



Petroleum Act 1998

1998 CHAPTER 17

PART IV

ABANDONMENT OF OFFSHORE INSTALLATIONS

29 Preparation of programmes

- (1) The Secretary of State may by written notice require—
 - (a) the person to whom the notice is given; or
 - (b) where notices are given to more than one person, those persons jointly,to submit to the Secretary of State a programme setting out the measures proposed to be taken in connection with the abandonment of an offshore installation or submarine pipeline (an “abandonment programme”).
- (2) A notice under subsection (1) shall either specify the date by which the abandonment programme is to be submitted or provide for it to be submitted on or before such date as the Secretary of State may direct.
- (3) A notice under subsection (1) may require the person to whom it is given to carry out such consultations as may be specified in the notice before submitting an abandonment programme.
- (4) An abandonment programme—
 - (a) shall contain an estimate of the cost of the measures proposed in it;
 - (b) shall either specify the times at or within which the measures proposed in it are to be taken or make provision as to how those times are to be determined;
 - (c) if it proposes that an installation or pipeline be left in position or not wholly removed, shall include provision as to any continuing maintenance that may be necessary.
- (5) A person who submits an abandonment programme to the Secretary of State under this section shall at the same time pay to him such fee in respect of his expenditure under this Part of this Act as may be determined in accordance with regulations under section 39.

- (6) The Secretary of State may exercise his powers under this section notwithstanding that an abandonment programme has previously been submitted for the installation or pipeline in question, but only if he rejected that programme under section 32 or has withdrawn his approval of it under section 35.

30 Persons who may be required to submit programmes

- (1) A notice under section 29(1) shall not be given to a person in relation to the abandonment of an offshore installation unless at the time when the notice is given he is within any of the following paragraphs—
- (a) the person having the management of the installation or of its main structure;
 - (b) a person to whom subsection (5) applies in relation to the installation;
 - (c) a person outside paragraphs (a) and (b) who is a party to a joint operating agreement or similar agreement relating to rights by virtue of which a person is within paragraph (b);
 - (d) a person outside paragraphs (a) to (c) who owns any interest in the installation otherwise than as security for a loan;
 - (e) a company which is outside paragraphs (a) to (d) but is associated with a company within any of those paragraphs.
- (2) A notice under section 29(1) shall not be given to a person in relation to the abandonment of a submarine pipeline unless at the time when the notice is given he is within any of the following paragraphs—
- (a) a person designated as the owner of the pipeline by an order made by the Secretary of State under section 27;
 - (b) a person outside paragraph (a) who owns any interest in the whole or substantially the whole of the pipeline, otherwise than as security for a loan;
 - (c) a company which is outside paragraphs (a) and (b) but is associated with a company within one of those paragraphs.
- (3) The Secretary of State may by written notice require a person appearing to the Secretary of State to be within any of the paragraphs of subsection (1) or (2) to give him, within such time as may be specified in the notice, the name and address of every other person whom the recipient of the notice believes to be within any of those paragraphs in relation to the installation or pipeline concerned.
- (4) A person who without reasonable excuse fails to comply with a notice under subsection (3) shall be guilty of an offence.
- (5) This subsection applies to a person in relation to an offshore installation if—
- (a) he has the right to exploit or explore mineral resources in any area, or to store gas in any area and to recover gas so stored; and
 - (b) any activity mentioned in subsection (6) is carried on from, by means of or on the installation,
- or if he had such a right when any such activity was last so carried on.
- (6) The activities referred to in subsection (5) are—
- (a) the exploitation or exploration of mineral resources, or the storage or recovery of gas, in the exercise of the right mentioned in subsection (5)(a);

