



Petroleum Act 1998

1998 CHAPTER 17

PART III

SUBMARINE PIPELINES

14 Construction and use of pipelines.

(1) No person shall—

- (a) execute in, under or over any controlled waters any works for the construction of a pipeline; or
- (b) use a controlled pipeline of which the construction was begun on or after 1st January 1976,

except in accordance with an authorisation given in writing by the Secretary of State.

(2) In this Part of this Act—

“controlled pipeline” means so much of any pipeline as is in, under or over controlled waters; and

“controlled waters” means the territorial sea adjacent to the United Kingdom and the sea in any area designated under section 1(7) of the ^{M1}Continental Shelf Act 1964.

Marginal Citations

M1 1964 c. 29.

15 Authorisations.

- (1) Schedule 2 (applications for and issue of authorisations) shall have effect.
- (2) The Secretary of State shall not issue an authorisation to a person other than a body corporate.

Status: Point in time view as at 10/08/2000.

Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part III. (See end of Document for details)

- (3) Any authorisation in respect of a controlled pipeline may contain such terms as the Secretary of State thinks appropriate including in particular terms as to—
- (a) the duration of the authorisation, including the method of ascertaining its duration;
 - (b) the persons or kinds of persons who are authorised to execute the works in question or to use the pipeline or are so authorised if the Secretary of State consents to the execution of the works or the use of the pipeline by them;
 - (c) in the case of a works authorisation—
 - (i) the route of the pipeline;
 - (ii) the boundaries within which any works may be executed in pursuance of the authorisation;
 - (iii) the design and capacity of the pipeline or of part of it; and
 - (iv) the steps to be taken to avoid or reduce interference by the pipeline with fishing or with other activities connected with the sea or the sea bed or subsoil;
 - (d) the things authorised to be conveyed by the pipeline;
 - (e) the steps to be taken to ensure that funds are available to discharge any liability for damage attributable to the release or escape of any thing from the pipeline;
 - (f) the transactions relating to the pipeline which are not to be entered into, and the other things relating to the pipeline which are not to be done, without the consent of the Secretary of State;
 - (g) the persons who may be permitted to acquire an interest in the pipeline and who may not be permitted to retain such an interest;
 - (h) the operation of the pipeline, including the methods by which it is to be operated and the persons by whom it may be operated;
 - (i) the information to be provided in respect of the pipeline; and
 - (j) the giving by the Secretary of State, with respect to matters specified in the authorisation, of directions which shall have effect as terms of the authorisation.
- (4) Unless the Secretary of State considers that there are special circumstances by reason of which the duration of an authorisation should be limited, an authorisation shall provide for its duration to be unlimited subject to the following provisions of this Part of this Act.
- (5) Subsection (6) applies where a works authorisation contains a term (the “variation term”) requiring that—
- (a) the capacity of the controlled pipeline to which it relates or of any part of the pipeline shall be greater than that proposed in the application for the authorisation; or
 - (b) any of the route of the pipeline shall be different from that so proposed.
- (6) Where this subsection applies, the Secretary of State may, subject to section 17(7) [^{F1}or 17G(6)], serve a notice in accordance with subsection (7) on—
- (a) the holder of the authorisation; and
 - (b) any other person who made representations to the Secretary of State that the capacity should be greater than that proposed as mentioned in subsection (5) or that any of the route should be different from that so proposed.
- (7) A notice under subsection (6) shall—

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- (a) specify the sums or the method of determining the sums which the Secretary of State considers should be paid to the holder by the other person for the purpose of defraying so much of the cost of constructing the pipeline as is attributable to the variation term;
 - (b) require the other person to make, within a specified period, arrangements which the Secretary of State considers are appropriate to ensure that those sums will be paid to the holder if he constructs the pipeline or a relevant part of it in accordance with the variation term or satisfies the Secretary of State that he will so construct it;
 - (c) provide that the holder may, if those arrangements are not made by the other person within the specified period, elect in the specified manner that—
 - (i) the variation term shall have effect with such modifications as are specified with a view to eliminating the consequences of the representations of the other person; and
 - (ii) the provisions included in the notice by virtue of paragraph (d) shall cease to have effect; and
 - (d) authorise the holder, if he satisfies the Secretary of State that the pipeline or a relevant part of it has been or will be constructed in accordance with the variation term, to recover those sums from the other person.
- (8) In subsection (7), “specified” means specified in the notice.

