State” (in both places) substitute “OGA”.
- (4) For subsection (3) substitute –
- “(3) If, after complying with that duty, the OGA decides to proceed with the draft (in its original form or with modifications), the OGA must send the draft to the Secretary of State. 5
- (3A) The Secretary of State must either –
- (a) lay a copy of the draft before each House of Parliament, or
- (b) return the draft to the OGA and publish the Secretary of State’s reasons for doing so.
- (3B) The Secretary of State may return the draft to the OGA only if the Secretary of State thinks that – 10
- (a) the OGA has failed to comply with subsection (2), or
- (b) the strategy will not enable the principal objective to be met.”
- (5) In subsection (4), for “The Secretary of State” substitute “Where a copy of the draft has been laid in accordance with subsection (3A)(a), the OGA”. 15
- (6) In subsection (5), for “Secretary of State” substitute “OGA”.
- (7) In subsection (6), for “Secretary of State” substitute “OGA”.
- 8 In section 14(1) (construction and use of pipelines), for “Secretary of State” substitute “OGA”.
- 9 In section 15 (authorisations), for “Secretary of State” (in each place) substitute “OGA”. 20
- 10 In section 16 (compulsory modifications of pipelines), for “Secretary of State” (in each place) substitute “OGA”.
- 11 (1) Section 17 (acquisition of rights to use pipelines) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “OGA”. 25
- (3) In subsection (2) –
- (a) for “Secretary of State” substitute “OGA”, and
- (b) for “he” substitute “it”.
- (4) In subsection (3) –
- (a) for “Secretary of State” (in both places) substitute “OGA”, and 30
- (b) for “he” substitute “it”.
- (5) In subsection (5), for “Secretary of State” substitute “OGA”.
- (6) In subsection (7), for “Secretary of State” substitute “OGA”.
- (7) In subsection (8) –
- (a) for “Secretary of State” substitute “OGA”, and 35
- (b) for “he” substitute “it”.
- 12 (1) Section 17F (acquisition of rights to use controlled petroleum pipelines) is amended as follows.
- (2) In subsection (2), for “Secretary of State” substitute “OGA”.
- (3) In subsection (5), for “Secretary of State” substitute “OGA”. 40

- (4) In subsection (6) –
 - (a) for “Secretary of State” substitute “OGA”, and
 - (b) for “he” substitute “it”.
- (5) In subsection (7) –
 - (a) for “Secretary of State” (in each place) substitute “OGA”, and 5
 - (b) for “he” substitute “it”.
- (6) In subsection (8), for “Secretary of State” substitute “OGA”.
- (7) In subsection (9) –
 - (a) for “Secretary of State” (in both places) substitute “OGA”, and
 - (b) for “he” substitute “it”. 10
- (8) In subsection (10), for “Secretary of State” substitute “OGA”.
- 13 (1) Section 17G (section 17F: supplemental) is amended as follows.
 - (2) In subsection (1) –
 - (a) for “Secretary of State” (in both places) substitute “OGA”, and
 - (b) for “himself” substitute “itself”. 15
 - (3) In subsection (2) –
 - (a) for “Secretary of State” substitute “OGA”, and
 - (b) for “him” substitute “it”.
 - (4) In subsection (4) –
 - (a) for “Secretary of State” substitute “OGA”, 20
 - (b) for “he” substitute “it”, and
 - (c) for “him” substitute “it”.
 - (5) In subsection (6), for “Secretary of State” substitute “OGA”.
 - (6) In subsection (7) –
 - (a) for “Secretary of State” substitute “OGA”, and 25
 - (b) for “he” substitute “it”.
 - (7) In subsection (8), for “Secretary of State” substitute “OGA”.
- 14 (1) Section 17GA (controlled petroleum pipeline subject to Norwegian access system) is amended as follows.
 - (2) In subsection (2), for “Secretary of State” substitute “OGA”. 30
 - (3) In subsection (5) –
 - (a) for “Secretary of State” (in both places) substitute “OGA”, and
 - (b) in paragraph (a), for “he” substitute “it”.
 - (4) In subsection (6), for “Secretary of State” substitute “OGA”.
 - (5) In subsection (7), for “Secretary of State” substitute “OGA”. 35
 - (6) In subsection (8), for “he is obliged to do so under the Framework Agreement, the Secretary of State shall make his” substitute “the Framework Agreement so requires, the OGA shall make its”.
- 15 (1) Section 17GB (section 17GA: supplemental) is amended as follows.
 - (2) In subsection (1) – 40

