

ENERGY ACT 2008

EXPLANATORY NOTES

Part 4: Provisions Relating to Oil and Gas

Petroleum Licensing

Summary and Background

365. **Section 76** makes amendments to Part 1 of the Petroleum Act 1998 (the “1998 Act”) (which concerns the licensing of petroleum exploration and extraction). These amendments give the Secretary of State new powers relating to the unconsented transfer of rights or benefits under petroleum licences. Section 77 and Schedule 3 amend various model clauses of petroleum licences granted pursuant to the 1998 Act or the **Petroleum (Production) Act 1934 (c.34)** (the “1934 Act”). The amendments to model clauses are intended to ensure the more efficient management of the licence and to ensure that suspended petroleum wells are properly abandoned including:

- a power of partial revocation of a licence in the event of, for example, the insolvency of one, but not all, of the persons constituting the licensee;
- a new obligation for the licensee to provide contact details to the Minister; and
- a new power to require a licensee to plug and abandon a well which has been suspended for at least one month.

Commentary on Sections

Section 76: Transfers without the consent of the Secretary of State

366. Petroleum licences issued under the 1934 Act and the 1998 Act grant a licensee the right to search, bore for or get petroleum. Under the terms of certain petroleum licences issued under the 1998 Act or the 1934 Act, the licensee must obtain the Secretary of State’s prior written consent before assigning or transferring any right or benefit in the licence. Nevertheless, such rights or benefits are sometimes transferred without the Secretary of State’s prior consent having been obtained.

367. This section inserts three new sections after section 5 of the 1998 Act dealing with transfers of rights in a licence, or rights or benefits derived from such rights, (other than by way of security for a loan) which have not received the Secretary of State’s prior consent (an “unconsented transfer”). The three new sections are:

- 5A Rights transferred without consent of the Secretary of State
- 5B Information
- 5C Offences under section 5B: supplemental

New section 5A : Rights transferred without consent of the Secretary of State

368. Where there has been an unconsented transfer, *subsection (2)* gives the Secretary of State a power to issue a notice to both the transferor and the transferee directing that the

right or benefit in the licence revert back to the transferor from a date specified in the notice. That date must not be earlier than the date the notice is given (*subsection (3)*).

369. During the period of the transfer the transferee will take any rights to search for, bore for or get petroleum which have in fact been transferred. The transferee will therefore effectively take any petroleum extracted or monies received in respect of any such petroleum (and consequently will be responsible for any tax liabilities associated with such petroleum or monies). The transferor will nevertheless remain liable for any obligations arising under the licence. Following a direction under *subsection (2)* the assigned rights and benefits will revert back to the transferor from the date specified in the notice (and consequently any associated tax liabilities which relate to the ownership of petroleum may apply to the transferor as from that time). Under *subsection (4)*, the Secretary of State must notify both the transferor and the transferee of any proposal to issue a notice under *subsection (2)* and the Secretary of State must also give both parties a reasonable opportunity to make representations.
370. Under *subsection (5)*, a notice under *subsection (2)* must be issued within 3 months of the Secretary of State learning of the unconsented transfer.

New section 5B: Information

371. For the purpose of enabling the Secretary of State to determine whether an unconsented transfer has occurred, *subsection (1)* of Section 5B allows the Commissioners for Her Majesty's Revenue and Customs (the "Commissioners") to disclose to the Secretary of State information relating to the transfer of rights granted under petroleum licences.
372. Under *subsection (3)*, information disclosed under this section may only be further disclosed:
- for the purposes of enabling the Secretary of State to determine whether an unconsented transfer has occurred – but only with the consent of the Commissioners (which may be general or specific);
 - pursuant to a court order; or
 - with the consent of the person(s) to whom the information relates.
373. Under *subsection (4)*, a person commits an offence if he discloses information – except in circumstances set out under *subsection (3)* – which specifies the identity of the person to whom the information relates, or from which that person's identity can be deduced.
374. *Subsection (5)* provides a defence to a person who is charged with an offence under *subsection (4)*. The defence applies where a person charged proves that they reasonably believed either that the disclosure of the information was lawful, or that the information had already and lawfully been made available to the public.
375. Under *subsection (6)*, a person found guilty of unlawfully disclosing the information is liable:
- on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000 in England, Wales and Northern Ireland and £10,000 in Scotland), a maximum of 12 months in prison, or both; or
 - on conviction on indictment, to an unlimited fine, a maximum of 2 years' imprisonment, or both.

