

SCHEDULE 4

Protection of UK-wide Interests

PART 3

Pipeline payments

Interpretation

15. In this Part—

“agreement” means an agreement between the manager and a pipeline operator which grants rights to the pipeline operator—

- (a) in, under or over any part of the Scottish foreshore, Scottish coastal waters or the Scottish zone, and
- (b) in connection with the construction, laying, maintenance or use of a pipeline;

“appropriate person” means—

- (a) such person as the Treasury and the Scottish Ministers may agree, or
- (b) if no person is agreed, such person as may be nominated, on the joint application of the Treasury and the Scottish Ministers, by the Royal Institution of Chartered Surveyors;

“market value”, in relation to an agreement, means the best consideration in money or money’s worth which can reasonably be obtained, having regard to all the circumstances of the case but ignoring for that purpose any element of monopoly value which may exist;

“payment” means—

- (a) a payment which is first required on or after the transfer date, or
- (b) an increase in a payment which takes effect on or after the transfer date regardless of when the payment was first required;

“petroleum” has the same meaning as in section 1 of the Petroleum Act 1998⁽¹⁾;

“pipeline operator” means a person who is, or will be, operating a pipeline for the conveyance of petroleum; and

“territorial sea” means the UK territorial sea but does not include any part of Scotland.

Notification of objection to payment

16.—(1) This paragraph applies where—

- (a) the manager proposes to require, or has required, a payment from a pipeline operator in connection with an agreement; and
- (b) the pipeline operator notifies the Treasury in writing of that operator’s objection to the payment and the reasons in writing for that objection.

(2) As soon as reasonably practicable after receiving a notification and the related reasons under sub-paragraph (1), the Treasury must notify the manager in writing of the objection.

(3) After receiving a notification under sub-paragraph (2)—

(1) 1998 c.17.

- (a) the manager must notify the Treasury in writing of the amount of the payment and of how that amount was calculated no later than one month after the day on which the Treasury notify the manager under sub-paragraph (2); and
- (b) if the payment (or any part of the payment) has already been required but not yet made, the manager must immediately suspend the payment.

No notice of objection to payment

17. Unless the Treasury give notice in accordance with paragraph 18, the manager may require the payment, or any outstanding part of the payment, after the expiration of—

- (a) the period of three months beginning on the day on which notification is given under paragraph 16(3)(a), or
- (b) such shorter period as the Treasury may allow.

Determination of market value

18. If the Treasury consider that the payment may be more than market value, the Treasury may give notice in writing to the manager before the expiration of the period mentioned in paragraph 17.

19. Where the Treasury have given notice in accordance with paragraph 18, the appropriate person must determine an amount which is market value for the payment.

20.—(1) In making the determination under paragraph 19, the appropriate person must have regard to—

- (a) the amount of any payment required by the manager for the grant of equivalent rights in, under or over any part of the Scottish foreshore, Scottish coastal waters or the Scottish zone;
- (b) the amount of any payment required by the Commissioners for the grant of equivalent rights in, under or over any part of the foreshore, the territorial sea or the exclusive economic zone; and
- (c) any duly-made representation provided to the appropriate person by any of the following—
 - (i) the manager,
 - (ii) the pipeline operator,
 - (iii) the Treasury.

(2) In this paragraph—

“duly-made representation” means a representation which complies with all relevant requirements notified in writing by the appropriate person to the maker of the representation; and

“relevant requirement” means a requirement as to—

- (a) the content or length of a representation, or
- (b) the date by which a representation must be submitted to the appropriate person, provided that any requirement under paragraph (b) must not take effect any earlier than 28 days after the day on which the requirement is notified to the maker of the representation.

21. As soon as reasonably practicable after making the determination under paragraph 19, the appropriate person must notify the following persons of the determination—

- (a) the manager,
- (b) the pipeline operator, and

(c) the Treasury.

22. The manager must—

- (a) ensure that the payment does not exceed the amount determined under paragraph 19; and
- (b) if the pipeline operator has already paid more than market value, as soon as reasonably practicable the manager must refund the excess to the operator.

23. If the manager fails to comply with paragraph 22(b), the pipeline operator may recover the excess as a civil debt.

Fees of the appropriate person

24. The appropriate person may charge a fee in respect of its determination under paragraph 19 and may apportion that fee as it considers appropriate between any of the following—

- (a) the manager,
- (b) the pipeline operator,
- (c) the Treasury.