



# Energy Act 2011

## 2011 CHAPTER 16

### PART 3

#### MEASURES FOR REDUCING CARBON EMISSIONS

##### *Decommissioning*

#### **106 Agreement about modifying decommissioning programme**

- (1) Section 46 of the Energy Act 2008 (approval of a decommissioning programme) is amended as follows.
- (2) After subsection (3) insert—
  - “(3A) When approving a programme the Secretary of State may agree to exercise, or not to exercise, the section 48 power—
    - (a) in a particular manner;
    - (b) within a particular period.
  - (3B) An agreement under subsection (3A) may subsequently be amended by the Secretary of State and the other party to the agreement.
  - (3C) The Secretary of State may not make such an agreement or amend such an agreement unless satisfied that the agreement (or the agreement as amended) includes adequate provision for the modification of the programme in the event that the provision made by it for the technical matters (including the financing of the designated technical matters) ceases to be prudent.
  - (3D) Provision in such an agreement (including the provision mentioned in subsection (3C)) may include provision—
    - (a) for a determination by a third party in relation to a relevant matter specified in the agreement, and
    - (b) for the Secretary of State to be bound by such a determination.

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- (3E) A “relevant matter” is a matter relating to the provision made by the programme for the technical matters.
  - (3F) Subsections (3A) to (3D) apply notwithstanding that the agreement or amendment fetters the Secretary of State's discretion.
  - (3G) In subsection (3A) “section 48 power” means the power of the Secretary of State under section 48 to propose a modification of the programme or a modification of the conditions to which the approval of the programme is subject.”
- (3) In subsection (4) for “(3)” substitute “ (3B) ”.

### **107 Abandonment: infrastructure converted for CCS demonstration projects**

- (1) The Energy Act 2008 is amended as follows.
- (2) After section 30 insert—

#### **“30A Installations converted for CCS demonstration projects**

- (1) The Secretary of State may by order designate an installation as an eligible CCS installation.
- (2) But an order may not be made under subsection (1) in relation to—
  - (a) a carbon storage installation established or maintained under a licence granted by the Scottish Ministers, or
  - (b) any other installation established or maintained wholly or partly in Scotland.
- (3) An order under subsection (1) ceases to have effect if the installation in relation to which it is made becomes an installation within subsection (2)(a).
- (4) An eligible CCS installation qualifies for change of use relief if—
  - (a) the installation is or has been used as part of a CCS demonstration project, and
  - (b) the trigger event has occurred in relation to the installation at a time when the installation was so used (whether before or after it was designated under this section).
- (5) The trigger event occurs—
  - (a) in relation to an installation used for the injection of captured carbon dioxide into a carbon storage facility as part of a CCS demonstration project, when captured carbon dioxide is first present at the installation, and
  - (b) in relation to an installation used as part of a CCS demonstration project for any other purpose, when captured carbon dioxide is first present at another installation used as mentioned in paragraph (a) as part of the same project.
- (6) Where an eligible CCS installation qualifies for change of use relief—
  - (a) an abandonment programme notice must not be served on a person who is within section 30(1) of the 1998 Act only because one or more of subsections (7) to (9) applies in relation to the person (but this does

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- not affect the validity of a notice served on any such person before the installation qualified for change of use relief), and
- (b) a proposal must not be made under section 34(1)(b) of the 1998 Act if the effect of the proposal (if implemented) would be to impose an abandonment liability on a person who is within section 34(2)(a) of the 1998 Act only because one or more of subsections (7) to (10) applies in relation to the person.
- (7) This subsection applies in relation to a person if—
- (a) the person is within paragraph (b) of section 30(1) of the 1998 Act in relation to the installation only by virtue of the fact that the person had a right mentioned in section 30(5)(a) of that Act when an activity mentioned in section 30(6) of that Act was last carried on from, by means of or on the installation, and
- (b) any such activity was last so carried on before the trigger event occurred in relation to the installation.
- (8) This subsection applies in relation to a person if—
- (a) the person is within paragraph (ba) of section 30(1) of the 1998 Act in relation to the installation, and
- (b) the transfer mentioned in sub-paragraph (i) of that paragraph took place before the trigger event occurred in relation to the installation.
- (9) This subsection applies in relation to a person if the person is within paragraph (e) of section 30(1) of the 1998 Act only by virtue of being associated with a body corporate which is within subsection (7) or (8).
- (10) This subsection applies in relation to a person if the person has been within any of paragraphs (a), (b), (c), (d) or (e) of section 30(1) of the 1998 Act in relation to the installation, but only at a time—
- (a) when the installation was an offshore installation (within the meaning given by section 44 of the 1998 Act), and
- (b) before the trigger event occurred in relation to the installation.
- (11) The power conferred by subsection (1) does not include a power to revoke an order made under that subsection.
- (12) In this section—
- “abandonment liability”, in relation to an installation, means a duty to secure that an abandonment programme for the installation is carried out;
- “abandonment programme”, in relation to an installation, means a programme in respect of the installation approved, or having effect as if approved, by the Secretary of State under section 32 of the 1998 Act;
- “abandonment programme notice” means a notice served under section 29(1) of the 1998 Act;
- “captured carbon dioxide” means carbon dioxide that has been produced by, or in connection with, commercial electricity generation and captured with a view to its disposal by way of permanent storage;
- “carbon dioxide”, “CCS demonstration project” and “commercial electricity generation” have the same meanings as in Part 1 of the Energy Act 2010 (see section 7 of that Act);