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- (a) for “Secretary of State” substitute “OGA”, and
 (b) for “him” substitute “it”.
- (3) In subsection (2) –
- (a) for “Secretary of State” substitute “OGA”,
 (b) for “he is required to do so” substitute “the disclosure is required”, 5
 and
 (c) omit “on him”.
- 16 (1) Section 18 (termination of authorisations) is amended as follows.
- (2) In subsection (1)(b), for “Secretary of State” substitute “OGA”.
- (3) In subsection (2) – 10
- (a) for “Secretary of State” substitute “OGA”, and
 (b) for “he” substitute “it”.
- (4) In subsection (3)(b), for “Secretary of State” substitute “OGA”.
- (5) In subsection (4) –
- (a) for “Secretary of State” substitute “OGA”, and 15
 (b) for “he” substitute “it”.
- (6) In subsection (5) –
- (a) for “Secretary of State” (in both places) substitute “OGA”, and
 (b) for “he” (in each place) substitute “it”.
- (7) In subsection (6), for “Secretary of State” (in both places) substitute “OGA”. 20
- (8) In subsection (7) –
- (a) for “Secretary of State” substitute “OGA”, and
 (b) for “him” substitute “it”.
- (9) In subsection (8), for “Secretary of State” (in both places) substitute “OGA”.
- (10) In subsection (9) – 25
- (a) for “Secretary of State” substitute “OGA”, and
 (b) for “he” substitute “it”.
- 17 (1) Section 19 (vesting of pipelines on termination or subsequent issue of authorisations) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “OGA”. 30
- (3) In subsection (2) –
- (a) for “Secretary of State” (in each place) substitute “OGA”, and
 (b) for “he” substitute “the OGA”.
- 18 (1) Section 20 (inspectors etc) is amended as follows.
- (2) For subsection (1) substitute – 35
- “(1) The OGA may appoint, as inspectors to assist it in the execution of this Part of this Act, such number of persons appearing to it to be qualified for the purpose as it considers appropriate from time to time.”
- (3) In subsection (2)(a)(ii), for “Secretary of State” substitute “OGA”. 40

- 19 (1) Section 21 (enforcement) is amended as follows.
- (2) In subsection (1)(c), for “Secretary of State” substitute “OGA”.
- (3) In subsection (2), for “Secretary of State” substitute “OGA”.
- (4) In subsection (3), for “Secretary of State” substitute “OGA”.
- (5) In subsection (4) – 5
- (a) for “Secretary of State” (in both places) substitute “OGA”, and
- (b) for “he” substitute “it”.
- (6) In subsection (5), for “Secretary of State” (in each place) substitute “OGA”.
- 20 In section 25 (orders and regulations), for subsection (1) substitute – 10
- “(1) Before making any order or regulations under this Part of this Act, the Secretary of State must consult –
- (a) the OGA, and
- (b) in the case of regulations, such organisations in the United Kingdom as the Secretary of State considers are representative of persons who will be affected by the regulations.” 15
- 21 In section 28(1) (interpretation of Part 3), for the definition of “heard” substitute –
- ““heard” means –
- (a) in relation to section 27, heard on behalf of the Secretary of State by a person appointed by the Secretary of State for the purpose, and 20
- (b) otherwise, heard on behalf of the OGA by a person appointed by the OGA for the purpose.”
- 22 In section 45A (abandoned wells), for “Secretary of State” (in each place) substitute “OGA”. 25
- 23 In section 46(1) (Northern Ireland and Isle of Man shares of petroleum revenue), for “Secretary of State” (in each place) substitute “OGA”.
- 24 (1) Section 47A (factors to take into account) is amended as follows.
- (2) In subsection (1) – 30
- (a) for “Secretary of State” (in both places) substitute “OGA”, and
- (b) for “him” substitute “it”.
- (3) In subsection (2A), for “Secretary of State” substitute “OGA”.
- (4) In the heading, for “Secretary of State” substitute “OGA”.
- 25 In section 48 (interpretation), after subsection (1) insert – 35
- “(1A) In this Act “the OGA” means the Oil and Gas Authority.”
- 26 (1) Schedule 2 (authorisations) is amended as follows.
- (2) Omit paragraph 1(2).
- (3) In paragraph 2 –
- (a) for “Secretary of State” (in each place) substitute “OGA”, and 40
- (b) in paragraph (b), for “his” substitute “its”.

