



Energy Act 2016

2016 CHAPTER 20

PART 3

INFRASTRUCTURE AND INFORMATION

Rights to use upstream petroleum infrastructure

70 Requirements to provide information

- (1) The Energy Act 2011 is amended as follows.
- (2) In section 87 (powers to require information), after subsection (5) insert—

“(5A) A notice under subsection (1), (2) or (3) that imposes a requirement on a person must specify when the requirement is to be complied with.”
- (3) After that section insert—

“87A Appeals against requirements to provide information

- (1) Any person on whom a requirement is imposed by a notice under section 87(1), (2) or (3) may appeal against the notice to the Tribunal on the grounds that—
 - (a) the information required by the notice is not relevant to the exercise by the OGA of its functions under this Chapter, or
 - (b) the length of time given to comply with the notice is unreasonable.
- (2) On an appeal under this section the Tribunal may—
 - (a) confirm, vary or cancel the notice, or
 - (b) remit the matter under appeal to the OGA for reconsideration with such directions (if any) as the Tribunal considers appropriate.
- (3) In this section “the Tribunal” means the First-tier Tribunal.

87B Sanctions for failure to provide information

- (1) A requirement imposed by a notice under section 87(1), (2) or (3) is to be treated for the purposes of Chapter 5 of Part 2 of the Energy Act 2016 (power of the OGA to impose sanctions) as a petroleum-related requirement.
- (2) But the OGA may not give a revocation notice or an operator removal notice under that Chapter by virtue of this section.”

71 Applications to use infrastructure: changes of applicant and owner

- (1) The Energy Act 2011 is amended as follows.
- (2) In section 82(13) (contents of notice securing rights to use infrastructure), omit paragraph (b).
- (3) In section 87(6) (circumstances in which information may be disclosed)—
 - (a) omit the “or” at the end of paragraph (a), and
 - (b) after paragraph (b) insert “or
 - (c) the disclosure is made under section 89A or 89B.”
- (4) After section 89 insert—

“89A Assignments and assignments of applications

- (1) This section applies where—
 - (a) there is an assignment or assignation of an application made under section 82 from one person (“A”) to another (“B”), and
 - (b) the following are notified of the assignment or assignation—
 - (i) the owner of the pipeline or facility that is the subject of the application, and
 - (ii) the OGA.
- (2) A notice under subsection (1)(b) must—
 - (a) be in writing, and
 - (b) specify the date of the assignment or assignation.
- (3) For the purposes of this Chapter, anything done (or treated as done) by or in relation to A in connection with the application is treated after the assignment or assignation as having been done by or in relation to B.
This subsection is subject to subsections (4) and (5) and does not apply for the purposes of subsections (6) and (7).
- (4) Any provision of this Chapter that requires the OGA to give the applicant an opportunity to be heard has effect after the assignment or assignation as requiring the OGA to give B an opportunity to be heard (whether or not the applicant was heard under that provision before the assignment or assignation).
- (5) Subsection (3) does not apply in relation to any notice given under section 87 before the assignment or assignation (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it).

- (6) Any information relating to the application obtained by the OGA before the assignment or assignation from any person who at the time was the applicant may be disclosed to B.
- (7) Before disclosing any such information to B, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained.

89B Transfers of ownership

- (1) This section applies where the ownership of a pipeline or facility that is the subject of an application under section 82, or to which a notice under subsection (11) of that section relates, is transferred from one person (“C”) to another (“D”).
- (2) For the purposes of this Chapter—
 - (a) anything done (or treated as done) by or in relation to C in connection with C’s ownership of the pipeline or facility is treated after the transfer as having been done by or in relation to D, and
 - (b) any obligations imposed or rights conferred (or treated as imposed or conferred) by or under this Chapter on C in connection with C’s ownership of the pipeline or facility are treated after the transfer as imposed or conferred on D.

This subsection is subject to subsections (3) and (4) and does not apply for the purposes of subsections (5) and (6).

- (3) Any provision of this Chapter that requires the OGA to give the owner of the pipeline or facility an opportunity to be heard has effect after the transfer as requiring the OGA to give D an opportunity to be heard (whether or not the owner was heard under that provision before the transfer).
- (4) Subsection (2) does not affect the obligation to comply with any notice given under section 87 before the transfer (and, accordingly, the person to whom the notice was given remains under an obligation to comply with it).
- (5) Any information relating to the application obtained by the OGA before the transfer from any person who at the time was the owner may be disclosed to D.
- (6) Before disclosing any such information to D, the OGA must remove any information which the OGA considers may prejudice the commercial interests of the person from whom the information was obtained.”