New section 5C: Offences under [section 5B](#): supplemental

376. [Section 5C](#) makes further provision in respect of proceedings brought in England and Wales and Northern Ireland for offences committed under section 5B.

377. *Subsection (1)* provides that in England and Wales no proceedings for an offence under section 5B may be instituted except by the Director of Revenue and Customs Prosecutions, or with the consent of the Director of Public Prosecutions. *Subsection (2)* provides that in Northern Ireland no proceedings can be instituted except by the Commissioners or with the consent of the Director of Public Prosecutions for Northern Ireland.
378. *Subsection (3)* provides that the maximum term of imprisonment that can be imposed on summary conviction in Northern Ireland is 6 months rather than 12 months.
379. *Subsection (4)* provides that if the offence is committed in England and Wales before commencement of section 282 of the [Criminal Justice Act 2003 \(c.44\)](#), the maximum imprisonment on summary conviction is 6 months rather than 12 months.

Section 77: Model clauses of petroleum licences & Schedule 3: Petroleum Licences: Amendments to Model Clauses

380. This section, together with Schedule 3, amends the secondary legislation containing model clauses for certain existing licences granted under the 1934 Act or the 1998 Act (“relevant licences”), with the effect that new clauses, and amendments to existing clauses, will be included in relevant licences from the date that the relevant provisions of the Schedule come into force. In other words, this section amends all existing licences that contain the relevant model clauses we are amending (as set out in the Schedule).
381. *Subsection (2)* provides that relevant licences granted under the 1934 Act or the 1998 Act and which are still in existence immediately before the relevant provisions of the Schedule come into force, will also contain the relevant model clauses as set out in the Schedule. *Subsection (3)* ensures that the new provisions will also be inserted into existing licences which incorporate modified or amended versions of the model clauses (including cases where particular model clauses have been omitted). *Subsection (7)* provides that where any provision is added to the terms of an existing licence by this section and Schedule, the Secretary of State and the licensee may nevertheless agree to alter or delete the provisions by deed.
382. The amendments contained in the Schedule are as follows:

Provision of contact details to Minister

383. The Schedule inserts clauses into relevant licences which require licensees to provide the Minister with contact details for the person to whom notices, directions and other documents under the licence are to be sent.
384. If the licensee fails to comply, the licensee may be served with a notice which requires the provision of such details within a month. The notice will also inform the licensee that if there is a failure to provide the information required within the one month time limit, the Minister will treat the licensee as having supplied the contact details which the Minister has specified in the notice. It is the licensee’s responsibility to ensure that the contact details held by the Minister are up to date.

The power to issue a notice to plug and abandon a well

385. The Schedule also inserts clauses into relevant licences which give the Minister the power to issue a notice requiring the licensee to plug and abandon a well which has been suspended for a period of at least a month. The licensee will be required to plug and abandon the well within the period set out in the notice.
386. A notice requiring a licensee to plug and abandon a well under this section must be given more than one month before the natural expiry or termination of the licensee’s rights in relation to the licence.

387. *Subsection (4)* of section 77 provides that the power to require that a suspended well be plugged and abandoned cannot be exercised in relation to a well where drilling started before the relevant provisions of the Schedule come into force.

Revocation on change of control

388. Under the terms of existing model clauses of relevant licences, the Minister may revoke a licence whenever there is a change of control in a licensee in circumstances where:
- the Minister serves notice on the licensee stating that the Minister intends to revoke the licence unless a further change in the control of the licensee as is specified in the notice takes place within a period of three months; and
 - that further change does not take place within that period.
389. The existing model clauses of relevant licences provide that there is a change of control (hence requiring the consent of the Secretary of State) whenever a person has control of the licensee who did not have control of the licensee when the licence was *originally* granted. The Schedule extends this by providing that where rights have been assigned, there will also now be said to be a change of control whenever a person takes control over an assignee who did not control that assignee when the rights were assigned.
390. *Subsection (5)* of section 74 provides that this extended power of revocation only applies if the change of control occurred after the relevant provisions of the Schedule come into force.