Textual Amendments

F1 Words in s. 15(6) inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 1

16 Compulsory modifications of pipelines.

- (1) If in the case of a controlled pipeline it appears to the Secretary of State, on the application of a person other than the owner of the pipeline—
- (a) that the capacity of the pipeline can and should be increased by modifying apparatus and works associated with the pipeline; or
 - (b) that the pipeline can and should be modified by installing in it a junction through which another pipeline may be connected to the pipeline,
- then, subject to section 17(8) [^{F2}or 17G(7)], the Secretary of State may, after giving the owner of the pipeline an opportunity of being heard about the matter, serve on the owner and the applicant a notice in accordance with subsection (2).
- (2) A notice under subsection (1) shall—
- (a) specify the modifications which the Secretary of State considers should be made in consequence of the application;
 - (b) specify the sums or the method of determining the sums which the Secretary of State considers should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications;
 - (c) require the applicant to make, within the period specified for the purpose in the notice, arrangements which the Secretary of State considers appropriate to secure that those sums will be paid to the owner if he carries out the modifications or satisfies the Secretary of State that he will carry them out;

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- (d) require the owner, if the applicant makes those arrangements within that period, to carry out the modifications within a period specified for the purpose in the notice; and
 - (e) authorise the owner, if he satisfies the Secretary of State that he has carried out or will carry out the modifications, to recover those sums from the applicant.
- (3) References in subsections (1) and (2) to modifications include, in the case of modifications of any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works.
- (4) For the purposes of section 14(1) a notice under subsection (1) of this section requiring a person to carry out modifications authorises him to carry out the modifications; but nothing in Schedule 2 shall apply to such a notice.

Textual Amendments

F2 Words in s. 16(1) inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 2

17 Acquisition of rights to use pipelines.

- (1) Subsections (2) and (3) apply where a person applies to the Secretary of State for a notice under this section securing to the applicant a right to have conveyed, by a controlled pipeline of which he is not the owner, quantities specified in the application of things which are of a kind so specified and which the pipeline is designed to convey.
- [^{F3}(1A) This section does not apply to controlled petroleum pipelines, and, in the case of a downstream gas pipeline to which section 17B applies, is subject to that section.]
- (2) The Secretary of State shall—
- (a) give notice to the owner of the pipeline and the applicant that he proposes to consider the application; and
 - (b) after the expiry of 21 days beginning with the date on which notice under paragraph (a) was served, but before considering the application, give them an opportunity of being heard with respect to the application.
- (3) Where the Secretary of State is satisfied that, if he served a notice under this section the pipeline in question could be operated in accordance with the notice without prejudicing its efficient operation for the purpose of conveying, on behalf of its owner, the quantities of permitted substances which the owner requires or may reasonably be expected to require, the Secretary of State may serve such a notice on the owner and the applicant.
- (4) In subsection (3), “permitted substances” means the things which may be conveyed by the pipeline in accordance with an authorisation (or, if no authorisation for the use of the pipeline is required by section 14(1), means the things which the pipeline is designed to convey).
- (5) A notice under this section may contain such provisions as the Secretary of State considers appropriate for any of the following purposes—
- (a) to secure to the applicant, without prejudicing the efficient operation of the pipeline for the purpose mentioned in subsection (3), the right to have conveyed by the pipeline the quantities specified in the application of the things so specified;

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- (b) to secure that the exercise of the right is not prevented or impeded;
 - (c) to regulate the charges which may be made for the conveyance of things by virtue of the right; and
 - (d) to secure to the applicant the right to have a pipeline of his connected to the pipeline by the applicant or owner.
- (6) Such a notice may also authorise the owner to recover from the applicant payments by way of consideration for any right mentioned in subsection (5)(a) or (d) of amounts specified in the notice or determined in accordance with the notice.
- (7) Before serving a notice under section 15(6) on a person other than the holder of the relevant authorisation, the Secretary of State shall give that person an opportunity to make an application under subsection (1) in respect of the proposed pipeline to which the authorisation relates; and subsections (1) to (6) shall have effect for this purpose as if references to a pipeline and the owner of it were references to the proposed pipeline and the proposed owner of it.
- (8) Before serving a notice under section 16(1) on a person other than the owner of the relevant pipeline, the Secretary of State shall give that person particulars of the modifications which he proposes to specify in the notice and an opportunity to make an application under subsection (1) in respect of the pipeline; and subsections (1) to (6) shall have effect for this purpose as if references to a pipeline were references to the pipeline as it would be with those modifications.
- (9) The use of a pipeline by any person in accordance with a right secured to him by virtue of this section is not a contravention of section 14(1); but a person to whom a right is so secured may not assign the right to any other person.

