

Status: Law In Force

Petroleum Act 1998 c. 17

Part I Petroleum

This version in force from: **February 9, 2018 to present**

(version 2 of 2)

3.— Licences to search and bore for and get petroleum.

(1) The [appropriate [authority] ²] ¹, on behalf of Her Majesty, may grant to such persons as [the appropriate [authority] ²] ³ thinks fit licences to search and bore for and get petroleum to which this section applies.

(2) This section applies to—

(a) petroleum to which [section 2](#) applies; and

(b) petroleum with respect to which rights vested in Her Majesty by [section 1\(1\)](#) of the [Continental Shelf Act 1964](#) (exploration and exploitation of continental shelf) are exercisable.

(3) Any such licence shall be granted for such consideration (whether by way of royalty or otherwise) as the [OGA] ⁴ with the consent of the Treasury may determine, and upon such other terms and conditions as the [appropriate [authority] ⁶] ⁵ thinks fit.

(4) Subsection (1) is subject to [paragraph 4 of Schedule 3](#).

Notes

- [1](#). Words substituted by Scotland Act 2016 c. 11 [Pt 4 s.48\(3\)\(a\)](#) (February 9, 2018: substitution has effect subject to transitional provisions specified in 2016 c.11 s.70)
- [2](#). Word substituted by Petroleum (Transfer of Functions) Regulations 2016/898 [Pt 3 reg.3\(2\)\(a\)](#) (February 9, 2018 immediately after the coming into force of 2016 c.11 s.48)
- [3](#). Word substituted by Scotland Act 2016 c. 11 [Pt 4 s.48\(3\)\(b\)](#) (February 9, 2018: substitution has effect subject to transitional provisions specified in 2016 c.11 s.70)
- [4](#). Words substituted by Petroleum (Transfer of Functions) Regulations 2016/898 [Pt 3 reg.3\(2\)\(b\)\(i\)](#) (February 9, 2018 immediately after the coming into force of 2016 c.11 s.48)
- [5](#). Words substituted by Scotland Act 2016 c. 11 [Pt 4 s.48\(4\)](#) (February 9, 2018: substitution has effect subject to transitional provisions specified in 2016 c.11 s.70)
- [6](#). Word substituted by Petroleum (Transfer of Functions) Regulations 2016/898 [Pt 3 reg.3\(2\)\(b\)\(ii\)](#) (February 9, 2018 immediately after the coming into force of 2016 c.11 s.48)

Modifications

Pt I s. 3	Modified to transfer the Secretary of State's licensing functions under 1998 c.17 to the OGA until the transfer of certain functions to the Scottish Ministers under 2016 c.11 s.48 by Petroleum (Transfer of Functions) Regulations 2016/898, Pt 2 reg. 2(2)
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Subject: Energy

Keywords: Exploration; Oil drilling; Petroleum licences

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Annotation

Section 3

Case Note:

