

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT SCOTLAND ACT 2016 (ONSHORE
PETROLEUM) (CONSEQUENTIAL AMENDMENTS)
REGULATIONS 2017

Tuesday 28 November 2017

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The Committee consisted of the following Members:

Chair: MRS MADELEINE MOON

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|---|---|
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | Lewis, Mr Ivan (<i>Bury South</i>) (Lab) |
| † Clark, Colin (<i>Gordon</i>) (Con) | † Masterton, Paul (<i>East Renfrewshire</i>) (Con) |
| † Cummins, Judith (<i>Bradford South</i>) (Lab) | † Murray, Ian (<i>Edinburgh South</i>) (Lab) |
| Cunningham, Mr Jim (<i>Coventry South</i>) (Lab) | † Onwurah, Chi (<i>Newcastle upon Tyne Central</i>) (Lab) |
| † Duguid, David (<i>Banff and Buchan</i>) (Con) | † Perry, Claire (<i>Minister for Climate Change and Industry</i>) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Sunak, Rishi (<i>Richmond (Yorks)</i>) (Con) |
| † Hair, Kirstene (<i>Angus</i>) (Con) | |
| † Harris, Rebecca (<i>Castle Point</i>) (Con) | Clementine Brown, <i>Committee Clerk</i> |
| † Jack, Mr Alister (<i>Dumfries and Galloway</i>) (Con) | |
| Jarvis, Dan (<i>Barnsley Central</i>) (Lab) | |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | † attended the Committee |

Third Delegated Legislation Committee

Tuesday 28 November 2017

[MRS MADELEINE MOON *in the Chair*]

Draft Scotland Act 2016 (Onshore Petroleum) (Consequential Amendments) Regulations 2017

2.30 pm

The Minister for Climate Change and Industry (Claire Perry): I beg to move,

That the Committee has considered the draft Scotland Act 2016 (Onshore Petroleum) (Consequential Amendments) Regulations 2017.

It is a pleasure to serve under your chairmanship, Mrs Moon. You and I have heard the term “handbagging” over the years. I apologise for my inadvertent use of the act before our proceedings commenced.

Christmas is coming and it is nice to put on the Santa hat. In opening the debate on the Scotland Act 2016 (Onshore Petroleum) (Consequential Amendments) Regulations 2017, I hope to deliver something that has been called for by Ministers in the Government north of the border and put in place the powers that will lead to further devolution. This process was recommended by the Smith commission. It was agreed that powers relating to onshore oil and gas licensing, apart from those relating to royalties, would be devolved to Scotland. The Scotland Act 2016 implements the Smith commission agreement by devolving a range of powers to the Scottish Parliament and Scottish Government. The Act transfers legislative competence for onshore petroleum to the Scottish Government, with the exception of matters relating to setting and collecting licence rentals. It also includes provisions for Scottish Ministers to exercise powers currently held by my right hon. Friend the Secretary of State or the Oil and Gas Authority in relation to onshore licensing in Scotland.

The consequential amendments before us deliver on a recommendation of the Smith commission agreement by complementing the provisions of the Scotland Act, and assist in giving the Scottish Parliament and Scottish Ministers greater control over their onshore oil and gas resources.

Ian Murray (Edinburgh South) (Lab): Does the Minister agree with me, in the Christmas spirit in which she has commenced her speech, that these regulations, along with the many other regulations that have passed through the House, mean that the Scotland Act 2016 results in delivering the vow that was put together as part of the independence referendum?

Claire Perry: The hon. Gentleman makes a very fine point, and of course, in the spirit of Christmas coming early, my right hon. Friend the Chancellor of the Exchequer was in the Christmas spirit last week, when he brought forward innovative fiscal measures to support UK oil and gas companies, such as the introduction of a transferable tax history. Let no one say that this Government do not believe in the spirit of Christmas.

Michael Fabricant (Lichfield) (Con): My hon. Friend mentions taxation. Has she had a chance to discuss this legislation with the Scottish National party, given that there has been very little legislation on tax under already devolved powers in the Scottish Parliament? Will this be merely gesture politics, or does she believe that the SNP will actually do anything with it?

Claire Perry: My hon. Friend invites me to stray outside the narrow remit of the regulations. Perhaps he would like to consider this as a smoothing amendment that gives the Government north of the border powers, should they wish to exercise them and use them wisely, to take some steps relating to the licensing regime.

The objective is to transfer the existing UK onshore licensing regime as it applies in Scotland to Scottish Ministers. The measure enables them in effect to bring forward the existing licensing regime, but to create a bespoke licensing regime should they wish to do so and should they think that that would benefit people north of the border. Two statutory instruments are needed to implement the relevant powers in the Scotland Act. First, these affirmative regulations make consequential amendments to taxation legislation, as my hon. Friend so astutely anticipated. Secondly, negative regulations will make consequential amendments to the licensing regime.

I am pleased to report, in the spirit of consensus, that my officials have been working closely with the Scottish Government, the Scotland Office, the Oil and Gas Authority and Her Majesty’s Revenue and Customs to prepare the regulations. Once the Scotland Act 2016 provisions are fully in force, the responsibility will be the full responsibility of Scottish Ministers, and they will be responsible for granting the relevant licences.

