



Petroleum and Submarine Pipe-lines Act 1975

1975 CHAPTER 74

PART IV

REFINERIES

34 Control of construction and extension of refineries

- (1) No person shall execute any works for the construction of a controlled refinery or a controlled extension of a refinery or for converting plant into a controlled refinery, unless—
- (a) he is authorised in writing by the Secretary of State to do so and the works are in accordance with the terms of the authorisation ; or
 - (b) the works are executed in accordance with planning permission in force in pursuance of the Town and Country Planning Act 1971 and granted (otherwise than by a development order within the meaning of that Act) either before the passing of this Act or in consequence of an application for such permission which was made before 7th December 1974.
- (2) In this Part of this Act—
- " refinery " means crude petroleum distillation plant which is designed for the treatment of crude liquid petroleum ;
 - " controlled refinery " means a refinery designed to be capable of treating more than one million tons a year of the kind of crude liquid petroleum which it is designed to treat;
 - " controlled extension ", in relation to a refinery, means works designed to extend, adapt or be used in conjunction with the refinery, or to extend or adapt works so used, and to increase by more than half a million tons a year the quantity of crude liquid petroleum which the refinery apart from the works is capable of treating; and
 - " authorisation " means an authorisation required by the preceding subsection;

and for the purposes of this Part of this Act the quantity of crude liquid petroleum which any plant is or will be capable of treating shall be determined on the assumption that throughout every day the plant is or will be capable of being used to its maximum capacity and is or will be so used.

- (3) The Secretary of State may by order provide that for any number of tons for the time being specified in the preceding subsection there shall be substituted another number specified in the order; and the order may—
- (a) without prejudice to the generality of section 46(1)(d) of this Act, contain such transitional provisions as the Secretary of State considers appropriate in consequence of any amendment of that subsection made by the order (including provision dispensing with authorisations in cases for which they would not be required apart from the order); and
 - (b) vary or revoke any previous order made in pursuance of this subsection.

35 Authorisations to construct or extend refineries

- (1) It shall be the duty of the Secretary of State—
- (a) to satisfy himself before he issues an authorisation that it is consistent with the national policy relating to petroleum to authorise the execution of the works in question;
 - (b) not to issue an authorisation to a person other than a body corporate.
- (2) An authorisation may contain such terms as the Secretary of State thinks appropriate including in particular, without prejudice to the generality of the preceding provisions of this subsection, terms as to—
- (a) the duration of the authorisation, including the method of ascertaining its duration;
 - (b) the persons or kinds of persons who are authorised to execute the works in question or are so authorised if the Secretary of State consents to the execution of the works by them ;
 - (c) the area in which the works may be executed ;
 - (d) the conditions (which may include conditions requiring the execution of further works) which are to be satisfied before any works authorised by the authorisation are used;

and the Secretary of State may, with the consent of the body to which an authorisation was issued, alter any of its terms at any time.

- (3) Where an authorisation contains such conditions as are mentioned in paragraph (d) of the preceding subsection, no person shall, before the conditions are satisfied, use any works of which the execution was authorised by the authorisation except to the extent specified, in a notice given by the Secretary of State to the body to which the authorisation was issued, as the extent to which the works may be used notwithstanding that any of the conditions is not satisfied; and the Secretary of State may at any time revoke such a notice by a further notice so given.
- (4) Where an authorisation contains such conditions as are mentioned in the said paragraph (d), a notice given as aforesaid which states that such of them as are specified in the notice are satisfied shall be conclusive evidence for the purposes of this Part of this Act that, on and after the date on which the notice is given, the conditions so specified are satisfied.