"By [section 1](#) of the 1934 Act the ownership of 'petroleum' in Great Britain was vested in the Crown along with the exclusive right to search and bore for and get that mineral. That continues to be the position under the 1998 Act. The effect of a licence under section 3 of the 1998 Act is that the exclusive right to explore for and get the petroleum in a licensed area and thus to possess and then sell the petroleum which is won is granted to the licensee (see Bocardo). A licence under section 3 is essential for a licensee not only to be able to search for and extract oil and gas, but also to obtain the right to own the product so as to be able to sell it to third parties. These are private law rights which are essential to an operator for the conduct of its business. There is no other provision, whether under the 1998 Act or otherwise, enabling a licensee to conduct such activities. In my judgment, the grant of a licence under section 3 is essentially a property transaction, akin to a mining licence or a mining lease. ... Section 3(1) of the 1998 Act enables the Secretary of State to 'grant' a licence for the exploration and obtaining of petroleum. The first meaning of 'grant' given by Jowitt's Dictionary of Law is 'a common law conveyance'. The second, is 'the term commonly applied to rights created or transferred by the Crown'. Both are relevant here. The creation of a section 3 licence by deed was not accidental, but reflected the need for that formality when creating an interest in land. ... For the reasons set out above, a licence under section 3 of the 1998 Act is more than simply a contractual agreement between two parties, it is a grant of an interest in land. Mr. Wolfe QC accepts that it is an incident of a contract between two parties that they may agree to vary that agreement (see eg. Chitty on Contracts (22nd edition) paragraph 22-032). The same applies to the grant of an interest in land. I do not see how the mere fact that a petroleum exploration and development licence is granted under a statutory provision alters this analysis, so that a consensual variation of such a licence may not take place unless authorised by an express provision for that purpose. There is no more need to identify such a power than there is to find a power to allow the assignment of rights under the licence (as opposed to a provision such as [section 5A](#) which assumes that that right exists). These are simply normal dealings within a commercial relationship created by a contractual deed of licence, which has been brought into existence by one party to the transaction exercising a statutory power to enter into that transaction. If that were not the case, it would be necessary to point to an express statutory power to allow for variations (or waivers) of terms contained in any contractual agreement entered into by a public authority in reliance upon a statutory power.

"In my judgment, there is nothing in the 1998 Act to indicate that a licence granted under section 3 may not be varied subsequently by an agreement between the parties. Indeed, [section 5\(9\)](#) declares, for the avoidance of doubt, that any provision incorporated in a licence under [section 5\(5\)](#) may be altered or deleted by a deed executed by the Secretary of State and the licensee. This is consistent with [section 5\(7\)](#) which qualifies the effect of [section 5\(5\)](#) so as to preserve any

'amendment or modification' of a model clause, or any omission, which has been made at any time prior to 15 February 1999 (see paragraph 26 above). [Section 4\(1\)\(e\)](#) of the 1998 Act enables the Secretary of State to modify or exclude a clause when deciding whether to incorporate model clauses in a new licence. [Section 5\(7\)](#) proceeds on the basis that there is a continuing power to alter a model clause incorporated into a licence following the grant of that licence. The ambit of [section 5\(7\)](#) is not limited to alterations of model clauses made at the time when the licence is offered or granted. [Section 5\(5\) to \(7\)](#) and [\(9\)](#) are not restricted to clauses containing an expression provision for variation.

"It is impossible to understand how logically Parliament could have declared in [section 5\(9\)](#) that model clauses incorporated by [section 5\(5\)](#) on 15 February 1999 into licences previously granted under the 1934 Act could be altered or deleted at any time thereafter whilst the licence remained in force, if it thought that it had been impossible to vary licences granted under that Act up until that date, or that licences to be granted from then on under the 1998 Act should be incapable of being varied once granted. The Claimant did not advance any logical rationale for attempting to draw any such distinction, which would be arbitrary." ([R. \(on the application of Dean\) v Secretary of State for Business, Energy and Industrial Strategy \[2017\] EWHC 1998 \(Admin\).](#))

Status: Law In Force

Petroleum Act 1998 c. 17

Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

(version 2 of 2)

[9A The principal objective and the strategy

(1) In this Part the "*principal objective*" is the objective of maximising the economic recovery of UK petroleum, in particular through—

(a) development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure), and

(b) collaboration among the following persons—

(i) holders of petroleum licences;

(ii) operators under petroleum licences;

(iii) owners of upstream petroleum infrastructure;

(iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure [;] ²

[(v) owners of relevant offshore installations.

] ²

(2) The [OGA] ³ must produce one or more strategies for enabling the principal objective to be met.

(3) A strategy may relate to matters other than those mentioned in subsection (1)(a) and (b).

(4) For provision about producing and revising a strategy, see [sections 9F and 9G](#).