Textual Amendments

F3 S. 17(1A) inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 3](#)

[^{F4}17A Application of section 17B to certain downstream gas pipelines.

- (1) Section 17B applies to downstream gas pipelines, other than exempt pipelines.
- (2) An owner of a downstream gas pipeline may apply in writing to the Secretary of State for an exemption for the pipeline.
- (3) An exemption shall be given in writing and may be given—
 - (a) so as to have effect for an indefinite period or for a period specified in, or determined under, the exemption;
 - (b) unconditionally or subject to such conditions as the Secretary of State considers appropriate.
- (4) An exemption may be revoked in accordance with its provisions and, in any event, may be revoked by giving a notice of revocation to the owner of the pipeline concerned not less than four months before the coming into force of the revocation.
- (5) The Secretary of State shall give an exemption with respect to a pipeline where he is satisfied that the requirements of section 17B(1), (3) and (6) are already met with respect to the pipeline concerned by existing market arrangements which promote competition.]

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Textual Amendments

F4 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F5}**17B Additional provisions relating to certain downstream gas pipelines.**

- (1) The owner of a downstream gas pipeline to which this section applies (a “relevant downstream gas pipeline”)—
 - (a) shall publish at least once in every year the main commercial conditions relating to the grant to another person of a right to have gas conveyed in the pipeline on that person’s behalf; and
 - (b) shall publish any changes to the published conditions as soon as they become effective.
- (2) In subsection (1) “year” means any year ending with 9th August.
- (3) The owner of a relevant downstream gas pipeline shall ensure that the conditions which he is required to publish under subsection (1) do not discriminate against any applicants or descriptions of applicants, or any potential applicants or descriptions of potential applicants, for a right to have gas conveyed in the pipeline.
- (4) Any person who seeks a right to have gas conveyed on his behalf in a relevant downstream gas pipeline (“the applicant”) shall, before making an application to the Secretary of State under section 17, apply to the owner of the pipeline by giving him notice of what is being sought.
- (5) Such a notice shall, in particular, specify—
 - (a) the kind of gas to be conveyed (which must be of the kind the pipeline is designed to convey); and
 - (b) the quantities of gas to be conveyed.
- (6) Where an applicant gives notice under subsection (4), he and the owner of the pipeline shall negotiate in good faith and endeavour to reach agreement on the application.
- (7) If the owner and the applicant do not reach any such agreement, the applicant may make an application to the Secretary of State under section 17 with respect to the pipeline.
- (8) The Secretary of State shall not entertain such an application under section 17 unless he is satisfied that the parties have had a reasonable time in which to fulfil their duties under subsection (6).
- (9) For the purpose of considering an application under section 17 with respect to a relevant downstream gas pipeline, the Secretary of State may by notice require the owner or the applicant to provide him with such financial information relating to the owner’s or applicant’s activities with respect to relevant downstream gas pipelines as he may specify or describe in the notice.
- (10) The Secretary of State shall not disclose to any person information obtained under subsection (9) without the consent of the person by or on behalf of whom it was provided, unless he is required to do so by virtue of any obligation imposed on him by or under any enactment.
- (11) In this section, “main commercial conditions” means—

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- (a) such information as would enable a potential applicant for a right to have gas conveyed in a relevant downstream gas pipeline to make a reasonable assessment of the cost of, or the method of calculating the cost of, acquiring that right;
- (b) the other significant terms on which such a right would be granted; and
- (c) such other information as the Secretary of State may from time to time specify by notice.

Textual Amendments

F5 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F6}17C Application of section 17D to certain offshore gas storage facilities.