- (5) If it appears to the Secretary of State that since the issue of an authorisation there has been a change in the control of the body to which it was issued, it shall be his duty to give to that body a notice—
- (a) cancelling the authorisation at a time specified in the notice; or
 - (b) identifying the change and stating that he has decided not to cancel the authorisation in consequence of it; or
 - (c) stating that he proposes to cancel the authorisation unless, before a time specified in the notice, such requirements as are so specified with respect to the control of that body are satisfied;
- and where it appears to the Secretary of State that any requirement specified in a notice served by virtue of paragraph (c) of this subsection is not satisfied at the time specified in the notice he may give to that body a further notice cancelling the authorisation at a time specified in the further notice.
- (6) There is a change in the control of a body to which an authorisation was issued whenever a person has control of that body who did not have control of it when the authorisation was issued; and subsections (2) and (4) to (6) of section 302 of the Income and Corporation Taxes Act 1970 shall apply, for the purpose of determining whether for the purposes of this subsection a person has or had control of such a body, with the following modifications—
- (a) for the words " the greater part" wherever they occur in the said subsection (2) there shall be substituted the words " one-third or more "; and
 - (b) in the said subsection (6), for the word " may" there shall be substituted the word " shall " , the words from " and such attributions " onwards shall be omitted and in the other provisions of that subsection any reference to an associate of a person shall be construed as including only a relative of his (as defined by section 303(4) of that Act), a partner of his and a trustee of a settlement (as defined by section 454(3) of that Act) of which he is a beneficiary.
- (7) If an authorisation contains such conditions as are mentioned in subsection (1)(d) of this section and, at the time when apart from this subsection the authorisation is cancelled or otherwise ceases to be in force, any works authorised by the authorisation have been executed and any of those conditions is not satisfied, the authorisation shall, so far only as it contains the unsatisfied conditions, continue in force until those conditions are satisfied.

36 Planning permission for works requiring authorisations

- (1) An application made after the coming into force of this section for planning permission for works for the construction or extension of any refinery or for converting plant into a refinery shall be of no effect unless it is accompanied by—
- (a) a copy of an authorisation in force for all of those works in the area of the local planning authority for which an authorisation is required; or
 - (b) a certificate signed by or on behalf of the applicant and stating that no authorisation is required for any of those works in that area.
- (2) Where at the time when this section comes into force—
- (a) an application for planning permission made after 6th December 1974 is pending or any appeal to the Secretary of State connected with such an

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application is pending or the time within which such an appeal may be begun has not expired ; and

- (b) if the application had been made after the coming into force of this section it would have been of no effect by virtue of the preceding subsection,

the application shall be of no effect, or as the case may be the appeal shall be stayed or not begun, until the authority to which the application was made is furnished with such a copy or certificate as is mentioned in that subsection in respect of the works to which the application relates.

- (3) Where by virtue of the preceding subsection a prohibition imposed by that subsection on the beginning of an appeal ceases to be so imposed, the appeal may be begun during a period which begins with the cesser and is equal to so much of the time within which the appeal could have been begun apart from the prohibition as was unexpired when the prohibition was so imposed.
- (4) In the preceding provisions of this section " local planning authority " and " planning permission " have the same meanings as in the Town and Country Planning Act 1971.

37 Inspectors

- (1) The Secretary of State may appoint, as inspectors to assist him in the execution of this Part of this Act, such number of persons appearing to him to be qualified for the purpose as he considers appropriate from time to time; and the Secretary of State may make, to or in respect of any person appointed in pursuance of this subsection, such payments by way of remuneration or otherwise as the Secretary of State determines with the approval of the Minister for the Civil Service.
- (2) An inspector appointed in pursuance of the preceding subsection may, at all reasonable times and on producing written evidence of his authority if required to do so,—
- (a) inspect any refinery and for that purpose enter on any land on or near which any part of the refinery is situated;
 - (b) without prejudice to the preceding paragraph, inspect any land on which a refinery is being provided and for that purpose enter on the land and any land near it;
 - (c) require any person having control of any refinery or land which the inspector is authorised to inspect or enter by virtue of either of the preceding paragraphs to give the inspector such assistance and afford him such facilities as the inspector may reasonably ask for in connection with the powers conferred on him in relation to the refinery or land by either of those paragraphs;
 - (d) require any body to which an authorisation for the time being in force has been issued to produce and permit the inspector to inspect any documents in that body's possession or control which relate to the issued share capital of that body;
 - (e) require any person to produce and permit the inspector to inspect any documents in that person's possession or control which relate to—
 - (i) any works for the provision or extension of a refinery, or
 - (ii) the use of any works at a time when a notice in pursuance of section 35(3) of this Act was in force in respect of them.