I come now to the detail of the affirmative regulations. These make minor consequential amendments to taxation legislation to reflect the role of Scottish Ministers as the licensing authority in Scotland, to allow the tax legislation to work as intended in relation to onshore areas in Scotland. As we all know, tax is other people’s money, and we have a fiduciary responsibility to spend it wisely—that was my insertion; it was not in my prepared speech. The regulations provide for the position both before and after the commencement of the Wales Act 2017, which makes equivalent provision for devolution of onshore oil and gas licensing to Wales.

The Smith commission agreed that powers related to the consideration payable for licences, and related matters, such as the keeping of accounts, the measurement of petroleum, and access rights for the purposes of measuring petroleum, will not be devolved to Scotland. That was set out and, I believe, agreed in sections 47 to 49 of the 2016 Act. Taken together with the forthcoming negative regulations, the provisions transfer responsibility from the UK Government to Scottish Ministers, and give them the powers to administer the existing onshore oil and gas licensing regime and, as I said, to create a bespoke one should they wish. With the devolution of onshore petroleum licensing, mineral access rights will also be devolved.

With regard to timing, the affirmative statutory instrument could be laid in Parliament only after the Wales Bill received Royal Assent earlier this year, as it makes amendments that anticipate amendments made

by the Wales Act 2017. If the Committee approves these consequential amendments, a negative statutory instrument will follow the affirmative regulations to make consequential amendments to the licensing regime. The transfer of powers that we are discussing today does not constitute a regulatory provision, so we are not required to do a regulatory impact assessment. There has been no specific consultation on these technical amendments, since they are necessary to the effective operation of the provision set out in the Scotland Act 2016, which was of course consulted on separately.

To conclude, the regulations assist the Scottish Parliament and Scottish Ministers in achieving what they would like, which is greater control over their onshore oil and gas resources, complementing the provisions of the Scotland Act 2016. They make minor amendments to the legislation governing taxation to ensure a smooth devolution of powers for onshore oil and gas licensing to Scottish Ministers. They are an important step towards delivering the recommendations of the Smith commission agreement. I commend the regulations to the Committee.

2.37 pm

Chi Onwurah (Newcastle upon Tyne Central) (Lab): It is a great pleasure to serve under your chairmanship, Mrs Moon. I thank the Minister for introducing the draft order. She, and your, Mrs Moon, have set out the title of the statutory instrument so clearly that I do not feel the need to repeat it. For the benefit of the Whips, and those Members with pressing engagements, I shall start by saying that the Labour party does not oppose the statutory instrument.

As set out, the Scotland Act 2016 provides for a range of devolved powers to Scotland. As recommended by the Smith commission, it was agreed that powers related to onshore oil and gas licensing would be devolved to Scotland. That was set out in sections 47 to 49 of the 2016 Act. At the same time, as the Minister has already set out, all aspects of taxation of oil and gas receipts remain reserved. The statutory instrument makes minor amendments to existing tax legislation, such that the wording reflects the new powers over licensing granted to Scottish Ministers through the 2016 Act. I will not go into those amendments now; suffice it to say, they are minor, technical and uncontroversial changes.

The statutory instrument, once it becomes law, will devolve licensing power for petroleum exploration and development to Scottish Ministers. Will the Minister confirm that that includes fracking, in addition to other more conventional forms of drilling? If, as I believe, it does, the statutory instrument means that there will be no fracking in future in Scotland—at least as long as the present devolved SNP Administration remains in place—because the First Minister has said that her Government are opposed to it. Does the Minister agree and appreciate that there will be no fracking in Scotland as a result of the legislation, and does she have any

views on the implications for England as a consequence? Specifically, has she had any discussions with companies that are looking to frack in England and Wales and that may have wished to expand their operations to Scotland? That would change the size of the fracking market in the United Kingdom. Those questions aside, I have no opposition to the statutory instrument.

2.40 pm

Alan Brown (Kilmarnock and Loudoun) (SNP): It is a pleasure to serve under your chairmanship, Mrs Moon. I will be mercifully brief. The Minister mentioned the Christmas spirit in her opening remarks and I think that it has broken out, as people seem to be in the holiday mood when making their contributions.

We welcome the statutory instrument, although its introduction has taken a bit longer than we thought it would. However, I appreciate that the Minister said it was tied in with the progress of the Wales Bill. Clearly, it relates to the Smith commission and that is good. It does not actually marry up with the spirit of Gordon Brown's vow, because it does not take us as close to federalism as can possibly be within the United Kingdom; that is quite clear. Obviously, tax receipts remain reserved anyway, although perhaps tax receipts are a moot point because, as was stated by the shadow Minister, the current intention is that there will be no fracking in Scotland while the SNP is in Parliament. It is only right that the Scottish Parliament makes that decision, because although it is an SNP Government, obviously Parliament should make the decision. It is right that the Scottish Parliament has these powers and I simply welcome them coming to Scotland.

2.41 pm

Claire Perry: I welcome the comments from the hon. Member for Newcastle upon Tyne Central. In response to her question, yes the statutory instrument does cover the fracking regime. She asked an interesting question about whether the measure changes the size of the market for companies engaged in the fracking industry. I have not had conversations with them, but because there has been a temporary moratorium on the exploration and production of shale gas north of the border, my sense is that this will be expected and will be baked into business plans for companies that are looking to obtain fracking licences.

It is good to hear the support from the hon. Member for Kilmarnock and Loudoun as well. I suspect that the after-lunch Christmas spirit may not last through the late-night votes in the Lobby tonight, but it was good to start the afternoon in a spirit of consensus. I have no further comments and I commend the draft regulations to the House.

Question put and agreed to.

2.42 pm

Committee rose.