- (1) Section 17D applies to offshore gas storage facilities other than exempt offshore gas storage facilities.
- (2) An owner of an offshore gas storage facility may apply in writing to the Director for an exemption for the facility.
- (3) An exemption shall be given in writing and may be given—
 - (a) so as to have effect for an indefinite period or for a period specified in, or determined under, the exemption;
 - (b) unconditionally or subject to such conditions as the Director considers appropriate.
- (4) An exemption may be revoked in accordance with its provisions and, in any event, may be revoked by giving a notice of revocation to the owner of the facility concerned not less than four months before the coming into force of the revocation.
- (5) The Director shall give an exemption with respect to a facility where he is satisfied that the requirements of section 17D(1), (3) and (7) and section 17E(2) are already met with respect to the facility concerned by existing market arrangements which promote competition.
- (6) In this section and sections 17D and 17E “the Director” means the Director General of Gas Supply.

Textual Amendments

F6 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F7}17D Provisions relating to certain offshore gas storage facilities.

- (1) The owner of an offshore gas storage facility to which this section applies (a “relevant facility”)—
 - (a) shall publish at least once in every year the main commercial conditions relating to the grant to another person of a right to have gas stored in the facility on that person’s behalf; and
 - (b) shall publish any changes to the published conditions as soon as they become effective.

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- (2) In subsection (1) “year” means any year ending with 9th August.
- (3) The owner of a relevant facility shall ensure that the conditions which he is required to publish under subsection (1) do not discriminate against any applicants or descriptions of applicants, or any potential applicants or descriptions of potential applicants, for a right to have gas stored in the facility.
- (4) Any person who seeks a right to have gas stored on his behalf in a relevant facility (“the applicant”) shall, before making an application to the Director under subsection (8), apply to the owner of the facility for the right.
- (5) An application under subsection (4) shall be made by giving notice to the owner specifying what is being sought.
- (6) Such a notice shall, in particular, specify—
 - (a) the period during which the gas is to be stored in the facility;
 - (b) the kind of gas to be stored (which must be of, or similar to, the kind which the facility is designed to store); and
 - (c) the quantities of gas to be stored.
- (7) Where an applicant gives a notice under subsection (5), he and the owner of the facility shall negotiate in good faith and endeavour to reach agreement on the application.
- (8) If the owner and the applicant do not reach any such agreement, the applicant may apply to the Director for a notice under subsection (11) securing to the applicant the right specified in the notice given under subsection (5).
- (9) The Director shall not entertain an application under subsection (8) unless he is satisfied that the parties have had a reasonable time in which to fulfil their duties under subsection (7).
- (10) Where a person applies to the Director under subsection (8) and the Director is satisfied as mentioned in subsection (9), the Director shall—
 - (a) give notice to the owner of the facility and the applicant that he proposes to consider the application; and
 - (b) after the expiry of 21 days beginning with the date on which notice under paragraph (a) was served, but before considering the application, give them an opportunity of being heard with respect to the application.
- (11) Where the Director is satisfied that, if he served a notice under this subsection, the relevant facility in question could be operated in accordance with the notice without prejudicing its efficient operation for the purpose of storing, on behalf of its owner, the quantities of gas which the owner requires or may reasonably be expected to require, the Director may serve such a notice on the owner and the applicant.
- (12) A notice under subsection (11) may contain such provisions as the Director considers appropriate for any of the following purposes—
 - (a) for securing to the applicant the right to have stored in the facility, for the period specified in the notice and in the quantities so specified or determined by or under the notice, gas which is of a kind so specified;
 - (b) to secure that the exercise of the right is not prevented or impeded;
 - (c) to regulate the charges which may be made for the storage of gas by virtue of that right; and

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- (d) to secure to the applicant such ancillary or incidental rights as may be necessary or expedient (which may, in particular, include a right to have a pipeline of his connected to the facility by the owner).
- (13) A notice under subsection (11) may also authorise the owner to recover from the applicant payments by way of consideration for any right mentioned in subsection (12) (a) or (d) of amounts specified in the notice or determined in accordance with the notice.

Textual Amendments

F7 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F8}17E Section 17D: supplemental.

