



Energy Act 2023

2023 CHAPTER 52

PART 13

OFFSHORE WIND ELECTRICITY GENERATION, OIL AND GAS

CHAPTER 2

OIL AND GAS

Environmental protection

296 Arrangements for responding to marine oil pollution

- (1) The Secretary of State may, by regulations, make provision—
- (a) requiring a person responsible for infrastructure or a place to which [subsection \(2\)](#) applies to have an emergency plan setting out arrangements for responding to incidents which cause, or may cause, marine oil pollution,
 - (b) in connection with that requirement, and
 - (c) about the reporting of such incidents.
- (2) [This subsection](#) applies to—
- (a) an offshore installation, or an offshore well, that is used for or in connection with—
 - (i) offshore oil and gas operations, or
 - (ii) offshore production or storage of gas;
 - (b) offshore infrastructure, including pipelines, connected to such an installation or well;
 - (c) a harbour;
 - (d) a facility, that is not offshore, for handling or storing oil or gas;

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- (e) infrastructure or a place described in any of paragraphs (a) to (d) that is being decommissioned or has been decommissioned or abandoned.
- (3) Regulations under subsection (1) may, in particular, make provision in connection with the implementation, maintenance and review of an emergency plan, including provision requiring—
- (a) a person to refrain from carrying out activities that may cause marine oil pollution unless and until an emergency plan is in place;
 - (b) an emergency plan to be reviewed in accordance with the regulations;
 - (c) the amendment or replacement of an emergency plan in circumstances specified in the regulations;
 - (d) a person to ensure readiness to carry out an emergency plan;
 - (e) a person to carry out an emergency plan.
- (4) Regulations under subsection (1) about the reporting of incidents may, in particular—
- (a) set out—
 - (i) circumstances in which a report must be made;
 - (ii) by whom a report must be made;
 - (iii) to whom a report must be made;
 - (b) make provision as to the content and form of a report and the time by which a report must be made.
- (5) The Secretary of State may, by regulations, make provision enabling the inspection of infrastructure or a place to which subsection (2) applies.
- (6) Regulations under subsection (1) or (5) may, in particular, make provision—
- (a) about the meaning which any expression used in subsection (1), (2), (3), (4) or (5) is to have for the purposes of regulations under subsection (1) or (5);
 - (b) conferring functions on any person;
 - (c) providing for the charging of fees (but see subsection (7));
 - (d) authorising or requiring, or restricting or prohibiting, the supply or keeping of information (including provision authorising or requiring the supply or keeping of information that would not otherwise be permitted);
 - (e) creating criminal offences or impose civil penalties (but see subsection (8));
 - (f) for the purpose of securing compliance with requirements imposed by or under regulations under subsection (1) or (5).
- (7) Regulations under subsection (1) or (5) which provide for a fee to be charged in respect of a person performing a function or doing any other thing must secure that, taking one year with another, the income from the fees does not exceed the cost of performing the function or doing the thing.
- (8) Regulations under subsection (1) or (5) may not provide—
- (a) for a criminal offence to be punishable with imprisonment;
 - (b) for a civil penalty to exceed £50,000.
- (9) Where regulations under subsection (1) or (5) provide for the imposition of a civil penalty, they must also include provision for a right of appeal against the imposition of the penalty.
- (10) Regulations under subsection (1) or (5) containing any of the following (with or without other provision) are subject to the affirmative procedure—

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- (a) provision creating a criminal offence or civil penalty (but excluding provision modifying the circumstances in which a person is guilty of an existing offence or liable for an existing civil penalty);
 - (b) provision specifying a civil penalty amount.
- (11) Any other regulations under [subsection \(1\)](#) or [\(5\)](#) are subject to the negative procedure.
- (12) In [this section](#)—
- “gas” means—
 - (a) “gas” within the meaning of section 2 of the Energy Act 2008,
 - (b) carbon dioxide, and
 - (c) hydrogen;
 - “oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