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- (4) In paragraph 3—
- (a) for “Secretary of State” (in each place) substitute “OGA”,
 - (b) for “his” substitute “its”, and
 - (c) for “he” substitute “it”.
- 27 (1) Paragraph 4 is amended as follows. 5
- (2) In sub-paragraph (1)—
- (a) for “Secretary of State” substitute “OGA”,
 - (b) for “his” substitute “its”, and
 - (c) for “him” substitute “it”.
- (3) In sub-paragraph (2)— 10
- (a) for “Secretary of State” (in each place) substitute “OGA”, and
 - (b) for “his” substitute “its”.
- (4) In sub-paragraph (3)—
- (a) for “Secretary of State” substitute “OGA”,
 - (b) for “his” substitute “its”, and 15
 - (c) for “he” substitute “it”.
- 28 (1) Paragraph 5 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “Secretary of State” (in both places) substitute “OGA”,
 - (b) for “his opinion he” substitute “its opinion it”, and 20
 - (c) for “he thinks” substitute “it thinks”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” (in both places) substitute “OGA”, and
 - (b) for “his opinion, he” substitute “its opinion, it”.
- 29 In paragraph 6, for “Secretary of State” (in both places) substitute “OGA”. 25
- 30 In paragraph 7—
- (a) for “Secretary of State” (in each place) substitute “OGA”, and
 - (b) for “he” substitute “it”.
- 31 (1) Paragraph 8 is amended as follows.
- (2) In sub-paragraph (1)— 30
- (a) for “Secretary of State” (in both places) substitute “OGA”, and
 - (b) for “he” substitute “it”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” substitute “OGA”,
 - (b) for “he” (in the first place) substitute “it”, and 35
 - (c) in paragraph (b), for the words following “notice in” substitute “such manner as it considers appropriate”.
- 32 (1) Paragraph 9 is amended as follows.
- (2) In sub-paragraph (1), for “Secretary of State” substitute “OGA”.
- (3) In sub-paragraph (2), for “Secretary of State” (in each place) substitute “OGA”. 40

(4) For sub-paragraph (3) substitute –

“(3) The OGA shall publish a copy of the notice in such manner as it considers appropriate.”

33 In paragraph 10 –

- (a) for “Secretary of State” (in each place) substitute “OGA”, and 5
(b) for the words from “he shall” to “which he” substitute “it shall publish, in such manner as it”.

Energy Act 2004

- 34 (1) Section 188 of the Energy Act 2004 (power to impose charges to fund energy functions) is amended as follows. 10
(2) In subsection (7), omit paragraphs (b), (h), (m) and (n).
(3) In subsection (8), omit paragraphs (da), (db) and (f).
(4) In subsection (12), in the substituted subsection (7A)(b), for “mentioned in subsection (8)(db)” (in both places) substitute “for which a licence under Chapter 3 of Part 1 of the Energy Act 2008 is required”. 15

Energy Act 2008

35 The Energy Act 2008 is amended as follows.

36 In section 4(1) (licences), for “Secretary of State” substitute “OGA”.

37 (1) Section 5 (applications) is amended as follows.

- (2) The existing provision becomes subsection (1). 20
(3) In that subsection, omit paragraph (e).
(4) After that subsection insert –

“(2) Before making any regulations under this section, the Secretary of State must consult the OGA.”

