



Energy Act 2008

2008 CHAPTER 32

PART 3

DECOMMISSIONING OF ENERGY INSTALLATIONS

CHAPTER 2

OFFSHORE RENEWABLES INSTALLATIONS

70 Security for decommissioning obligations

- (1) After section 110 of the Energy Act 2004 (c. 20) (failure to carry out decommissioning programme) insert—

“110A Protection of funds held for purposes of decommissioning

- (1) This section applies where any security in relation to the carrying out of an approved decommissioning programme, or for compliance with the conditions of its approval, has been provided by a person (“the security provider”) by way of a trust or other arrangements.
- (2) In this section a reference to “the protected assets” is a reference to the security and any property or rights in which it consists.
- (3) The manner in which, and purposes for which, the protected assets are to be applied and enforceable (whether in the event of the security provider’s insolvency or otherwise) is to be determined in accordance with the trust or other arrangements.
- (4) For the purposes of subsection (3), no regard is to be had to so much of the Insolvency Act 1986, the Insolvency (Northern Ireland) Order 1989 or any other enactment or rule of law as, in its operation in relation to the security provider or any conduct of the security provider, would—

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Section 70. (See end of Document for details)

- (a) prevent or restrict the protected assets from being applied in accordance with the trust or other arrangement, or
 - (b) prevent or restrict their enforcement for the purposes of being so applied.
- (5) In subsection (4) “enactment” includes an instrument made under an enactment.

110B Section 110A: supplemental

- (1) The Secretary of State may direct a security provider to publish specified information about the protected assets.
 - (2) A direction under this section may specify—
 - (a) the time when the information must be published, and
 - (b) the manner of publication.
 - (3) If a security provider fails to comply with a direction, the Secretary of State or a creditor of the security provider may make an application to the court under this section.
 - (4) If, on an application under this section, the court decides that the security provider has failed to comply with the direction, it may order the security provider to take such steps as the court directs for securing that the direction is complied with.
 - (5) In this section—
 - “the protected assets” has the same meaning as in section 110A;
 - “security provider” means a person who has provided security in relation to which that section applies.
 - (6) In subsections (3) and (4) references to “the court” are references—
 - (a) to the High Court, in relation to an application in England and Wales or Northern Ireland, or
 - (b) to the Court of Session, in relation to an application in Scotland.”
- (2) In section 114(2) of that Act (interpretation), in the definition of “security” after paragraph (c) insert—
- “(ca) an insurance policy;”.

Commencement Information

II S. 70 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(b\)\(ii\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2008, Section 70.