



Energy Act 2008

2008 CHAPTER 32

PART 3

DECOMMISSIONING OF ENERGY INSTALLATIONS

CHAPTER 3

OIL AND GAS INSTALLATIONS

72 Persons who may be required to submit abandonment programmes

- (1) Section 30 of the Petroleum Act 1998 (c. 17) (persons who may be required to submit programmes) is amended as follows.
- (2) In subsection (1)—
 - (a) after paragraph (b) insert—
 - “(ba) a person to whom subsection (5)(a) and (b) applied in relation to the installation, but who—
 - (i) transferred the right mentioned in that subsection to another person, and
 - (ii) has not obtained a consent required under the licence in relation to the transfer;”, and
 - (b) in paragraph (e) for “company” in each place substitute “body corporate”.
- (3) In subsection (2)(c) for “company” in each place substitute “body corporate”.
- (4) For subsection (5)(b) substitute—
 - “(b) either—
 - (i) any activity mentioned in subsection (6) is carried on from, by means of or on the installation, or
 - (ii) the person intends to carry on an activity mentioned in that subsection from, by means of or on the installation.”.

Status: This is the original version (as it was originally enacted).

(5) For subsection (8) substitute—

“(8) For the purposes of this section, one body corporate is associated with another if one of them controls the other or a third body corporate controls both of them; and subsections (8A) to (8D) set out the circumstances in which one body corporate (“A”) controls another (“B”).

(8A) Where B is a company, A controls B if A possesses or is entitled to acquire—

- (a) one half or more of the issued share capital of B,
- (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B,
- (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
- (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive one half or more of the assets of B which would then be available for distribution among the shareholders.

(8B) Where B is a limited liability partnership, A controls B if A—

- (a) holds a majority of the voting rights in B,
- (b) is a member of B and has a right to appoint or remove a majority of other members, or
- (c) is a member of B and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in B.

(8C) In subsection (8B)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(8D) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A’s wishes.”

(6) In subsection (9)—

- (a) for “subsection (8)” substitute “subsections (8) to (8D)”, and
- (b) for “company” in each place substitute “body corporate”.

(7) In section 31 of that Act (notices: supplementary provision), before subsection (1) insert—

“(A1) The Secretary of State may not give a notice under section 29(1) in relation to an offshore installation to a person (“P”) who, in relation to the installation, falls within paragraph (b) or (c) of section 30(1), if—

- (a) P is not entitled to derive, and never has been entitled to derive, any financial or other benefit from any activity within section 30(6)—
 - (i) which has been or is carried on (or is intended to be carried on) from, by means of or on the installation, and
 - (ii) is an activity to which subsection (B1) applies, and
- (b) P is not, and never has been, a person within section 30(1)(a), (ba), (d) or (e) in relation to the installation.

(B1) This subsection applies to an activity if—

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

- (a) where the activity is the exploitation or exploration of mineral resources, it relates to an oil field for which the installation is or is to be established or maintained;
- (b) where the activity is the conveyance of minerals, the minerals are got, or to be got, from such an oil field;
- (c) where the activity is the unloading, storage or recovery of gas, it relates to a controlled place (within the meaning of Chapter 2 or 3 of Part 1 of the Energy Act 2008) for which the installation is or is to be established or maintained;
- (d) where the activity is the conveyance of gas being stored or recovered, the storage or recovery of the gas relates to such a controlled place;
- (e) where the activity is within section 30(6)(c)—
 - (i) the installation is in an oil field in respect of which P has an interest, or
 - (ii) the installation is in a controlled place in respect of which P has a licence under Part 1 of the Energy Act 2008.

(C1) For the purposes of subsection (B1)—

- (a) “oil field” means an area which the appropriate authority (within the meaning of paragraph 1(2) of Schedule 1 to the Oil Taxation Act 1975) has determined to be an oil field for the purposes of Part 1 of that Act,
- (b) P has an interest in an oil field if P is entitled to derive, or has at any time been entitled to derive, any financial or other benefit from activities within section 30(6) (other than paragraph (c)) carried on in the field.

(D1) The Secretary of State may not give a notice under section 29(1) in relation to an offshore installation to a body corporate if—

- (a) the body corporate falls within paragraph (e) of section 30(1) (and no other paragraph of that section), and
- (b) the body corporate falls within that paragraph by reason only that it is associated (within the meaning given by section 30(8)) with a person to whom the Secretary of State may not give a notice in relation to the installation by virtue of subsection (A1).”

(8) In section 34 of that Act (revision of programmes), after subsection (3) insert—

“(3A) A proposal that a person who is or has been within paragraph (b) or (c) of section 30(1) is to have a duty to secure that a programme is carried out may not be made if the Secretary of State would be prevented from giving a notice under section 29(1) to the person by virtue of section 31(A1) if the programme had not already been approved under this section.”