Commencement Information

- I1** S. 296 not in force at Royal Assent, see [s. 334\(1\)](#)
- I2** S. 296 in force at 11.1.2024 by [S.I. 2024/32](#), [reg. 2\(d\)\(i\)](#)

297 Habitats: reducing effects of offshore oil or gas activities etc

- (1) The Secretary of State may, by regulations, make provision requiring the Secretary of State to take into account the implications for relevant sites when deciding whether, or how, to carry out a function (including a function under other regulations under this section) which relates to—
- (a) offshore oil and gas activities, or
 - (b) offshore production or storage of gas.
- (2) The Secretary of State may, by regulations, make provision—
- (a) prohibiting a specified description of activities from being carried out unless the consent of the Secretary of State has been obtained, and
 - (b) requiring a person who has obtained such a consent to carry out any activity to which the consent relates in accordance with the consent (and any conditions to which the consent is subject).
- (3) The Secretary of State may, by regulations, make provision preventing a specified description of licence from being granted unless the Secretary of State has or Scottish Ministers have—
- (a) carried out a specified description of assessment, and
 - (b) confirmed that the outcome of that assessment does not prevent the licence from being granted.
- (4) The Secretary of State may, by regulations, make provision—
- (a) authorising the Secretary of State to give a person directions to take steps, or to refrain from taking steps, and
 - (b) requiring a person given such a direction to comply with it.
- (5) The Secretary of State may make regulations under [subsection \(2\)](#), [\(3\)](#) or [\(4\)](#) only if the Secretary of State considers that the regulations would contribute to the protection of relevant sites from adverse effects of—

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- (a) offshore oil and gas activities, or
 - (b) offshore production or storage of gas.
- (6) For the purposes of regulations made under another provision of this section, “relevant site” has the meaning determined in accordance with the regulations; and those regulations—
- (a) must be framed so that relevant sites consist of natural habitats or habitats of species;
 - (b) may, where they are framed by reference to provision made by other legislation, be framed so as to include natural habitats or habitats of species that are likely to fall within that provision of that other legislation.
- (7) Regulations under this section may—
- (a) make provision about the meaning which any expression used in this section is to have for the purposes of regulations under this section;
 - (b) confer functions on any person (including a function of giving advice in relation to the application or exercise of any other function, whether exercisable by that or another person, under regulations under this section);
 - (c) provide for the modification or revocation of any consent given under regulations under subsection (2);
 - (d) provide for the charging of fees;
 - (e) authorise, or restrict or prohibit, the supply or keeping of information (including authorisation of the supply or keeping of information that would not otherwise be permitted);
 - (f) create criminal offences or impose civil penalties (but see subsection (8));
 - (g) make other provision for the purpose of securing compliance with requirements imposed by or under regulations under this section.
- (8) Regulations under this section may not provide—
- (a) for a criminal offence to be punishable with imprisonment or, on summary conviction, to a fine exceeding the statutory maximum;
 - (b) for a civil penalty of a fixed amount to exceed £2,500 or of a variable amount to exceed £50,000.
- (9) Where regulations under this section provide for the imposition of a civil penalty, they must also include provision for a right of appeal against the imposition of the penalty.
- (10) Regulations under this section are subject to the affirmative procedure.
- (11) In [this section](#)—
- “licence” means anything (however described) which permits a person to do something;
 - “specified” means specified in regulations under this section.