- (b) the conveyance in the area so mentioned, by means of a pipe or system of pipes, of minerals got, or gas being stored or recovered, in the exercise of that right; and
 - (c) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within paragraph (a) or (b) or this paragraph.
- (7) The fact that an installation has been maintained for the carrying on of an activity within subsection (6) shall be disregarded for the purposes of paragraph (c) of that subsection if, since it was so maintained, the installation—
 - (a) has been outside relevant waters or, where it was so maintained in a part of a foreign sector of the continental shelf adjacent to those waters, the area consisting of those waters and that part; or
 - (b) has been maintained for the carrying on of an activity which is not within that subsection.
- (8) For the purposes of this section, one company is associated with another if one of them controls the other or a third company controls both of them; and one company controls another if it possesses or is entitled to acquire—
 - (a) one half or more of the issued share capital of the company;
 - (b) such rights as would entitle it to exercise one half or more of the votes exercisable in general meetings of the company;
 - (c) such part of the issued share capital of the company as would entitle it to one half or more of the amount distributed if the whole of the income of the company were in fact distributed among the shareholders; or
 - (d) such rights as would, in the event of the winding up of the company or in any other circumstances, entitle it to receive one half or more of the assets of the company which would then be available for distribution among the shareholders,or if it has the power, directly or indirectly, to secure that the affairs of the company are conducted in accordance with its wishes.
- (9) In determining whether, by virtue of subsection (8), one company controls another, the first-mentioned company shall be taken to possess—
 - (a) any rights and powers possessed by a person as nominee for it; and
 - (b) any rights and powers possessed by a company which it controls (including rights and powers which such a company would be taken to possess by virtue of this paragraph).

31 Section 29 notices: supplementary provisions

- (1) Subject to subsection (3), the Secretary of State shall not give a notice under section 29(1) in relation to an offshore installation to a person within paragraph (d) or (e) of section 30(1) if the Secretary of State has been and continues to be satisfied that adequate arrangements (including financial arrangements) have been made by a person or persons within paragraph (a), (b) or (c) to ensure that a satisfactory abandonment programme will be carried out.
- (2) Subject to subsection (3), the Secretary of State shall not give a notice under section 29(1) in relation to a submarine pipeline to a person within paragraph (b) or (c) of section 30(2) if the Secretary of State has been and continues to be satisfied

that adequate arrangements (including financial arrangements) have been made by a person or persons within paragraph (a) to ensure that a satisfactory abandonment programme will be carried out.

- (3) Subsections (1) and (2) shall not apply if there has been a failure to comply with a notice under section 29(1) or if the Secretary of State has rejected a programme submitted in compliance with such a notice.
- (4) The Secretary of State shall not give a notice to a person under section 29(1) without first giving him an opportunity to make written representations as to whether the notice should be given.
- (5) Where the Secretary of State has given a notice under section 29(1) in relation to an installation or a pipeline, he may at any time before the programme required by it is submitted withdraw the notice or give (subject to the preceding provisions of this section) a further notice under section 29(1) (whether in substitution for or in addition to any notice already given); and if he does so he shall inform the recipients of any other notices which have been given in relation to that installation or pipeline and not withdrawn.
- (6) Neither the withdrawal of a notice given under section 29(1) nor the giving of a further notice shall relieve the recipient of any other notice of his duty to submit a programme (jointly, in a case where more than one notice is given and not withdrawn, with the recipients of the other notices).

32 Approval of programmes

- (1) The Secretary of State may either approve or reject a programme submitted to him under section 29.
- (2) If he approves a programme, the Secretary of State may approve it with or without modifications and either subject to conditions or unconditionally.
- (3) Before approving a programme with modifications or subject to conditions, the Secretary of State shall give the persons who submitted the programme an opportunity to make written representations about the proposed modifications or conditions.
- (4) If he rejects a programme, the Secretary of State shall inform the persons who submitted it of his reasons for doing so.
- (5) The Secretary of State shall act without unreasonable delay in reaching a decision as to whether to approve or reject a programme.

33 Failure to submit programmes

- (1) If a notice under section 29(1) is not complied with, or if the Secretary of State rejects a programme submitted in compliance with such a notice, the Secretary of State may himself prepare an abandonment programme for the installation or pipeline concerned.
- (2) With a view to exercising his powers under subsection (1) of this section, the Secretary of State may by written notice require any of the persons to whom notice was given under section 29(1) to provide him, within such time as may be specified in the notice, with such records and drawings and such other information as may be so specified.
- (3) A person who without reasonable excuse fails to comply with a notice under subsection (2) shall be guilty of an offence.

- (4) The Secretary of State may recover from any of the persons to whom a notice was given under section 29(1) any expenditure incurred by the Secretary of State in preparing an abandonment programme under this section, and any fee that would have been payable on the submission of a programme by those persons.
- (5) A person liable to pay any sum to the Secretary of State by virtue of subsection (4) shall also pay interest on that sum for the period beginning with the day on which the Secretary of State notified him of the sum payable and ending with the date of payment.
- (6) The rate of interest payable in accordance with subsection (5) shall be a rate determined by the Secretary of State as comparable with commercial rates.
- (7) Where the Secretary of State prepares an abandonment programme under this section, he shall inform the persons to whom notice was given under section 29(1) of its terms; and when he has done so, the following provisions of this Part of this Act shall have effect as if the programme had been submitted by those persons and approved by the Secretary of State.

