

ENERGY ACT 2008

EXPLANATORY NOTES

Chapter 2: Importation and Storage of Combustible Gas

Commentary on Sections

Licensing

Section 4: Licences

23. This section allows the Secretary of State to grant licences for the purposes of this Chapter. Such a licence will permit, under the terms and conditions laid down in the licence, the carrying on of one or more of the activities mentioned in section 2. However, in order to make use of the sea, the seabed or spaces under the seabed for the purpose of these activities, an operator would in addition have to obtain a lease or (outside the territorial sea) authorisation from The Crown Estate, who administer the relevant rights to the offshore area vested under section 1 (or, within the territorial sea, vested in the Crown under common law). *Subsection (2)* accordingly allows the geographical coordinates covered by the licence to be linked to those covered by the lease or authorisation from The Crown Estate (see also section 6(2)).

Section 5: Applications

24. This section gives the Secretary of State the power to make regulations about the making of applications for licences. The regulations will be subject to negative resolution procedure (see section 105). In particular, the regulations may set out:
- who can apply for a licence;
 - requirements that must be satisfied by or in relation to the licence applicant;
 - how the application for a licence must be made;
 - the information which an application must contain and any accompanying documents;
 - an application fee.

Section 6: Terms and conditions

25. This section enables the Secretary of State to determine the terms and conditions of a licence. *Subsection (2)* allows the commencement and duration of the licence to be linked to that of the corresponding lease or authorisation from The Crown Estate.
26. *Subsection (3)* allows a licence to permit the licence holder to transfer the licence to another person or to include another person as a party to the licence, subject to any conditions set out in the licence.
27. The conditions of the licence may, under *subsection (4)*, also include a requirement for the licence holder to obtain the prior consent of the Secretary of State or another

*These notes refer to the Energy Act 2008 (c.32)
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person (such as the Health and Safety Executive) for acts specified in the licence. This could include, for example, a requirement for such consent for the drilling of a well. The licence may provide for the consent itself to be subject to conditions. *Subsection (5)* makes it clear that one of those conditions might be the modification of the licence in a specified respect.

Section 7: Model clauses

28. This section enables the Secretary of State to set out model clauses. Model clauses are standard sets of terms and conditions, which (subject to *subsection (3)*) will be incorporated in all licences. Such model clauses will be prescribed by regulations subject to negative resolution procedure (see section 105). By virtue of section 104 it will be possible to set out different model clauses for different cases. For instance, sets of model clauses made for gas storage may differ from those for unloading of Liquefied Natural Gas.
29. *Subsection (3)* enables the Secretary of State to omit or modify one or more of the model clauses in the case of any particular licence.