



Energy Act 2008

2008 CHAPTER 32

[^{F1}PART 4A

WORKS DETRIMENTAL TO NAVIGATION

[^{F1}Emergency safety requirements

Textual Amendments

- F1** Pt. 4A inserted (12.11.2009 for specified purposes, 6.4.2011 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 314(1), 324(1)(c), 324(1)(d); S.I. 2011/556, art. 3(2)(c)

82F Damage to, or changes in, the works: emergency safety notices

- (1) This section applies in any case where—
 - (a) the Secretary of State has given consent (“the relevant consent”) for an authorised exploration or exploitation operation, and
 - (b) at any time after the giving of that consent, the condition in subsection (2) is met.
- (2) The condition is that it appears to the Secretary of State that any danger to navigation has arisen by reason of—
 - (a) any substantial damage to any works to which the relevant consent relates, or
 - (b) any other substantial and unforeseen change in the state or position of any such works.
- (3) If it appears to the Secretary of State necessary to do so in the interests of the safety of navigation, the Secretary of State may serve a notice (an “emergency safety notice”) on the consent holder.

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- (4) By serving an emergency safety notice on the consent holder, the Secretary of State imposes on the consent holder such requirements as are prescribed in the notice with respect to any of the matters specified in subsection (5).
- (5) Those matters are—
 - (a) the provision on, or in the vicinity of, the works in question of any lights, signals or other aids to navigation, and
 - (b) the stationing of guard ships in the vicinity of those works.
- (6) An emergency safety notice may be served by the Secretary of State whether or not—
 - (a) the operation in question has been completed, or
 - (b) any condition was imposed by the Secretary of State, on giving the relevant consent, with respect to any of the matters referred to in subsection (5).

82G Emergency safety notices: supplementary provisions

- (1) If the consent holder fails to comply with an emergency safety notice within the time allowed, the Secretary of State may—
 - (a) comply with the notice on behalf of the consent holder, or
 - (b) make arrangements for another person to do so.
- (2) For the purposes of subsection (1) “the time allowed” is the period of 24 hours beginning with the time when the emergency safety notice is served on the consent holder or as soon after the end of that period as is reasonably practicable.
- (3) A person taking action by virtue of subsection (1) may—
 - (a) do anything which the consent holder could have done, and
 - (b) recover any reasonable costs incurred in taking the action from such one or more persons falling within subsection (4) as the Secretary of State considers appropriate.
- (4) The persons are—
 - (a) the consent holder;
 - (b) any other person or persons bound by a consent condition by virtue of section 82D(3).
- (5) A person (“P”) liable to pay any sum by virtue of subsection (3)(b) must also pay interest on that sum for the period beginning with the day on which the person taking action by virtue of subsection (1) notified P of the sum payable and ending with the date of payment.
- (6) The rate of interest payable in accordance with subsection (5) is a rate determined by the Secretary of State as comparable with commercial rates.
- (7) Once an emergency safety notice has been complied with (whether by the consent holder or otherwise)—
 - (a) the requirements of the notice are, subject to subsection (8), to be treated for the purposes of this Part as conditions subject to which the consent was given, but
 - (b) section 82D(2) and (5) are not to apply in the case of those requirements.
- (8) If it appears to the Secretary of State (whether on the application of any person or otherwise) that the circumstances giving rise to the urgent necessity for the

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imposition of the requirements no longer exist, the Secretary of State must revoke the requirements by notice served on the consent holder.

- (9) Where the Secretary of State has served an emergency safety notice in respect of any particular circumstances, subsection (7) does not preclude the Secretary of State from serving a further such notice in respect of those circumstances.

82H Failure to comply with condition: immediate action notice

- (1) This section applies where—
- (a) a consent under section 82A(1) has been given subject to conditions,
 - (b) a person falling within subsection (2) fails to comply with a condition, and
 - (c) it appears to the Secretary of State that any danger to navigation has arisen by reason of the failure to comply with the condition.
- (2) The persons are—
- (a) the consent holder;
 - (b) any person bound by the condition by virtue of section 82D(3).
- (3) If it appears to the Secretary of State necessary to do so in the interests of the safety of navigation, the Secretary of State may serve a notice (an “immediate action notice”) on the person, imposing on the person one or more specified requirements falling within subsection (4).
- (4) The requirements are—
- (a) a requirement to comply with the condition;
 - (b) a requirement to take any specified action or actions to remedy the failure to comply with the condition.
- (5) Subsections (1) to (6) of section 82G apply in relation to a person and an immediate action notice as they apply in relation to the consent holder and an emergency safety notice.
- (6) In this section “specified” means specified in the immediate action notice.]

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