



# Energy Act 2004

## 2004 CHAPTER 20

### PART 2

#### SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

### CHAPTER 3

#### DECOMMISSIONING OF OFFSHORE INSTALLATIONS

#### *Supplementary provisions of Chapter 3 of Part 2*

#### **112 Duty to inform Secretary of State**

- (1) A person who becomes responsible for a relevant object must notify the Secretary of State that he has become so responsible.
- (2) For the purposes of this section a person becomes responsible for a relevant object if—
  - (a) he makes a proposal to construct the object in waters regulated under this Chapter;
  - (b) he makes a proposal for the extension or decommissioning in such waters of the object;
  - (c) he makes a proposal to operate or use the object on completion of its construction in such waters;
  - (d) he makes a proposal to operate or use the object on completion in such waters of any extension of it;
  - (e) he becomes a party to a proposal mentioned in paragraphs (a) to (d);
  - (f) he begins in such waters to construct, to extend, to operate or use or to decommission the object;
  - (g) he begins to participate in any of the following activities carried on in such waters, the construction, extension, operation or use or decommissioning of the object.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) A person is not required to notify the Secretary of State that he has made a proposal, or become a party to a proposal, at any time before at least one of the statutory consents required for enabling effect to be given to the proposal has been given or applied for.
- (4) A person who notifies the Secretary of State under this section that he has made a proposal, or has become a party to a proposal—
  - (a) must specify in the notification what statutory consents required for giving effect to the proposal have been given, and what applications for such consents have been made; and
  - (b) must notify him subsequently whenever such a consent or application is given or made.
- (5) A notification under this section must be given within such period after the obligation to give the notification arises as may be prescribed by regulations made by the Secretary of State.
- (6) A person who contravenes the requirements of this section is guilty of an offence.
- (7) Regulations under this section are subject to the negative resolution procedure.
- (8) A reference in this section to participation in activities does not include a reference—
  - (a) to participation on behalf of another person; or
  - (b) to participation by acting in pursuance of an agreement to provide a service or services to a person carrying on those activities.
- (9) In this section “statutory consent” has the same meaning as in section 105.

### **113 Offences relating to decommissioning programmes**

- (1) A person guilty of an offence under a provision of this Chapter is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (2) No proceedings for a decommissioning offence shall be instituted in England and Wales or Northern Ireland except—
  - (a) by the Secretary of State;
  - (b) by a person authorised in that behalf by the Secretary of State; or
  - (c) by or with the consent of the Director of Public Prosecutions or (as the case may be) the Director of Public Prosecutions for Northern Ireland.
- (3) Where a decommissioning offence is 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) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person who was purporting to act in any such capacity,
 he (as well as the body corporate) is guilty of that offence and shall be liable to be proceeded against and dealt with accordingly.
- (4) Where such an offence—
  - (a) is committed by a Scottish firm, and
  - (b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner of the firm,

---

*Status: This is the original version (as it was originally enacted).*

---

he (as well as the firm) is guilty of that offence and shall be liable to be proceeded against and dealt with accordingly.

- (5) Where a decommissioning offence is committed outside the United Kingdom, proceedings for the offence may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (6) Section 3 of the Territorial Waters Jurisdiction Act 1878 (c. 73) (consents to prosecution of offences committed on the open sea by persons who are not British citizens) does not apply to proceedings for a decommissioning offence.
- (7) In this section—
  - “decommissioning offence” means an offence under—
    - (a) a provision of this Chapter; or
    - (b) regulations made under section 111;
  - “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

## **114 Interpretation of Chapter 3 of Part 2**

- (1) Expressions used in this Chapter and in Chapter 2 of this Part have the same meanings in this Chapter as in that Chapter.
- (2) In this Chapter—
  - “decommissioning programme” has the meaning given by section 105(2);
  - “extend” and “extension”, in relation to an electric line, have the same meanings as they have in Chapter 2 of this Part and this Chapter in relation to a renewable energy installation;
  - “recipient”, in relation to a notice under section 105, means the person or any one or more of the persons to whom that notice was given;
  - “relevant object” has the meaning given by section 105(10);
  - “security” includes—
    - (a) a charge over a bank account or any other asset;
    - (b) a deposit of money;
    - (c) a performance bond or guarantee;
    - (d) a letter of credit; and
    - (e) a letter of comfort;
  - “waters regulated under this Chapter” has the meaning given by section 105(10).
- (3) References in this Chapter to providing a security include references—
  - (a) to securing its maintenance or renewal; and
  - (b) to ensuring that its value is adjusted from time to time to take account of changes to the likely costs of the matters in respect of which it is given.
- (4) References in this Chapter to the person by whom a decommissioning programme was submitted are references, in the case of a programme submitted jointly by more than one person, to each of them.
- (5) Provision made by or under this Chapter in relation to places outside the United Kingdom—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) so far as it applies to individuals, applies to them whether or not they are British citizens; and
- (b) so far as it applies to bodies corporate, applies to them whether or not they are incorporated under the law of any part of the United Kingdom.