Commencement Information

- I3** S. 297 not in force at Royal Assent, see [s. 334\(1\)](#)
- I4** S. 297 in force at 11.1.2024 by [S.I. 2024/32](#), [reg. 2\(d\)\(i\)](#)

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Chapter 2. (See end of Document for details)

298 Regulations under sections 296 and 297: procedure with devolved authorities

Regulations under section 296

- (1) Before making regulations under section 296 that contain provision within devolved competence, the Secretary of State must give notice to each relevant devolved authority—
 - (a) stating that the Secretary of State proposes to make regulations under that section,
 - (b) setting out or describing the provision that is within the relevant devolved competence, and
 - (c) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to that provision,and must consider any representations duly made and not withdrawn.
- (2) The Secretary of State need not wait until the end of the period specified under subsection (1)(c) before making regulations if, before the end of that period, each relevant devolved authority to which the notice was given has confirmed that it has made any representations it intends to make with respect to the provision referred to in subsection (1)(b).
- (3) The Secretary of State must, if requested to do so by a relevant devolved authority, give the authority a statement setting out whether and how representations made by the authority with respect to the provision referred to in subsection (1)(b) have been taken into account in the regulations.
- (4) In subsections (1) to (3), “relevant devolved authority”, in relation to regulations, means—
 - (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;
 - (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
 - (c) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence;and “the relevant devolved competence”, in relation to a relevant devolved authority, is to be construed accordingly.

Regulations under section 297

- (5) The Secretary of State may not make regulations under section 297 containing provision within Scottish devolved competence unless the Scottish Ministers have consented to that provision.
- (6) The Secretary of State may not make regulations under section 297 containing provision within Welsh devolved competence unless the Welsh Ministers have consented to that provision.

Devolved competence

- (7) For the purposes of this section, provision—

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- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- (b) is within Welsh devolved competence if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
- (c) is within Northern Ireland devolved competence if it—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998;

and references to provision being within devolved competence are to provision that is within Scottish, Welsh or Northern Ireland devolved competence.

Commencement Information

- I5** S. 298 not in force at Royal Assent, see [s. 334\(1\)](#)
- I6** S. 298 in force at 11.1.2024 by [S.I. 2024/32](#), [reg. 2\(d\)\(i\)](#)

Decommissioning: charging

299 Charges in connection with abandonment of offshore installations

- (1) In the Petroleum Act 1998, after section 38B insert—

“38C Charges in connection with exercise of functions under Part 4

- (1) The Secretary of State may by regulations made by statutory instrument provide for payment to the Secretary of State of charges for or in connection with the carrying out by the Secretary of State of the Secretary of State’s functions under this Part.
- (2) Regulations under this section may provide that a charge is to be of an amount—
 - (a) specified in the regulations, or
 - (b) determined by the Secretary of State in accordance with the regulations.
- (3) Regulations under this section may specify matters to which the Secretary of State must have regard when determining the amount of a charge.
- (4) Regulations under this section may specify—
 - (a) how a charge is to be paid;
 - (b) when a charge is to be paid;
 - (c) the person by whom a charge is to be paid.
- (5) Provision made by virtue of subsection (4)(c) may confer a discretion on the Secretary of State.

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- (6) Regulations under this section may—
- (a) include incidental, supplementary or consequential provision;
 - (b) include transitory or transitional provision or savings;
 - (c) make different provision for different purposes.
- (7) Before making regulations under this section, the Secretary of State must consult organisations in the United Kingdom that appear to the Secretary of State to be representative of persons who are likely to be affected by the regulations.
- (8) The Secretary of State must not make regulations under this section without the consent of the Treasury.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 30 of the Energy Act 2008 (abandonment of installations), in subsection (2) (a), for the words from “the reference” to “Scottish Parliament” substitute “sections 38C(9) and 39(6) of the 1998 Act are to be read as if each of those sections imposed a requirement that regulations under the section concerned are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010)”.
- (3) The Petroleum Act 1998 is amended as follows in consequence of subsection (1).
- (4) In section 29 (preparation of programmes), omit subsection (5).
- (5) In section 33(4) (failure to submit programmes), for the words from “any fee” to the end substitute “any charge that would have been payable by those persons in accordance with regulations under section 38C if they had complied with the notice under section 29(1)”.
- (6) In section 34(4) (revision of programmes), omit the words from “and a person” to the end.
- (7) In section 39 (regulations)—
- (a) in subsection (2), omit paragraph (e);
 - (b) in subsection (5), omit the words from “and he” to the end.