] ¹

Notes

1. Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)
2. Added by Energy Act 2016 c. 20 [Pt 3 s.73\(2\)](#) (October 1, 2016)
3. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.7](#) (October 1, 2016)

Subject: Energy

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Petroleum Act 1998 c. 17

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[9B Exercise of certain functions of the [OGA] ²

The [OGA] ² must act in accordance with the current strategy or strategies when—

- (a) exercising functions under the other Parts of this Act (except [Part 4](#)),
- (b) exercising functions under Part 4 [...] ³,
- (c) exercising functions under [Chapter 3 of Part 2](#) of the [Energy Act 2011](#) (upstream petroleum infrastructure),
- [
- (ca) exercising functions under [Part 2](#) of the [Energy Act 2016](#),
-]⁴
- (d) exercising any function or using any power under a petroleum licence, and
- (e) exercising any other function or using any power—
 - (i) to provide advice or assistance to another person, or
 - (ii) to acquire, use or supply information, for the purpose of enabling the principal objective to be met.

]¹

Notes

- [1](#). Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)
- [2](#). Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.8\(a\)](#) (October 1, 2016)
- [3](#). Words repealed by Energy Act 2016 c. 20 [Sch.1\(1\) para.8\(b\)](#) (October 1, 2016)
- [4](#). Added by Energy Act 2016 c. 20 [Sch.1\(1\) para.8\(c\)](#) (October 1, 2016)

Subject: Energy

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Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

(version 1 of 1)

[9BA Exercise of certain functions of the Secretary of State

(1) The Secretary of State must act in accordance with the current strategy or strategies when exercising the functions mentioned in subsection (2).

(2) Those functions are functions under [Part 4](#) to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines (including the reduction of such costs by means of the timing of measures proposed in abandonment programmes and by the inclusion in such programmes of provision for collaboration with other persons).

] ¹

Notes

[1.](#) Added by Energy Act 2016 c. 20 [Sch.1\(1\) para.9](#) (October 1, 2016)

Subject: Energy

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This version in force from: **October 1, 2016** to **present**

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[9C Carrying out of certain petroleum industry activities

(1) A person who is the holder of a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the licence holder.

(2) A person who is an operator under a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the operator under the licence.

[...] ²

(4) A person must act in accordance with the current strategy or strategies when planning and carrying out the commissioning of upstream petroleum infrastructure.

[(5) A person who is the owner of—

(a) a relevant offshore installation, or

(b) upstream petroleum infrastructure,

must act in accordance with the current strategy or strategies when planning and carrying out the activities mentioned in subsection (6).

(6) Those activities are—

(a) the person's activities as the owner of the installation or infrastructure (including the development, construction, deployment and use of the infrastructure or installation);

(b) the abandonment or decommissioning of the installation or infrastructure.

(7) For the purposes of subsection (5), planning the activities mentioned in

subsection (6)(b) includes the preliminary stage of—

(a) deciding whether or when to proceed with the proposed abandonment or decommissioning, and

(b) considering alternative measures to abandonment or decommissioning such as re-use or preservation.

] [3](#)

] [1](#)

Notes

- [1](#) . Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)
- [2](#) . Repealed by Energy Act 2016 c. 20 [Pt 3 s.73\(3\)\(a\)](#) (October 1, 2016)
- [3](#) . Added by Energy Act 2016 c. 20 [Pt 3 s.73\(3\)\(b\)](#) (October 1, 2016)

Subject: Energy

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Annotation

Section 9C

Amendment Note:

This section is amended by the [Energy Act 2016s.73](#); for information on the background to the amendments see the annotations (including Explanatory Notes) to that section.

Status: **R** Repealed

Petroleum Act 1998 c. 17

Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

Repealed on: **October 1, 2016**

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[...] ¹

Notes

¹ . Repealed by Energy Act 2016 c. 20 [Sch.1\(1\) para.10](#) (October 1, 2016)

Subject: Energy

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Status: Law In Force

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[9E [OGA's] ² security and resilience functions

(1) This Part does not limit the exercise of the [OGA's] ³ security and resilience functions.