38 In section 6 (terms and conditions), for “Secretary of State” (in each place) substitute “OGA”. 25

39 (1) Section 7 (model clauses) is amended as follows.

- (2) In subsection (3), for “Secretary of State” substitute “OGA”.
(3) After that subsection insert –

“(4) Before making any regulations under this section, the Secretary of State must consult the OGA.” 30

40 (1) Section 9 (offences relating to licences) is amended as follows.

- (2) In subsection (1)(a), for “Secretary of State” substitute “OGA”.
(3) In subsection (3)(b), for “Secretary of State” substitute “OGA”.
(4) In subsection (4)(b), for “Secretary of State” substitute “OGA”. 35

41 In section 10 (power of direction), for “Secretary of State” (in each place, including in the heading) substitute “OGA”.

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- 42 In section 12 (injunctions restraining breaches of section 2(1)), for “Secretary of State” (in each place) substitute “OGA”.
- 43 (1) Section 13 (inspectors) is amended as follows.
- (2) In subsection (1), for “Secretary of State” (in both places) substitute “OGA”.
- (3) Omit subsection (2). 5
- (4) In subsection (3)(b), for “Secretary of State” substitute “OGA”.
- (5) After subsection (5) insert –
- “(6) Before making any regulations under this section, the Secretary of State must consult the OGA.”
- 44 In section 14(5) (proceedings for offence created by regulations under section 13), omit paragraph (b) and the word “and” immediately before it. 10
- 45 In section 15 (interaction with petroleum licensing requirements), for “Secretary of State” (in each place) substitute “OGA”.
- 46 In section 16 (interpretation), at the end insert –
- ““the OGA” means the Oil and Gas Authority.” 15
- 47 In section 18(2) (licences: the licensing authority), for “Secretary of State” (in each place) substitute “OGA”.
- 48 In section 19 (requirements relating to grant of licences), after subsection (2) insert –
- “(2A) Where the licensing authority is the OGA – 20
- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA),
- (b) the Secretary of State must consult the OGA before making the regulations, and
- (c) subsection (2)(d) does not apply.” 25
- 49 In section 21 (content of licences: regulations), after subsection (2) insert –
- “(2A) Where the licensing authority is the OGA –
- (a) regulations under subsection (1) are to be made by the Secretary of State (and not by the OGA), and
- (b) the Secretary of State must consult the OGA before making the regulations.” 30
- 50 In section 26 (injunctions restraining breaches of section 17(1)), for “Secretary of State” (in each place) substitute “OGA”.
- 51 (1) Section 27 (inspectors) is amended as follows.
- (2) For subsections (1) and (2) substitute – 35
- “(1) The following may appoint persons to act as inspectors to assist in carrying out their respective functions under this Chapter –
- (a) the OGA,
- (b) the Scottish Ministers,
- (c) the Welsh Ministers, and 40

- (d) the Department of Enterprise, Trade and Investment in Northern Ireland.
- (2) The following may make payments, by way of remuneration or otherwise, to inspectors appointed by them under this section –
- (a) the Scottish Ministers, 5
 - (b) the Welsh Ministers, and
 - (c) the Department of Enterprise, Trade and Investment in Northern Ireland.”
- (3) In subsection (3)(b), for “Secretary of State” substitute “OGA”.
- (4) In subsection (6) – 10
- (a) for “This section applies” substitute “Subsections (3) to (5) apply”,
 - (b) for “it applies” substitute “they apply”, and
 - (c) at the end insert “(reading the reference to the OGA in subsection (3)(b) as a reference to the Secretary of State)”.
- (5) Omit subsection (7). 15
- 52 In section 28(5) (proceedings for offence created by regulations under section 27), at the beginning of paragraph (b) insert “except in the case of an offence that relates to functions of the OGA under this Chapter,”.
- 53 In section 29 (requirement for public register) at the end insert –
- “(8) The OGA must provide to the Secretary of State any information held by it that is required by the Secretary of State in order to comply with the requirements imposed by this section.” 20
- 54 In section 31 (termination of licences: regulations), after subsection (3) insert –
- “(3A) Where the licensing authority is the OGA – 25
- (a) regulations under this section are to be made by the Secretary of State (and not by the OGA), and
 - (b) the Secretary of State must consult the OGA before making the regulations.”
- 55 In section 33 (enhanced petroleum recovery: power to make orders), after subsection (1) insert – 30
- “(1A) Before making an order under subsection (1), the Secretary of State must consult the OGA.”
- 56 In section 35(1) (interpretation), after the definition of “offshore UK-controlled place” insert – 35
- ““the OGA” means the Oil and Gas Authority.”