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“carbon storage facility” has the same meaning as in section 20;  
 “Scotland” has the same meaning as in the Scotland Act 1998 (see section 126(1) of that Act).

- (13) Section 30(8) to (9) of the 1998 Act (when one body corporate is associated with another) apply for the purposes of this section.

### **30B Submarine pipelines converted for CCS demonstration projects**

- (1) The Secretary of State may by order designate a submarine pipeline as an eligible CCS pipeline.
- (2) An eligible CCS pipeline qualifies for change of use relief if—
- (a) the pipeline is or has been used as part of a CCS demonstration project for a purpose other than the transport of petroleum, and
  - (b) the trigger event has occurred in relation to the pipeline at a time when the pipeline was so used (whether before or after it was designated under this section).
- (3) The trigger event—
- (a) in relation to a pipeline used to transport captured carbon dioxide as part of a CCS demonstration project, occurs when captured carbon dioxide is first present in the pipeline, and
  - (b) in relation to a pipeline used as part of a CCS demonstration project for any other purpose, occurs—
    - (i) when captured carbon dioxide is first present in another pipeline used as part of the same project, or
    - (ii) if earlier, when captured carbon dioxide is first present at an installation used as part of the same project for the injection of captured carbon dioxide into a carbon storage facility.
- (4) Where an eligible CCS pipeline qualifies for change of use relief, a proposal must not be made under section 34(1)(b) of the 1998 Act if the effect of the proposal (if implemented) would be to impose an abandonment liability on a person who is within section 34(2)(b) of the 1998 Act only because subsection (5) applies in relation to the person.
- (5) This subsection applies in relation to a person if the person has been within any of paragraphs (a) to (c) of section 30(2) of the 1998 Act in relation to the pipeline, but only at a time—
- (a) when the pipeline was used solely for activities other than activities connected with any mentioned in section 17(2)(a), (b) or (c), and
  - (b) before the trigger event occurred in relation to the pipeline.
- (6) The power conferred by subsection (1) does not include a power to revoke an order made under that subsection.
- (7) In this section—
- “abandonment liability”, in relation to a submarine pipeline, is a duty to secure that an abandonment programme for the pipeline is carried out;
- “abandonment programme”, in relation to a submarine pipeline, means a programme in respect of the pipeline approved, or having

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effect as if approved, by the Secretary of State under section 32 of the 1998 Act;

“captured carbon dioxide” and “CCS demonstration project” have the same meanings as in section 30A;

“carbon storage facility” has the same meaning as in section 20;

“petroleum” has the same meaning as in Part 1 of the 1998 Act (see section 1 of that Act) and includes petroleum that has undergone any processing;

“submarine pipeline” has the same meaning as in Part 4 of the Petroleum Act 1998 (see section 45 of that Act).”

(3) In the cross heading before section 30, for “installations” substitute “ infrastructure ”.

(4) In section 30 (abandonment of installations)—

(a) in subsection (1) (application of Part 4 of Petroleum Act 1998 in relation to abandonment of carbon storage installations)—

(i) for “ “the 1998 Act” ” substitute “ referred to in this section and sections 30A and 30B as “the 1998 Act” ”, and

(ii) at the end insert “ and section 30A ”,

(b) after subsection (4) (power to make regulations modifying Part 4 of the 1998 Act in its application to carbon storage installations) insert—

“(4A) The power in subsection (4) is subject to section 30A.”, and

(c) in subsection (5) (meaning of “carbon storage installation”) after “this section” insert “ and section 30A ”.

(5) In section 105(2) (parliamentary control of subordinate legislation), after paragraph (a) insert—

“(aa) an order which contains provision made under section 30A or 30B only (powers to designate installations and submarine pipelines as eligible CCS installations and eligible CCS pipelines);”.

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