34 Revision of programmes

- (1) Where the Secretary of State has approved a programme submitted to him under section 29—
 - (a) either he or the persons who submitted it acting together may propose an alteration to the programme or to any condition to which it is subject; and
 - (b) either he or any of those persons may propose that any person who by virtue of section 36 has a duty to secure that the programme is carried out shall cease to have that duty, or that a person who does not already have that duty shall have it (either in addition to or in substitution for another person).
- (2) In the case of a proposal of the kind mentioned in subsection (1)(b), any person who would if the proposed change were made have a duty to secure that the programme is carried out must be a person who—
 - (a) if the programme relates to an offshore installation, is within paragraph (a), (b), (c), (d) or (e) of section 30(1) when the proposal is made, or has been within one of those paragraphs at some time since the giving of the first notice under section 29(1) in relation to the installation; and
 - (b) if the programme relates to a submarine pipeline, is within paragraph (a), (b) or (c) of section 30(2) when the proposal is made, or has been within one of those paragraphs at some time since the giving of the first notice under section 29(1) in relation to the pipeline.
- (3) The Secretary of State shall not propose that a person who is or has been within paragraph (d) or (e) (but no other paragraph) of section 30(1) or paragraph (b) or (c) (but not paragraph (a)) of section 30(2) shall have a duty to secure that a programme is carried out unless it appears to the Secretary of State that a person already under that duty has failed or may fail to discharge it.
- (4) A proposal under subsection (1) shall be made by written notice given—
 - (a) if the proposal is the Secretary of State's, to each of the persons by whom the programme was submitted; and
 - (b) in any other case, to the Secretary of State;

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

and a person giving notice to the Secretary of State shall at the same time pay to him such fee in respect of his expenditure under this Part of this Act as may be determined in accordance with regulations under section 39.

- (5) Where the Secretary of State has made a proposal under subsection (1)(a), he shall give an opportunity to make written representations about it to each of the persons who submitted the programme.
- (6) Where a proposal has been made under subsection (1)(b), the Secretary of State shall give an opportunity to make written representations about it to every person (other than one who made the proposal) who will if the proposed change is made—
 - (a) have a duty to secure that the programme is carried out; or
 - (b) cease to have that duty.
- (7) The Secretary of State shall determine whether a change proposed under subsection (1) is to be made and shall then give notice of his determination, and of his reasons for it, to—
 - (a) every person who, before the determination was made, had a duty to secure the carrying out of the programme; and
 - (b) any person who has that duty as a result of the determination.
- (8) Where the Secretary of State determines that a change proposed in accordance with this section shall be made, this Part of this Act shall thereafter have effect as if the programme had been approved by the Secretary of State after being submitted under section 29 with the alterations, or as the case may be by the persons, specified in the determination.

35 Withdrawal of approval

- (1) The Secretary of State may at the request of one or more of the persons who submitted an abandonment programme withdraw his approval of the programme.
- (2) If a request under subsection (1) is made by some but not all of the persons who submitted the programme, the Secretary of State shall give the others an opportunity to make written representations as to whether his approval should be withdrawn.
- (3) The Secretary of State shall after determining whether to withdraw his approval of an abandonment programme give notice of his determination to each of the persons who submitted the programme.

36 Duty to carry out programmes

Where an abandonment programme is approved by the Secretary of State, it shall be the duty of each of the persons who submitted it to secure that it is carried out and that any conditions to which the approval is subject are complied with.

37 Default in carrying out programmes

- (1) If an abandonment programme approved by the Secretary of State is not carried out or a condition to which the approval is subject is not complied with, the Secretary of State may by written notice require any of the persons who submitted the programme to take such remedial action as may be specified in the notice within such time as may be so specified.

- (2) A person who fails to comply with a notice given to him under subsection (1) shall be guilty of an offence unless he proves that he exercised due diligence to avoid the failure.
- (3) If a notice under subsection (1) is not complied with, the Secretary of State may carry out the remedial action required by the notice, and may recover any expenditure incurred by him in doing so from the person to whom the notice was given.
- (4) A person liable to pay any sum to the Secretary of State by virtue of subsection (3) shall also pay interest on that sum for the period beginning with the day on which the Secretary of State notified him of the sum payable and ending with the date of payment.
- (5) The rate of interest payable in accordance with subsection (4) shall be a rate determined by the Secretary of State as comparable with commercial rates.