(2) This Part is subject to the exercise of the security and resilience functions by the [OGA] ⁴.

(3) In this section "*security and resilience function*" means any function which relates to—

(a) the security of petroleum supplies, or

(b) the resilience of the petroleum industry.

] ¹

Notes

[1](#). Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)

[2](#). Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.11\(4\)](#) (October 1, 2016)

[3](#). Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.11\(2\)](#) (October 1, 2016)

[4](#). Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.11\(3\)](#) (October 1, 2016)

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Petroleum Act 1998 c. 17

Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

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[9F Producing and revising a strategy

[...] ²

[(2) After the first strategy has been produced, the OGA may—

(a) produce a new strategy, or

(b) revise a current strategy,

whenever the OGA thinks appropriate.

] ³

(3) The [OGA] ⁴ must review each current strategy before the end of each relevant four year period.

[...] ⁵

(5) In this section "*relevant four year period*", in relation to a current strategy, means a period of four years beginning with—

(a) the date on which the strategy was issued, or

(b) if later, the date on which the last review under subsection (3) was concluded.

] ¹

Notes

¹ . Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)

² . Repealed by Energy Act 2016 c. 20 [Sch.1\(1\) para.12\(2\)](#) (October 1, 2016)

³ . Substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.12\(3\)](#) (October 1, 2016)

[4](#) . Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.12\(4\)](#) (October 1, 2016)

[5](#) . Repealed by Energy Act 2016 c. 20 [Sch.1\(1\) para.12\(5\)](#) (October 1, 2016)

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[9G Procedure for producing and revising a strategy

(1) Before—

[...] ²

(b) producing a new strategy, or

(c) revising a current strategy,

the [OGA] ³ must prepare a draft of the strategy or revised strategy.

(2) The [OGA] ⁴ must—

(a) consult such persons as the [OGA] ⁴ thinks appropriate about the draft, and

(b) consider any representations made by them.

[(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.

(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—

(a) the OGA has failed to comply with subsection (2), or

(b) the strategy will not enable the principal objective to be met.

] ⁵

(4) [Where a copy of the draft has been laid in accordance with subsection (3A)(a), the OGA] ⁶ may not take any further steps in relation to the draft if, within the 40 day period, either House resolves not to approve the draft (a “negative resolution”).

(5) If neither House passes a negative resolution, the [OGA] ⁷ may issue the strategy or revised strategy in the form laid before Parliament.

(6) The strategy or revised strategy comes into force on the date specified by the [OGA] ⁸ (which must not be before the date when it is issued).

(7) Subsection (4) does not prevent a new draft of a strategy or revised strategy from being laid before Parliament.

(8) In this section “40 day period”, in relation to the draft of a strategy or revised strategy, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or if the draft is not laid before each House on the same day, the later of the 2 days on which it is laid).

(9) For the purposes of calculating the 40 day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

] ¹

Notes

1. Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)
2. Repealed by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(2\)\(a\)](#) (October 1, 2016)
3. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(2\)\(b\)](#) (October 1, 2016)
4. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(3\)](#) (October 1, 2016)
5. S9G(3)-(3B) substituted for s.9G(3) by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(4\)](#) (October 1, 2016)
6. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(5\)](#) (October 1, 2016)
7. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(6\)](#) (October 1, 2016)
8. Words substituted by Energy Act 2016 c. 20 [Sch.1\(1\) para.13\(7\)](#) (October 1, 2016)

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Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

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[9H "Upstream petroleum infrastructure" and its owners

(1) In this Part "*upstream petroleum infrastructure*" means anything that for the purposes of [section 82\(1\)](#) of the [Energy Act 2011](#) is—

- (a) a relevant upstream petroleum pipeline,
- (b) a relevant oil processing facility, or
- (c) a relevant gas processing facility,

if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—

- (a) the territorial sea adjacent to Great Britain, or
- (b) the sea in any area designated under [section 1\(7\)](#) of the [Continental Shelf Act 1964](#).

