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 assignations 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."

Decommissioning

72 Abandonment of offshore installations

Schedule 2 makes provision about the abandonment of offshore installations.

73 Duty to act in accordance with strategy: decommissioning and alternatives

(1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum) is amended as follows.

(2) In section 9A (the principal objective and the strategy), in subsection (1)(b), after sub-paragraph (iv) insert—

"(v) owners of relevant offshore installations."

(3) In section 9C (carrying out of certain petroleum industry activities)—

(a) omit subsection (3), and

(b) after subsection (4) insert—

"(5) A person who is the owner of—

(a) a relevant offshore installation, or

(b) upstream petroleum infrastructure,

must act in accordance with the current strategy or strategies when planning and carrying out the activities mentioned in subsection (6).

(6) Those activities are—

(a) the person's activities as the owner of the installation or infrastructure (including the development, construction, deployment and use of the infrastructure or installation);

(b) the abandonment or decommissioning of the installation or infrastructure.

(7) For the purposes of subsection (5), planning the activities mentioned in subsection (6)(b) includes the preliminary stage of—

(a) deciding whether or when to proceed with the proposed abandonment or decommissioning, and

(b) considering alternative measures to abandonment or decommissioning such as re-use or preservation."

(4) After section 9H insert—

"**9HA Relevant offshore installations" and their owners**

(1) For the purposes of this Part an offshore installation is a relevant offshore installation if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—

(a) the territorial sea adjacent to Great Britain, or

(b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

(3) In this Part "owner", in relation to a relevant offshore installation, means—

(a) a person in whom the installation is vested, and

(b) a lessee and any person occupying or controlling the installation."

(5) In section 9I (other definitions), at the appropriate place insert—

""offshore installation" has the same meaning as in Part 4 (see section 44);";

""owner", in relation to a relevant offshore installation, has the meaning given in section 9HA;";

""relevant offshore installation" has the meaning given in section 9HA;";

""submarine pipeline" has the meaning given in section 45;".

Northern Ireland

74 Part 1A of the Petroleum Act 1998: Northern Ireland

(1) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum), as amended by this Act, extends to Northern Ireland (as well as to England and Wales and Scotland).

(2) In that Act, for section 9H substitute—

"**9H Upstream petroleum infrastructure" and its owners**

(1) In this Part "upstream petroleum infrastructure" means anything that for the purposes of section 82(1) of the Energy Act 2011 is—
   (a) a relevant upstream petroleum pipeline,
   (b) a relevant oil processing facility, or
   (c) a relevant gas processing facility,

   if and in so far as it is used in relation to petroleum within subsection (2) (including such petroleum after it has been got).

(2) Petroleum is within this subsection if it is petroleum which for the time being exists in its natural condition in strata beneath—
   (a) the territorial sea adjacent to Great Britain, or
   (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

(3) In this Part "owner", in relation to upstream petroleum infrastructure, means—
   (a) a person in whom the pipeline or facility is vested;
   (b) a lessee and any person occupying or controlling the pipeline or facility; and
   (c) any person who has the right to have things conveyed by the pipeline or processed by the facility."

International agreements

75 International oil and gas agreements: information exchange

(1) This section applies where—
   (a) there is a treaty or agreement in force between the government of the United Kingdom and the government of a territory outside the United Kingdom ("the overseas territory") concerning cooperation in relation to oil and gas activities, and
   (b) the treaty or agreement includes arrangements for the exchange of information between the two governments ("information exchange arrangements").

(2) If it appears to the Secretary of State that adequate safeguards are in place, information held by the Secretary of State may be disclosed so far as the Secretary of State

considers necessary for the purpose of giving effect to the treaty or agreement in question.

(3) If it appears to the OGA that adequate safeguards are in place, information held by the OGA may be disclosed so far as the OGA considers necessary for the purpose of giving effect to the treaty or agreement in question.

(4) For the purposes of this section adequate safeguards are in place if the information exchange arrangements and the law in force in the overseas territory are such as to ensure that information disclosed to the government of the overseas territory under this section may be disclosed by that government only—

(a) with the consent of the government of the United Kingdom, or

(b) so far as necessary for the purpose of preparing and publishing reports of a general nature.

(5) References in this section to the OGA are to the OGA acting as a representative of the government of the United Kingdom for the purposes of the agreement with the overseas territory.