



Energy Act 2008

2008 CHAPTER 32

PART 3

DECOMMISSIONING OF ENERGY INSTALLATIONS

CHAPTER 3

OIL AND GAS INSTALLATIONS

74 Protection of abandonment funds from creditors

(1) After section 38 of the Petroleum Act 1998 (c. 17) insert—

“38A Protection of funds set aside for the purposes of abandonment programme

- (1) This section applies where any security for the performance of obligations under an approved abandonment programme has been provided by a person (“the security provider”) by way of a trust or other arrangements.
- (2) Subsection (1) applies whether the security is provided before or after the programme is approved.
- (3) In this section a reference to “the protected assets” is a reference to the security and any property or rights in which it consists.
- (4) In this section “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) an insurance policy;
 - (e) a letter of credit.

Status: This is the original version (as it was originally enacted).

- (5) 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.
- (6) For the purposes of subsection (5), 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—
 - (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.
- (7) In subsection (6) “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or Northern Ireland legislation.

38B Directions to provide information about protected assets

- (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—
 - “court”—
 - (a) in relation to an application in England and Wales or Northern Ireland, means the High Court, and
 - (b) in relation to an application in Scotland, means the Court of Session;
 - “security provider” means a person who has provided security in relation to which section 38A applies;
 - “the protected assets”, in relation to a security provider, means the security, and any property or rights in which it consists.”
- (2) This section has effect in relation to a trust or other arrangements established on or after 1st December 2007.