



Energy Act 2011

2011 CHAPTER 16

PART 2

SECURITY OF ENERGY SUPPLIES

CHAPTER 3

UPSTREAM PETROLEUM INFRASTRUCTURE

84 Compulsory modification of upstream petroleum infrastructure

- (1) This section applies where—
- (a) a person has made an application of a kind mentioned in subsection (1) of section 82, and
 - (b) the Secretary of State is considering whether to give a notice under subsection (11) of that section which would secure to the applicant the right sought in the application.
- (2) If it appears to the Secretary of State—
- (a) that the pipeline or facility that is the subject of the application can and should be modified so as to increase its capacity; or
 - (b) that the pipeline or facility that is the subject of the application can and should be modified by installing in it a junction or other apparatus through which a pipeline of the applicant's may be connected,
- then the Secretary of State may give the applicant and the owner of the pipeline or facility a notice in accordance with subsections (3) and (4).
- (3) A notice under subsection (2) must—
- (a) specify the modifications which the Secretary of State considers should be made to the pipeline or facility;

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- (b) specify the sums or the method for determining the sums which the Secretary of State considers should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications;
 - (c) require the applicant to make, within the period specified for the purpose in the notice, arrangements which the Secretary of State considers appropriate to secure that those sums will be paid to the owner if the owner carries out the modifications or satisfies the Secretary of State that they will be carried out;
 - (d) require the owner, if the applicant makes those arrangements within that period, to carry out the modifications within a period specified for the purpose in the notice; and
 - (e) authorise the owner, if the Secretary of State is satisfied that the owner has carried out or will carry out the modifications, to recover those sums from the applicant.
- (4) A notice under subsection (2) may also contain provision for the purpose of ensuring that if the carrying out of the modifications prejudices any of the matters mentioned in subsection (9) of section 82 any person who suffers loss as a result may recover from the applicant payments by way of compensation, of such amounts as are determined in accordance with the notice.
- (5) If a notice under subsection (2) contains provision by virtue of subsection (4) the Secretary of State must give a copy of the notice to every person who has a right to have anything conveyed by the pipeline or processed by the facility.
- (6) Before giving a copy of a notice under subsection (5) the Secretary of State must—
- (a) remove from the copy any provision included in the notice by virtue of subsection (3)(b); and
 - (b) after giving the owner and the applicant an opportunity to be heard, remove from the copy any other provision included in the notice which the Secretary of State considers may prejudice the commercial interests of the owner or the applicant if not removed.
- (7) In considering whether to give a notice under subsection (2) the Secretary of State must—
- (a) take into account (so far as relevant) the matters mentioned in paragraphs (a) to (g) of subsection (7) of section 82;
 - (b) give the persons mentioned in subsection (8) an opportunity to be heard.
- (8) Those persons are—
- (a) the applicant and the owner;
 - (b) any person with a right to have anything conveyed by the pipeline or processed by the facility;
 - (c) the Health and Safety Executive; and
 - (d) such other persons as the Secretary of State considers appropriate.
- (9) If the Secretary of State gives a notice under subsection (2), section 82 has effect in relation to the pipeline or facility concerned as if references to the pipeline or facility were references to the pipeline or facility as it would be with the modifications specified in the notice.
- (10) In this section “owner”, in relation to a pipeline or facility, means any of the following—
- (a) a person in whom the pipeline or facility is vested; and

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- (b) a lessee and any person occupying or controlling the pipeline or facility.