38 Financial resources

- (1) At any time after the Secretary of State has given a notice under section 29(1) to any person and before he has approved an abandonment programme for the installation or pipeline concerned, he may by written notice require that person within such time as may be specified in the notice—
 - (a) to provide such information relating to the financial affairs of that person; and
 - (b) to supply copies of such documents relating to those affairs,as may be so specified.
- (2) In order to satisfy himself that a person who has a duty to secure that an abandonment programme is carried out will be capable of discharging that duty, the Secretary of State may at any time by written notice require that person, within such time as may be specified in the notice—
 - (a) to provide such information; and
 - (b) to supply copies of such documents,as may be so specified.
- (3) A person who—
 - (a) without reasonable excuse fails to comply with a notice under subsection (1) or (2); or
 - (b) in purported compliance with such a notice provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular,shall be guilty of an offence.
- (4) If the Secretary of State is not satisfied that a person will be capable of discharging the duty imposed on him by section 36, he may by written notice, after consulting the Treasury, require that person to take such action as may be specified in the notice within such time as may be so specified.
- (5) The Secretary of State shall not give notice to a person under subsection (4) without first giving him an opportunity to make written representations as to whether the notice should be given.
- (6) A person who fails to comply with a notice under subsection (4) shall be guilty of an offence unless he proves that he exercised due diligence to avoid the failure.

39 Regulations

- (1) The Secretary of State may make regulations relating to the abandonment of offshore installations and submarine pipelines.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may—
 - (a) prescribe standards in respect of the dismantling, removal and disposal of installations and pipelines;
 - (b) prescribe standards and safety requirements in respect of anything left in the water in cases where an installation or pipeline is not wholly removed;
 - (c) make provision for the prevention of pollution;
 - (d) make provision for inspection, including provision as to the payment of the costs of inspection;
 - (e) make provision as to the determination of the amount of any fees that are payable to the Secretary of State under this Part of this Act.
- (3) Regulations under this section may include provision making it an offence, in such cases as may be prescribed in the regulations, to contravene the regulations.
- (4) Where regulations under this section create an offence, they shall make provision as to the mode of trial and punishment of offenders; but—
 - (a) any provision as to punishment on summary conviction shall not authorise a fine exceeding the statutory maximum or imprisonment; and
 - (b) any provision as to punishment on conviction on indictment shall not authorise imprisonment for a term exceeding two years.
- (5) Before making regulations under this section the Secretary of State shall consult organisations in the United Kingdom appearing to him to be representative of those persons who will be affected by the regulations; and he shall not make regulations relating to the amount of any fees without the consent of the Treasury.
- (6) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

40 Offences: penalties

A person guilty of an offence under section 30, 33, 37 or 38 shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

41 Offences: general

- (1) Proceedings for an offence under section 30, 33, 37 or 38 or under regulations made under section 39 shall not be instituted in England and Wales except—
 - (a) by the Secretary of State or by a person authorised in that behalf by the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (2) Proceedings for an offence under section 30, 33, 37 or 38 or under regulations made under section 39 shall not be instituted in Northern Ireland except—

- (a) by the Secretary of State or by a person authorised in that behalf by the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (3) Where an offence committed by a body corporate under section 30, 33, 37 or 38 or under regulations made under section 39 is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) Where the affairs of a body corporate are managed by its members, subsection (3) shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) If an offence under section 37 or under regulations made under section 39 is committed outside the United Kingdom, proceedings for the offence may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (6) Section 3 of the Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions) shall not apply to proceedings for an offence to which subsection (1) of this section applies.

42 Validity of Secretary of State's acts

- (1) If any person is aggrieved by any of the acts of the Secretary of State mentioned in subsection (2) and desires to question its validity on the ground that it was not within the powers of the Secretary of State or that the relevant procedural requirements had not been complied with, he may within 42 days of the day on which the act was done make an application to the court under this section.
- (2) The acts referred to in subsection (1) are—
 - (a) the giving of a notice under section 29(1);
 - (b) the approval of a programme under section 32;
 - (c) the rejection of a programme under section 32;
 - (d) a determination under section 34;
 - (e) a determination under section 35;
 - (f) the giving of a notice under section 38(4).
- (3) If on an application under this section the court is satisfied that the act in question was not within the powers of the Secretary of State or that the applicant has been substantially prejudiced by a failure to comply with the relevant procedural requirements, the court may quash the act.
- (4) Except as provided by this section, the validity of any of the acts of the Secretary of State referred to in subsection (1) shall not be questioned in any legal proceedings whatever.
- (5) In this section “the relevant procedural requirements”—
 - (a) in relation to the giving of a notice under section 29(1), means the requirements of section 31(4);