The power of partial revocation

391. The Schedule also inserts clauses into relevant licences which apply when more than one person holds the licence. Whilst the Minister already has the power to revoke the entire licence in the circumstances set out below (on account of the licence being joint and several in nature) this provision supplements that power by giving the Minister a power to revoke the interests of one or more, rather than all, of the persons which are the licensee. This power applies where:
- the person or persons concerned become bankrupt or insolvent;
 - there is a change of control of the person or persons concerned and the person or persons fail to take steps to address the Minister's objections to that change in control; or
 - the person or persons concerned cease to have a fixed place of business in the UK from which operations under the licence are carried out.
392. Obligations and liabilities arising before the partial revocation of an interest in a licence are not affected by the partial revocation.
393. Where a licence interest is revoked in relation to one person on the licence, the person whose interest has been revoked remains jointly and severally liable for any obligations arising before the partial revocation takes place. After partial revocation, the rights, obligations and liabilities associated with the licence continues to have effect in respect of all the remaining persons on the licence. In practice, the Secretary of State would expect to consult the non-defaulting parties before exercising this power of partial revocation.
394. *Subsection (5)* of section 77 provides that the power of partial revocation only applies if the event happens after the relevant provisions of the Schedule come into force.

Third Party Access Summary and Background

395. The Government considers that access to infrastructure on fair and reasonable terms is crucial to maximising the economic recovery of the UK's oil and, particularly, gas. This is because many fields on the UK Continental Shelf (UKCS) and in the territorial sea do not contain sufficient reserves to justify their own infrastructure, but are economic as satellite developments utilising existing infrastructure.
396. There is a voluntary “Infrastructure Code of Practice” (*The Code of Practice on Access to Upstream Oil and Gas Infrastructure on the UK Continental Shelf*) which sets out principles and procedures to guide all those involved in negotiating third-party access to oil and gas infrastructure on the UK Continental Shelf. There is existing legislation in the Acts listed below under which, if a third party is unable to agree satisfactory terms of access with the owner of most upstream infrastructure, the third party seeking such access can – and under the terms of the Infrastructure Code of Practice is obliged to – make an application to the Secretary of State to decide whether access should be granted and, if so, on what terms:
- [The Pipe-lines Act 1962 \(c.58\)](#)
 - [The Gas Act 1995 \(c.45\)](#)
 - [The Petroleum Act 1998 \(c.17\)](#)
397. In the existing regulatory framework there are gaps in the coverage of the Secretary of State’s powers to determine third party access that mean some parts of the upstream petroleum infrastructure are not covered. “Upstream infrastructure” refers to infrastructure relating to the production of oil and gas including transportation and processing required to get it into a saleable state. Downstream infrastructure refers to facilities such as oil refineries and the distribution and storage network required to get oil products and gas to consumers. Gaps in the legislation exist, for example, in relation to access to oil processing facilities, certain gas processing facilities and services associated with pipelines. This means that a party seeking access to all links in the chain of the infrastructure would currently be able to ask the Secretary of State to determine a dispute over only certain parts of it. The legislation can only be wholly effective as a backstop if it covers the entire range of upstream infrastructure. If it did so, the Secretary of State would be able to be a more effective arbiter in situations where interested parties cannot reach commercial agreement.
398. The Act extends the existing regime so that, if he is requested to intervene in the case of disputes over third party access, the Secretary of State will have the power to determine third party access rights to all upstream petroleum infrastructure.

Commentary on Sections

Section 78: Third party access to infrastructure

399. This section extends the scope of definitions in the existing legislation, so that parts of the upstream petroleum infrastructure not currently covered by the third party access regulatory regime are brought within their scope.
400. *Subsection (1)* amends section 66(1) of the [Pipe-lines Act 1962 \(c.58\)](#) (interpretation) to expand the definitions of:
- “Gas processing operation” to include separating, purifying, blending, odourising or compressing gas to convert it into a form in which a purchaser is willing to accept delivery from a seller, or to enable the gas to be delivered to another place either inside or outside Great Britain. The expanded definition also covers the loading of gas for the purpose of enabling the processed gas to be transported to another place (whether inside or outside Great Britain) either at a facility carrying out gas processing operations (as described above) or where the gas has been piped from such a facility.

*These notes refer to the Energy Act 2008 (c.32)
which received Royal Assent on 26 November 2008*

- “Terminal” to include oil processing facilities (oil processing facilities are defined at section 78)
- “Upstream petroleum pipe-line” to include apparatus, works and services that are associated with the operation of a pipe-line or network. As a result, the new definition captures services used for operating upstream petroleum pipelines which are not currently part of the third party access regulatory regime.

