



# Energy Act 2008

## 2008 CHAPTER 32

### PART 4

#### PROVISIONS RELATING TO OIL AND GAS

##### *Third party access*

#### **79 Modification of pipelines**

- (1) The Pipe-lines Act 1962 (c. 58) is amended as follows.
- (2) After section 10F (reducing necessity for constructing additional pipelines) insert—

##### **“10G Compulsory modifications of pipe-lines**

- (1) In the case of an upstream petroleum pipe-line, the Secretary of State may, on the application of a person other than the owner, give a notice (a “pipe-line modification notice”) to the applicant and the owner.
- (2) The Secretary of State may give a pipe-line modification notice only if the Secretary of State is satisfied—
  - (a) that the capacity of the pipe-line can and should be increased by modifying the apparatus and works associated with the pipe-line, or
  - (b) that the pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the pipe-line.
- (3) A pipe-line modification notice must—
  - (a) specify the modifications which the Secretary of State thinks should be made,
  - (b) specify the sums, or the method of determining the sums, which the Secretary of State thinks should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications,

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*Changes to legislation: There are currently no known outstanding effects  
for the Energy Act 2008, Section 79. (See end of Document for details)*

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- (c) require the applicant to make such arrangements as the Secretary of State thinks appropriate to secure that 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,
  - (d) specify the period within which the applicant must make the arrangements mentioned in paragraph (c),
  - (e) require the owner, if the applicant makes the arrangements mentioned in paragraph (c) within the period specified under paragraph (d), to carry out the modifications within a period specified in the notice, and
  - (f) authorise the owner to recover the sums mentioned in paragraph (b) from the applicant if the works are carried out or the Secretary of State is satisfied that they will be carried out.
- (4) Before giving a pipe-line modification notice, the Secretary of State must give the owner of the pipe-line an opportunity to be heard.
- (5) References in this section to modifications include, in the case of apparatus and works, references to changes in, substitutions for and additions to the apparatus and works.
- (6) This section does not apply in relation to a pipe-line if and to the extent that section 14 of the Petroleum Act 1998 applies in relation to it.

### **10H Enforcement**

- (1) It is an offence for the owner of a pipe-line to contravene any provision of a pipe-line modification notice under section 10G in respect of the pipe-line.
- (2) A person guilty of the offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (3) It is a defence, in any proceedings for the offence, to prove that the accused exercised due diligence to comply with the provisions of the pipe-line modification notice.
- (4) Proceedings for the offence may not be instituted in England and Wales except—
- (a) by the Secretary of State or by a person authorised to do so by the Secretary of State, or
  - (b) by or with the consent of the Director of Public Prosecutions.
- (5) Where the offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and dealt with accordingly.
- (6) Where the affairs of a body corporate are managed by its members, subsection (5) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

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- (7) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity.”
- (3) In section 10E (third party access to upstream petroleum pipelines), in subsection (1) after “pipe-lines” insert “ (but does not apply to a pipe-line if and to the extent that section 14 of the Petroleum Act 1998 applies in relation to it) ”.
- (4) In section 10F (supplemental provision relating to third party access), after subsection (4) add—
- “(5) Before giving a notice under section 10G(1), the Secretary of State must give the person who applied for that notice—
- (a) particulars of the modifications which it is proposed to specify in the notice, and
  - (b) an opportunity to make applications under section 10E in respect of the pipeline;
- and section 10E and subsections (1) to (4) of this section have effect for this purpose as if references to a pipe-line were references to the pipe-line as it would be with those modifications.”

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**Commencement Information**

**II** S. 79 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2008, Section 79.