

ENERGY ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Security of Energy Supplies

Chapter 3: Upstream Petroleum Infrastructure

Section 84: Compulsory modification of upstream petroleum infrastructure

228. This section deals with compulsory modifications to the infrastructure in question, where it appears that these will be necessary to give effect to an access right sought under section 82.
229. *Subsection (1)* provides that the section applies where an application has been made to an owner, and the Secretary of State is considering whether to give an access notice under section 82(11).
230. *Subsection (2)* enables the Secretary of State to issue a notice requiring modifications to the pipeline or facility in question, where it appears to him that this can and should be done in order to increase the capacity of the pipeline or facility, or to connect to the applicant's pipeline.
231. *Subsection (3)* provides that such a notice must: specify the modifications to be made and the recompense due to the owner; require the applicant to make appropriate arrangements to secure payment of these sums; require the owner to make the modifications if the payment arrangements are made; and authorise the owner to recover the relevant sums from the applicant when the modifications are made.
232. *Subsection (4)* provides that the notice may also provide for compensation for any loss which may be incurred by other users as a result of the making of the modifications; and *subsection (5)* provides that a notice containing any such provision is to be given to any person with relevant rights, as well as to the owner and the applicant.
233. *Subsection (7)* provides that before giving such a notice, the Secretary of State must take into account the matters specified in 82(7), and must give an opportunity to be heard to the persons specified in *subsection (8)*.
234. *Subsection (10)* defines the 'owner' of any upstream infrastructure for the purposes of this section – it should be noted that this definition is more limited than that which applies in sections 82 and 83.