- (1) For the purpose of considering an application under section 17D(8), the Director may by notice require the owner to provide him with accounting information and details of the main commercial terms of any significant transactions with associated undertakings.
- (2) Owners of relevant facilities shall keep their internal accounts in such manner as will enable them to provide accounting information if required to do so by notice under subsection (1).
- (3) The Director shall not disclose to any person information obtained under subsection (1) without the consent of the person by or on behalf of whom it was provided, unless he is required to do so by virtue of any obligation imposed on him by or under any enactment.
- (4) Any reference in this section to a right to have gas or gas of any kind stored in a relevant facility includes a reference to a right to introduce into, or take out of, such a facility gas or gas of that kind.
- (5) In section 17D “main commercial conditions” means—
- such information as would enable a potential applicant for a right to have gas stored in a relevant facility to make a reasonable assessment of the cost of, or the method of calculating the cost of, acquiring that right;
 - the other significant terms on which such a right would be granted; and
 - such other information as the Director may from time to time specify by notice.
- (6) In this section—
- “accounting information” means such accounting records as would be required by section 221 of the Companies Act 1985 in respect of the storage activities undertaken by an owner of a relevant facility, if those activities were the only business undertaken by the owner and the owner were a person to whom that section applied; and
- “significant transaction” means—
- any transaction which relates to rights to have gas stored in a relevant facility; or
 - any other transaction which is of a description specified by the Director from time to time by notice.

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- (7) For the purposes of this section an undertaking is an associated undertaking of another undertaking if one of the undertakings has control of the other, or both undertakings are under the control of the same person or persons; and subsections (2) to (5) of section 416 of the Income and Corporation Taxes Act 1988 shall apply with any necessary modifications for the purposes of this subsection as they apply for the purposes of Part XI of that Act.

Textual Amendments

F8 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F9}17F Acquisition of rights to use controlled petroleum pipelines.

- (1) This section applies to controlled petroleum pipelines.
- (2) Any person who seeks a right to have things conveyed by a controlled petroleum pipeline of which he is not the owner (“the applicant”) shall, before making an application to the Secretary of State under subsection (5), apply to the owner of the pipeline for the right.
- (3) An application under subsection (2) shall be made by giving notice to the owner specifying what is being sought.
- (4) Such a notice shall, in particular, specify—
 - (a) the kind of things to be conveyed (which must be of a kind the pipeline is designed to convey); and
 - (b) the quantities to be conveyed.
- (5) If the owner and the applicant do not reach agreement on the application, the applicant may apply to the Secretary of State for a notice under subsection (9) securing to the applicant the right to have conveyed by the pipeline in respect of which he has made an application to the owner under subsection (2) the quantities specified in the notice under subsection (3) of things of a kind so specified.
- (6) The Secretary of State shall not entertain an application under subsection (5) unless he is satisfied that the parties have had a reasonable time in which to reach agreement between themselves on the application under subsection (2).
- (7) Where a person applies to the Secretary of State under subsection (5) and the Secretary of State is satisfied as mentioned in subsection (6), the Secretary of State shall—
 - (a) give notice to the owner of the pipeline and the applicant that he proposes to consider the application; and
 - (b) after the expiry of 21 days beginning with the date on which notice under paragraph (a) was served, but before considering the application, give them an opportunity of being heard with respect to the application.
- (8) When considering the application, the Secretary of State shall (so far as relevant) take into account—
 - (a) capacity which is or can reasonably be made available in the pipeline in question;
 - (b) any incompatibilities of technical specification which cannot reasonably be overcome;

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- (c) difficulties which cannot reasonably be overcome and which could prejudice the efficient, current and planned future production of petroleum;
 - (d) the owner's reasonable needs for the transport and processing of petroleum;
 - (e) the interests of all users and operators of the pipeline;
 - (f) the need to maintain security and regularity of supplies of petroleum; and
 - (g) the number of parties involved in the dispute.
- (9) Where the Secretary of State is satisfied that, if he served a notice under this subsection, the pipeline in question could be operated in accordance with the notice without prejudicing its efficient operation for the purpose of conveying, on behalf of its owner, the quantities of permitted substances which the owner requires or may reasonably be expected to require, the Secretary of State may serve such a notice on the owner and the applicant.
- (10) A notice under subsection (9) may contain such provisions as the Secretary of State considers appropriate for any of the following purposes—
- (a) to secure to the applicant the right to have conveyed by the pipeline the quantities specified in the notice under subsection (3) of the things of a kind so specified;
 - (b) to secure that the exercise of the right is not prevented or impeded;
 - (c) to regulate the charges which may be made for the conveyance of things by virtue of the right; and
 - (d) to secure to the applicant the right to have a pipeline of his connected to the pipeline by the applicant or owner.
- (11) A notice under subsection (9) may also authorise the owner to recover from the applicant payments by way of consideration for any right mentioned in subsection (10) (a) or (d) of amounts specified in the notice or determined in accordance with the notice.