(3) In this Part "*owner*", in relation to upstream petroleum infrastructure, means—

- (a) a person in whom the pipeline or facility is vested;
- (b) a lessee and any person occupying or controlling the pipeline or facility;
and
- (c) any person who has the right to have things conveyed by the pipeline or processed by the facility.

] ¹

Notes

1. Substituted by Energy Act 2016 c. 20 [Pt 3 s.74\(2\)](#) (October 1, 2016)

Subject: Energy

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Annotation

Section 9H

Introduction: Amendment Note

This section is substituted by the [Energy Act 2016s.74](#); for information on the background to the substitution see the annotations (including Explanatory Notes) to that section.

Analysis Note:

Subsection (2) — see Key Legal Concept: [Territorial Sea](#).

Key Legal Concepts:

[Great Britain](#).

[Person](#).

[Vest](#).

Status: Law In Force

Petroleum Act 1998 c. 17

Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

(version 1 of 1)

[9HA "Relevant offshore installations" and their owners

(1) For the purposes of this Part an offshore installation is a relevant offshore installation if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—

(a) the territorial sea adjacent to Great Britain, or

(b) the sea in any area designated under [section 1\(7\)](#) of the [Continental Shelf Act 1964](#).

(3) In this Part "*owner*", in relation to a relevant offshore installation, means—

(a) a person in whom the installation is vested, and

(b) a lessee and any person occupying or controlling the installation.

] ¹

Notes

[1](#) . Added by Energy Act 2016 c. 20 [Pt 3 s.73\(4\)](#) (October 1, 2016)

Subject: Energy

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Annotation

Section 9HA

Introduction: Amendment Note

This section is inserted by the [Energy Act 2016s.73](#); for information on the background to the insertion see the annotations (including Explanatory Notes) to that section.

Analysis Note:

Subsection (2) — see Key Legal Concept: [Territorial Sea](#).

Other Key Legal Concepts:

[Great Britain](#).

[Person](#).

[Vest](#).

Status: Law In Force

Petroleum Act 1998 c. 17

Part IA MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

This version in force from: **October 1, 2016** to **present**

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[9I Other interpretation

In this Part—

“current strategy”, in relation to any particular time, means a strategy under [section 9A\(2\)](#) in force at that time;

[*“offshore installation”* has the same meaning as in [Part 4](#) (see [section 44](#));] ²

“operator under a petroleum licence” means a person who is responsible for organising or supervising any of the operations of searching for, boring for, or getting UK petroleum in pursuance of the petroleum licence;

“owner”, in relation to upstream petroleum infrastructure, has the meaning given in [section 9H](#);

“petroleum” has meaning given in [section 1](#);

“petroleum licence” means a licence granted under—

(a) [section 3](#) of this Act, or

(b) [section 2](#) of the [Petroleum \(Production\) Act 1934](#);

“principal objective” has the meaning given in [section 9A](#);

[*“relevant offshore installation”* has the meaning given in [section 9HA](#)];] ²

“relevant UK waters” means—

(a) the territorial sea adjacent to the United Kingdom, and

(b) the sea in any area designated under [section 1\(7\)](#) of the [Continental Shelf Act 1964](#);

[*“submarine pipeline”* has the meaning given in [section 45](#)];] ²

“UK petroleum” means petroleum which for the time being exists in its natural condition in strata beneath relevant UK waters;

“upstream petroleum infrastructure” has the meaning given in [section 9H](#).

] ¹

Notes

1. Added by Infrastructure Act 2015 c. 7 [Pt 6 s.41](#) (April 12, 2015)
2. Definition inserted by Energy Act 2016 c. 20 [Pt 3 s.73\(5\)](#) (October 1, 2016)

Subject: Energy

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