38 Offences

- (1) Any person who—

- (a) contravenes any provision of section 34(1) or 35(3) of this Act; or
- (b) makes a statement which he knows is false in a material particular or recklessly makes a statement which is false in a material particular—
 - (i) for the purpose of inducing the Secretary of State to issue or to alter or not to cancel an authorisation or to give a notice in pursuance of section 35(3) or (4) of this Act, or
 - (ii) in any document purporting to be such a certificate as is mentioned in section 36(1)(b) of this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine.

(2) Any person who—

- (a) wilfully obstructs an inspector appointed in pursuance of the preceding section in the exercise of the powers conferred on him by paragraph (a) or (b) of subsection (2) of that section; or
- (b) without reasonable excuse fails to provide facilities or assistance or to produce or permit the inspection of any document which he is required to provide or produce in pursuance of any other paragraph of that subsection,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(3) Where an offence under any of the preceding provisions of this section has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection "director", in relation to a body corporate which—

- (a) is established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking; and
- (b) is a body whose affairs are managed by its members,

means a member of the body corporate.

(4) No proceedings shall be instituted in England and Wales for an offence under any of the preceding provisions of this section except by or with the consent of the Director of Public Prosecutions or by the Secretary of State or a person authorised by him in that behalf.

39 Modifications of Part IV for Scotland and Northern Ireland

(1) This Part of this Act shall have effect in its application to Scotland with the following modifications, namely—

- (a) in section 34(1)(b) for the words "Town and Country Planning Act 1971" there shall be substituted the words "Town and Country Planning (Scotland) Act 1972";
- (b) in section 36(1)(a) for the words "area of the local" there shall be substituted the words "district of the";
- (c) in section 36(2) for the word "stayed" there shall be substituted the word "sisted"; and
- (d) for subsection (4) of section 36 there shall be substituted

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“(4) In the preceding provisions of this section (4) In the preceding provisions of this section " planning authority" and "planning permission" have the same meanings as in the Town and Country Planning (Scotland) Act 1972.”

(2) This Part of this Act shall have effect in its application to Northern Ireland with the following modifications, namely—

- (a) for any reference to the Secretary of State there shall be substituted a reference to the Department of Commerce for Northern Ireland except in section 34(3), 36(2)(a) and 37 and in subsection (4) of section 38 so far as it relates to an offence under subsection (2) of that section and to an offence under subsection (3) of that section committed by reference to an offence under subsection (2);
- (b) in section 34(1)(b) for the words " Town and Country Planning Act 1971 " there shall be substituted the words " Planning (Northern Ireland) Order 1972 " and for the words " that Act" there shall be substituted the words " that Order ";
- (c) in section 36(1) the words " in the area of the local planning authority" in paragraph (a) and the words " in that area " in paragraph (b) shall be omitted ;
- (d) in section 36(2) for the words "Secretary of State" there shall be substituted the words " Planning Appeals Commission " and for the words " authority to which the application was made " there shall be substituted the words " Department of Housing, Local Government and Planning for Northern Ireland ";
- (e) in section 36(4) for the words from "' local planning authority'" onwards there shall be substituted the words " ' planning permission' has the same meaning as in the Planning (Northern Ireland) Order 1972 ";
- (f) in section 37(1) after the words " assist him " there shall be inserted the words " and the Department of Commerce for Northern Ireland ";
- (g) in section 38(4) for the words " England and Wales" there shall be substituted the words " Northern Ireland " and after the word "Prosecutions" there shall be inserted the words " for Northern Ireland ".