Textual Amendments

F9 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 4

^{F10}17G Section 17F: supplemental.

- (1) Where an application is made to the Secretary of State under section 17F(5) in respect of a pipeline which is situated partly in, under or over controlled waters and partly in a foreign sector of the continental shelf, the Secretary of State shall consult the relevant authorities in the other country with respect to the application before considering it himself.
- (2) For the purpose of considering an application under section 17F(5), the Secretary of State may by notice require the owner or the applicant to provide him with such information relevant to the application as may be specified or described in the notice.
- (3) The information mentioned in subsection (2) may, in particular, include financial information relevant to the owner's or the applicant's activities with respect to petroleum production projects and controlled petroleum pipelines.
- (4) The Secretary of State shall not disclose to any person any information obtained under subsection (2) without the consent of the person by or on behalf of whom it was

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provided, unless he is required to do so by virtue of any obligation imposed on him by or under any enactment.

- (5) In section 17F(9), “permitted substances” means the things which may be conveyed by the pipeline in accordance with an authorisation (or, if no authorisation for the use of the pipeline is required by section 14(1), means the things which the pipeline is designed to convey).
- (6) Before serving a notice under section 15(6) on a person other than the holder of the relevant authorisation, the Secretary of State shall give that person an opportunity to make applications under section 17F in respect of the proposed pipeline to which the authorisation relates; and section 17F and subsections (1) to (5) above shall have effect for this purpose as if references to a pipeline and the owner of it were references to the proposed pipeline and the proposed owner of it.
- (7) Before serving a notice under section 16(1) on a person other than the owner of the relevant pipeline, the Secretary of State shall give that person particulars of the modifications which he proposes to specify in the notice and an opportunity to make applications under section 17F in respect of the pipeline; and section 17F and subsections (1) to (5) above shall have effect for this purpose as if references to a pipeline were references to the pipeline as it would be with those modifications.
- (8) The use of a pipeline by any person in accordance with a right secured to him by the Secretary of State by virtue of section 17F is not a contravention of section 14(1); but a person to whom a right is so secured may not assign the right to any other person.

Textual Amendments

F10 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), **Sch. 4 para. 4**

^{F11}**17H Enforcement of certain duties in sections 17B, 17D and 17E.**

- (1) The duties in section 17B(6) and section 17D(7) shall be duties owed to any person who may be affected by a failure to comply with them.
- (2) Where a duty is owed by virtue of subsection (1) to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (3) In any proceedings brought against a person in pursuance of subsection (2), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the duty.
- (4) Compliance with the duties in sections 17B(1) and (3), 17D(1) and (3) and 17E(2) shall be enforceable by civil proceedings by the Secretary of State for an injunction or interdict or other appropriate relief or remedy.

Textual Amendments

F11 Ss. 17A-17H inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), **Sch. 4 para. 4**

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18 Termination of authorisations.