Energy Act 2011

- 57 The Energy Act 2011 is amended as follows.
- 58 In section 82 (acquisition of rights to use upstream petroleum infrastructure), for “Secretary of State” (in each place) substitute “OGA”. 40
- 59 (1) Section 83 (power to give notice under section 82(11) on own initiative) is amended as follows.

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- (2) In subsection (2), for “Secretary of State may on his or her” substitute “OGA may on its”.
- (3) In subsection (3), for “Secretary of State” (in both places) substitute “OGA”.
- (4) In subsection (4), for “Secretary of State” substitute “OGA”.
- (5) In subsection (5)(d), for “Secretary of State” substitute “OGA”. 5
- (6) In the heading, for “Secretary of State” substitute “OGA”.
- 60 In section 84 (compulsory modification of upstream petroleum infrastructure), for “Secretary of State” (in each place) substitute “OGA”.
- 61 In section 85 (variation of notices under sections 82 and 84), for “Secretary of State” (in each place) substitute “OGA”. 10
- 62 In section 86 (publication of notices and variations), for “Secretary of State” (in each place) substitute “OGA”.
- 63 In section 87 (powers to require information), for “Secretary of State” (in each place, including in the heading) substitute “OGA”.
- 64 (1) Section 88 (enforcement) is amended as follows. 15
- (2) In subsection (1), for “Secretary of State” (in each place) substitute “OGA”.
- (3) In subsection (9), for “Secretary of State” substitute “OGA”.
- 65 In section 89 (minor, consequential and supplemental provision), for “Secretary of State” (in both places) substitute “OGA”.
- 66 In section 90(1) (interpretation), after the definition of “gas processing facility” insert – 20
- ““the OGA” means the Oil and Gas Authority;”.

Infrastructure Act 2015

- 67 The Infrastructure Act 2015 is amended as follows.
- 68 Omit section 42 (levy on holders of certain energy industry licences). 25
- 69 In section 55(4)(b) (statutory instruments subject to affirmative procedure), omit “or 42(11)”.
- 70 Omit Schedule 7 (the licensing levy).

PART 2

SECONDARY LEGISLATION 30

Storage of Carbon Dioxide (Licensing etc.) Regulations 2010

- 71 The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 (S.I. 2010/2221) are amended as follows.
- 72 In regulation 1(3) (interpretation), in the definition of “the authority”, for “Secretary of State” substitute “Oil and Gas Authority”. 35
- 73 In regulation 3(1)(a) (applications for a licence), for “Department of Energy and Climate Change” substitute “Oil and Gas Authority”.

- 74 In paragraph 2(3)(a) of Schedule 1 (application for consent to close storage site), for “Department of Energy and Climate Change” substitute “Oil and Gas Authority”.

Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015

- 75 In regulation 2(1) (interpretation) of the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385), in the definition of “licensing authority”, for “Secretary of State for Energy and Climate Change” substitute “Oil and Gas Authority”.

Energy Bill [HL]

A

B I L L

[AS AMENDED IN COMMITTEE]

To make provision about the Oil and Gas Authority and its functions; to make provision about rights to use upstream petroleum infrastructure; to make provision about fees in respect of activities relating to oil, gas, carbon dioxide and pipelines; to make provision about wind power; and for connected purposes.

Lord Bourne of Aberystwyth

*Ordered to be Printed, 14th September
2015*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by The Stationery Office Limited
£x.xx