The effect of the expanded definitions is to increase the scope of the Secretary of State’s powers over third party access to upstream petroleum pipe-lines provided by section 10E of the [Pipe-lines Act 1962 \(c58\)](#).

401. *Subsection (2)* amends subsection (6) of section 12 of the [Gas Act 1995 \(c.45\)](#) (acquisition of rights to use gas processing facilities) to expand the definition of:

- “Gas processing operation” to include separating, purifying, blending, odourising or compressing gas to convert it into a form in which a purchaser is willing to accept delivery from a seller, or to enable the gas to be delivered to another place either inside or outside Great Britain. The expanded definition also covers the loading of gas for the purpose of enabling the processed gas to be transported to another place (whether inside or outside Great Britain) either at a facility carrying out gas processing operations (as described above) or where the gas has been piped from such a facility.

402. *Subsection (2)* also amends subsection (7) of section 12 of the Gas Act 1995 to expand the definition of:

- “Associate” to bring it in line with the new provisions covering third party access to oil processing facilities in this Act. The definition of associate is set out in section 79 and is explained in the detailed commentary to that section. These changes ensure the definition of associate is consistent across the whole of the third party access regime for upstream petroleum infrastructure.

The effect of the expanded definitions is to increase the scope of the Secretary of State’s powers over third party access to gas processing facilities under section 12 of the [Gas Act 1995 \(c 45\)](#).

403. *Subsections (3) and (4)* amend sections 26 and 28 of the [Petroleum Act 1998 \(c.17\)](#) respectively. *Subsection (3)* amends section 26 (“meaning of pipeline”) so as to expand the scope of the definition of a pipe-line to include services (for example the provision of fuel or power needed to operate third party equipment on or from the host facility) as well as the apparatus and works associated with a pipe-line.

404. *Subsection (4)* amends section 28 (interpretation of Part 3) in two ways, expanding the definitions of:

- “Gas processing operation” so as to bring it into line with the changes in the [Pipelines Act 1962](#) and the [Gas Act 1995](#) described above, i.e. to include separating, purifying, blending, odourising or compressing gas to convert it into a form in which a purchaser is willing to accept delivery from a seller, or to enable the gas to be delivered to another place either inside or outside Great Britain. The expanded definition also covers the loading of gas for the purpose of enabling the processed gas to be transported to another place whether inside or outside Great Britain, either at a facility carrying out gas processing operations (as described above) or where the gas has been piped from such a facility.
- “Terminal” to include oil processing facilities (oil processing facilities are defined at *subsection (4)(b)*).

The effect of the expanded definitions is to increase the scope of the Secretary of State's powers over third party access to controlled petroleum pipelines under section 17F of the Petroleum Act 1998.

Section 79: Modification of pipelines

405. This section inserts two new sections after subsection 10F of the [Pipe-lines Act 1962 \(c.58\)](#) (reducing necessity for constructing additional pipe-lines):

- 10G which provides for compulsory modifications of pipe-lines by way of notice; and
- 10H which concerns enforcement of such a notice.

These additions are modelled on the Secretary of State's powers under section 16 of the Petroleum Act 1998, under which he can issue a notice requiring the modification of controlled pipelines (which in the context of section 16 of the Petroleum Act 1998 means pipelines which are offshore). As with the third party access regime under that Act, this power is only exercisable on application by a person other than the owner of the pipeline. Failure to comply with a notice issued under section 16 is an offence and a similar offence will be included in the new additions to the Pipe-lines Act 1962.

406. The section will therefore give the Secretary of State powers under the Pipe-lines Act 1962 in relation to upstream petroleum pipelines equivalent to those the Secretary of State already has under section 16 of the Petroleum Act 1998 for controlled pipelines offshore.

New Section 10G: Compulsory modifications of pipelines

407. This section gives the Secretary of State the power to issue a pipeline modification notice in respect of upstream petroleum pipelines, on the application of a person other than the owner. A notice can be issued to the applicant and owner of the pipeline only if the Secretary of State is satisfied that the capacity of the pipeline can be increased by modifying the apparatus and works associated with the pipeline, or that the pipeline can and should be modified by installing junctions to connect it to other pipelines. A modification notice also covers any changes, substitutions, or additions in relation to apparatus and works associated with the pipeline. (see *subsection (5)*).