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

- (b) in relation to the approval of a programme under section 32, means the requirements of section 32(3);
 - (c) in relation to the rejection of a programme under section 32, means the requirements of section 32(4);
 - (d) in relation to a determination under section 34, means the requirements of section 34(5), (6) and (7);
 - (e) in relation to a determination under section 35, means the requirements of section 35(2);
 - (f) in relation to the giving of a notice under section 38(4), means the requirements of section 38(5).
- (6) In this section, “the court” means—
- (a) in relation to England and Wales, the High Court;
 - (b) in relation to Scotland, the Court of Session;
 - (c) in relation to Northern Ireland, the High Court.

43 Notices

Any notice or other communication authorised or required to be given by this Part of this Act may be sent by post (but this is without prejudice to any other method of transmission).

44 Meaning of “offshore installation”

- (1) In this Part of this Act, “offshore installation” means any installation which is or has been maintained, or is intended to be established, for the carrying on of any activity to which subsection (2) applies.
- (2) This subsection applies to any activity mentioned in subsection (3) which is carried on from, by means of or on an installation which is maintained in the water, or on the foreshore or other land intermittently covered with water, and is not connected with dry land by a permanent structure providing access at all times and for all purposes.
- (3) The activities referred to in subsection (2) are—
 - (a) the exploitation, or the exploration with a view to exploitation, of mineral resources in or under the shore or bed of relevant waters;
 - (b) the storage of gas in or under the shore or bed of relevant waters or the recovery of gas so stored;
 - (c) the conveyance of things by means of a pipe, or system of pipes, constructed or placed on, in or under the shore or bed of relevant waters; and
 - (d) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within paragraph (a), (b) or (c) or this paragraph.
- (4) In this Part of this Act, “relevant waters” means—
 - (a) tidal waters and parts of the sea in or adjacent to the United Kingdom up to the seaward limits of the territorial sea;
 - (b) waters in an area designated under section 1(7) of the Continental Shelf Act 1964; and

- (c) such inland waters as may for the time being be specified for the purposes of this paragraph by Order in Council;
- but Her Majesty may by Order in Council provide that, in such cases and subject to such exceptions and modifications as may be prescribed by the Order, this Part of this Act shall have effect as if—
- (i) any reference in this Part of this Act to relevant waters included a reference to waters in any area specified under section 10(8); and
 - (ii) in relation to an installation which is or has been maintained, or is intended to be established, in relevant waters, any reference in subsection (3) to relevant waters included a reference to waters in a foreign sector of the continental shelf which are adjacent to such waters.
- (5) For the purposes of this section—
- “inland waters” means waters within the United Kingdom other than tidal waters and parts of the sea;
 - “installation” includes—
 - (a) any floating structure or device maintained on a station by whatever means; and
 - (b) in such cases and subject to such exceptions as may be prescribed by Order in Council, any apparatus or works which are by virtue of section 26 to be treated as associated with a pipe or system of pipes for the purposes of Part III of this Act,but, subject to paragraph (b), does not include any part of a pipeline within the meaning of that section;
 - “modifications” includes additions, omissions and alterations.
- (6) The fact that an installation has been maintained for the carrying on of an activity falling within subsection (3) shall be disregarded for the purposes of this section if, since it was so maintained, the installation—
- (a) has been outside relevant waters or, where it was so maintained in a part of a foreign sector of the continental shelf adjacent to those waters, the area consisting of those waters and that part; or
 - (b) has been maintained for the carrying on of an activity not falling within that subsection.
- (7) Any statutory instrument containing an Order under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

45 Interpretation of Part IV

In this Part of this Act—

- “abandonment programme” has the meaning given by section 29;
- “foreign sector of the continental shelf” has the meaning given by section 48(1);
- “offshore installation” has the meaning given by section 44;
- “relevant waters” has the meaning given by section 44(4);
- “submarine pipeline” means a pipeline within the meaning of section 26 which is in, under or over waters in—
 - (a) the territorial sea adjacent to the United Kingdom; or
 - (b) an area designated under section 1(7) of the Continental Shelf Act 1964.