Commencement Information

- I7** S. 299 not in force at Royal Assent, see [s. 334\(1\)](#)
I8 S. 299(1)(2) in force at 11.1.2024 by [S.I. 2024/32](#), [reg. 2\(d\)\(ii\)](#)

Change in control of licensee

300 Model clauses of petroleum licences

- (1) [Schedule 21](#) amends model clauses contained in—
- (a) the Petroleum (Production) (Landward Areas) Regulations 1995 ([S.I. 1995/1436](#)),
 - (b) the Petroleum (Current Model Clauses) Order 1999 ([S.I. 1999/160](#)),

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- (c) the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004 (S.I. 2004/352),
 - (d) the Petroleum Licensing (Production) (Seaward Areas) Regulations 2008 (S.I. 2008/225), and
 - (e) the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 (S.I. 2014/1686).
- (2) Where a licence granted (or having effect as if granted) by the Oil and Gas Authority under the Petroleum (Production) Act 1934 or the Petroleum Act 1998—
- (a) incorporates model clauses amended by a paragraph of [Schedule 21](#) (whether or not any provision of those model clauses is modified or excluded), and
 - (b) is in force immediately before that paragraph comes into force,
- the licence has effect with the amendments provided for by that paragraph.
- (3) The power conferred by reason of the amendment made by [paragraph 70\(2\)](#) of [Schedule 21](#) to partially revoke a licence because of the occurrence of an event mentioned in model clause 41(2)(h) in Schedule 2 to the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 may not be exercised as a result of such an event which occurred before the commencement of [paragraph 70](#) of [Schedule 21](#).
- (4) A reference in any document to provisions of a licence which are amended by [Schedule 21](#) is to be construed, unless the nature of the document or the context otherwise requires, as a reference to those provisions as amended.
- (5) A provision inserted in a licence by virtue of [Schedule 21](#) may be altered or deleted by deed executed by the Secretary of State and the licensee or, as respects Scotland, by an instrument subscribed or authenticated by the Secretary of State and the licensee in accordance with the Requirements of Writing (Scotland) Act 1995.

Commencement Information

- I9** S. 300 not in force at Royal Assent, see [s. 334\(1\)](#)
I10 S. 300 in force at 11.1.2024 by [S.I. 2024/32](#), [reg. 2\(d\)\(iii\)](#)

301 Power of OGA to require information about change in control of licensee

After section 5C of the Petroleum Act 1998 insert—

“5D OGA’s power to require information about change in control of licensee

- (1) This section applies in relation to a licence granted (or having effect as if granted) by the OGA under this Part which includes provisions prohibiting a change in control of a licensee which is a company without the OGA’s consent.
- (2) The OGA may by notice in writing require a person within subsection (3) to provide the OGA with any information that it requires for the purpose of exercising its functions in relation to a change or potential change in control of a licensee which is a company.
- (3) The persons within this subsection are—

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- (a) the company;
 - (b) the person who (if consent were granted) would take control of the company;
 - (c) if the company and another person or persons are the licensee, that other person or those other persons;
 - (d) any person not within any of paragraphs (a) to (c) who appears to the OGA to have information that it requires as mentioned in subsection (2).
- (4) The power conferred by this section does not include power to require the provision of any information that would be protected from disclosure or production in legal proceedings on grounds of legal professional privilege or, in Scotland, confidentiality of communications.
- (5) Nothing in this section limits any power of the OGA to require information under—
- (a) regulations under this Part, or
 - (b) the terms of a licence under this Part.”

Commencement Information

I11 S. 301 not in force at Royal Assent, see **s. 334(1)**

I12 S. 301 in force at 11.1.2024 by **S.I. 2024/32, reg. 2(d)(iv)**

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2023, Chapter 2.