408. *Subsection (3)* sets out that the notice must:

- Specify the modifications that the Secretary of State thinks should be made.
- Specify the sums or method of determining the sums which the Secretary of State thinks should be paid to the owner by the applicant to pay for the costs of carrying out the modifications.
- Require the applicant to make arrangements to ensure 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.
- Specify the period in which those financial arrangements must be made.
- Require the owner to carry out the modifications within a period specified in the notice.
- Authorise the owner to recover the sums from the applicant if the works are carried out or the Secretary of State is satisfied that they will be carried out.

409. Furthermore, before issuing the notice *subsection (4)* requires the Secretary of State to give the owner of the pipe-line an opportunity to be heard.

410. *Subsection (6)* clarifies that if a pipeline is offshore (i.e. it falls into the section 14 Petroleum Act 1998 definition of “controlled pipeline”), the modification provisions under that Act will apply (see section 16 Petroleum Act 1998) instead of the provisions under this new section 10G of the Pipe-lines Act 1962.

New section 10H: Enforcement

411. This section makes it an offence for an owner to fail to comply with a “pipe-line modification notice” issued under new section 10G. A person found guilty of such an offence is, as set out in new *subsection (2)*, liable to:
- on summary conviction, a fine not exceeding the statutory maximum (currently £5,000 in England, Wales and Northern Ireland and £10,000 in Scotland), or;
 - on conviction on indictment, to an unlimited fine.
412. *Subsection (3)* provides a person in proceedings for prosecution of the offence with a defence, if the person can prove he exercised due diligence in trying to comply with the pipe-line modification notice.
413. *Subsection (4)* states that proceedings can be instigated only by the Secretary of State (or a person authorised by the Secretary of State) or by or with the consent of the Director of Public Prosecutions
414. *Subsections (5) to (7)* provide that if it can be proved that an offence committed by a body corporate was attributable to any actions of or failure to act by, or was done with the consent or involvement of any director, manager, secretary, member, or other similar officer of the body corporate (or any person who was purporting to act as one) that person (as well as the body corporate) will be liable for the offence and can be prosecuted accordingly.
415. In addition to inserting the two new sections 10G and 10H into the Pipe-lines Act 1962, section 79 also inserts a new *subsection (5)* into the current section 10F (supplemental provision relating to third party access). This requires the Secretary of State, before issuing a pipe-line modification notice:
- to give the person who applied for the notice details of the modifications the Secretary of State is proposing, and
 - to give the person an opportunity to make an application for third party access to upstream petroleum pipelines (covered by section 10E of that Act) if they have not already agreed these terms.

Section 80: Third party access to oil processing facilities

416. This section sets out the process of dispute resolution for third party access to oil processing facilities. It specifies the steps that need to have been taken before the applicant can apply to the Secretary of State for directions, as well as what the Secretary of State may do if these initial steps do not enable the applicant and owner involved to reach a consensus themselves. *Subsection (2)* explains the extent of this provision; it applies only to oil processing facilities situated in Great Britain and the territorial sea adjacent to Great Britain (including areas of the sea designated under section 1(7) of the Continental Shelf Act 1964).
417. *Subsections (3) and (4)* require the applicant to apply to the owner of the oil processing facilities by a notice specifying the nature of the access they are seeking. This should include the period of time over which the applicant wants petroleum processed by the facility in question, the kind of petroleum to be processed at the facility, and the quantities of petroleum the applicant wants processed by the facility.
418. If the applicant and the owner cannot reach an agreement on the application, *subsection (5)* allows the applicant to apply to the Secretary of State for directions

securing the access required (as set out in the applicant's original notice to the owner of the oil processing facilities). *Subsection (6)* provides that the Secretary of State may not consider such an application unless satisfied that the parties have had a reasonable time to reach an agreement.

419. When considering an application, the Secretary of State must, according to *subsection (7)*, decide whether the application needs to be adjourned to give the parties further time to negotiate, considered further or rejected. The applicant must then be notified of the Secretary of State's decision. If the Secretary of State decides to consider the application further, then notice must be given to the persons set out below (as set out in *subsection (8)*) and give them the opportunity to be heard in relation to the application:
- the owner of the oil processing facility;
 - any person who has a right to have petroleum processed at the facility; and
 - the Health and Safety Executive.
420. *Subsection (9)* provides that the Secretary of State may give directions (the terms of which are set out under section 81) on an application for third party access, if satisfied that they will not prejudice:
- the efficient operation of the oil processing facility;
 - the processing of petroleum by the facility of quantities of petroleum which the owner or an associate of the owner requires (or may be reasonably expected to require) to be processed for the purposes of their own business; or
 - the processing of petroleum by the facility by other people with a right to have their petroleum processed by the facility.

Section 81: Directions under section 80: supplemental

421. This section describes the terms of the directions for third party access that may be made by the Secretary of State in relation to an application from a third party seeking access to an oil processing facility under section 80.
422. The Secretary of State may, under *subsection (1)*, issue directions that:
- specify the terms on which the Secretary of State considers the owner of the oil processing facilities should enter into an agreement with the applicant for access to the facilities for all or any of the purposes listed in *subsection (2)* (see paragraph below for a description of this list);
 - specify the sums (or method for working out the sums) that should be paid by the applicant to the owner by way of consideration for the right to use the oil processing facilities; and
 - require the owner to enter into an agreement with the applicant if the applicant pays (or agrees to pay) the sums within a specified period. The specified period will be stated in the directions.
423. *Subsection (2)* sets out the purposes for which the Secretary of State can specify terms in directions made under *subsection (1)*:
- securing to the applicant the right of having petroleum processed at the oil processing facility;
 - securing that the applicant is not stopped from exercising that right;
 - regulating the charges which can be made for the right to access the oil processing facility;

- securing any ancillary or incidental rights for the third party that the Secretary of State believes are necessary or expedient. For example, the right to have their pipeline connected to the oil terminal by the owner.
424. *Subsection (3)* sets out that in order to consider an application made to him for directions about third party access to an oil processing facility (under section 80(5)), the Secretary of State can issue a notice requiring the owner of the infrastructure or the applicant to supply information relevant to the application.
425. *Subsection (4)* states that this information may include financial information relevant to the owner's or applicant's activities in terms of oil processing operations.
426. *Subsection (5)* provides that any information obtained by the Secretary of State with respect to *subsection (3)* may not be disclosed unless either the person who provided the information has consented, or the Secretary of State is required to disclose it by, or under, an enactment.
427. *Subsections (6) and (7)* set out that the Secretary of State can enforce compliance with any directions made relating to third party access of oil processing facilities through civil proceedings: i.e. the Secretary of State can apply to the High Court or Court of Session in Scotland for an injunction (or interdict) requiring compliance with the Secretary of State's direction. The court that imposes the injunction will be responsible for the enforcement of that injunction. The reason that this section only focuses on oil processing facilities is that these are the only areas that are new on the face of the Act – all other infrastructure is (at least partially) covered in other Acts.
428. *Subsection (8)* provides definitions of terms used in the new third party access regime for oil processing facilities:
- “Oil processing operations” are defined as including:
 - the blending or other treatment of petroleum required to produce stabilised crude oil and other hydrocarbon liquids to the point at which a seller could reasonably make delivery to a purchaser;
 - receiving or storing this stabilised crude oil and these hydrocarbon liquids piped from a facility carrying out oil processing operations (as described above) before taking them elsewhere; and
 - loading stabilised crude oil and these hydrocarbon liquids piped from a facility carrying out either of the oil processing operations described above in order to transport it elsewhere.
 - “Oil processing facility” is any facility that carries out these oil processing operations and which is situated in Great Britain, in the territorial sea adjacent to Great Britain, or in areas of the sea designated under section 1(7) of the Continental Shelf Act 1964;
 - “Owner” is defined as any person occupying or controlling an oil processing facility including a lessee.
 - “Petroleum” has the meaning given by section 1 of the Petroleum Act 1998 i.e. mineral oils, relative hydrocarbon or natural gas in its natural condition. This definition also includes petroleum which has been processed.

Section 82: Meaning of “associate”

429. This section defines “associate” for the purposes of section 80, which relates to applications from a third party for a right of access to have petroleum processed by an oil processing facility.

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430. For a person to be an associate of the owner either or both need to be bodies corporate. The meaning of “body corporate” is broader than a limited company and includes limited liability partnerships (LLP). The section sets out the test for determining whether one body corporate is associated with another. In essence, one body corporate is associated with another if one of them controls the other or if a third body corporate controls both of them.