- (1) An authorisation shall cease to be in force at the earliest of the following—
 - (a) where the duration of the authorisation is not expressed to be unlimited, the time at which that duration expires as specified by or ascertained under the terms of the authorisation;
 - (b) the time (if any) agreed in writing by the holder and the Secretary of State as the time at which the authorisation is to cease to be in force; and
 - (c) the time specified in a notice under subsection (2) or (6).
- (2) If it appears to the Secretary of State that the execution of works authorised by a works authorisation has not been begun at the expiry of the period specified in subsection (3), he shall serve on the holder a notice stating that the authorisation is to cease to be in force at a time specified in the notice.
- (3) The period referred to in subsection (2) is—
 - (a) the period of three years beginning with the date when the authorisation is expressed to come into force; or
 - (b) such longer period beginning with that date as the Secretary of State has, on the application of the holder, specified in a notice served under this paragraph on the holder during the period mentioned in paragraph (a).
- (4) For the purpose of subsection (2), the Secretary of State shall disregard the execution of any of the works which he considers should be disregarded for that purpose.
- (5) The Secretary of State shall not serve a notice under subsection (3)(b) unless—
 - (a) he is satisfied that notice of the application under that provision has been served on—
 - (i) the persons on whom, in accordance with Schedule 2, notice of the application for the authorisation was served or such of them as the Secretary of State considers appropriate in the circumstances; and
 - (ii) such other persons, if any, as he considers appropriate in the circumstances; and
 - (b) he has considered any written representations about the application under subsection (3)(b) made during such a period as he considers reasonable by any of the persons on whom notice of the application was served in accordance with paragraph (a).
- (6) Subject to subsections (7) and (8), if the Secretary of State considers that the holder of an authorisation—
 - (a) has contravened a term of the authorisation; or
 - (b) has contravened any provision of a notice which, under [F12section 16, 17 or 17F(9)], was served on him in his capacity as the owner of the pipeline (or the proposed owner of the proposed pipeline) to which the authorisation relates,the Secretary of State may serve on the holder a notice stating that the authorisation is to cease to be in force at a time specified in the notice.
- (7) The Secretary of State shall not serve a notice under subsection (6) without first giving the holder of the authorisation an opportunity to make written representations to him.
- (8) The Secretary of State shall not serve a notice under subsection (6) in consequence of a contravention if the Secretary of State considers that—

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- (a) having regard to the nature and consequences of the contravention and to any previous contravention, it would be unreasonable to terminate the authorisation in consequence of the contravention; and
 - (b) the holder has taken adequate steps to prevent similar contraventions in future.
- (9) When an authorisation ceases to be in force the Secretary of State shall publish in the London and Edinburgh and Belfast Gazettes, or in such of them as he considers appropriate, a notice stating that it has ceased to be in force.

Textual Amendments

F12 Words in s. 18(6)(b) substituted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 5](#)

19 Vesting of pipelines on termination or subsequent issue of authorisations.

- (1) When an authorisation ceases to be in force the controlled pipeline to which it relates shall, by virtue of this subsection, be transferred to and vest in the Secretary of State free from encumbrances, except that nothing in this subsection prejudices—
- (a) any interest belonging to the Crown Estate or to Her Majesty in right of the Duchy of Lancaster or to the Duchy of Cornwall; or
 - (b) any right conferred by a notice relating to the pipeline under section 17 ^{F13} or section 17F(9)].
- (2) Where the Secretary of State proposes to issue an authorisation to any person in respect of a pipeline vested in the Secretary of State by virtue of subsection (1) he may agree with that person, on terms which may include provision for that person to make payments to the Secretary of State, that the authorisation is to include a statement that subsection (3) applies to the authorisation.
- (3) Where an authorisation includes such a statement the pipeline to which the authorisation relates shall, by virtue of this subsection and at the time specified in the authorisation, be transferred to and vest in the holder of the authorisation subject to any interest or right then subsisting in respect of the pipeline by virtue of paragraph (a) or (b) of subsection (1).

Textual Amendments

F13 Words in s. 19(1)(b) inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 6](#)

20 Inspectors etc.

- (1) The Secretary of State may appoint, as inspectors to assist him in the execution of this Part of this Act, such number of persons appearing to him to be qualified for the purpose as he considers appropriate from time to time; and the Secretary of State may make, to or in respect of any person so appointed, such payments by way of remuneration or otherwise as the Secretary of State determines with the approval of the Minister for the Civil Service.
- (2) The Secretary of State may by regulations make provision with respect to—
- (a) the powers and duties of—
 - (i) inspectors appointed under subsection (1); and

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- (ii) any other persons acting on the directions of the Secretary of State in connection with the execution of this Part of this Act; and
- (b) the facilities to be accorded to such inspectors and other persons.
- (3) For the purpose of enforcing regulations made under subsection (2), an inspector appointed under subsection (1) shall have the same powers under section 38 of the ^{M2}Health and Safety at Work etc. Act 1974 (institution of proceedings in England and Wales) as he would have if he were an inspector appointed by the Health and Safety Executive under section 19 of that Act who is authorised to act for the purposes of the regulations.
- (4) In the application of this section to Northern Ireland, subsection (3) shall have effect as if—
- (a) the references to sections 19 and 38 of the Health and Safety at Work etc. Act 1974 were references to Articles 21 and 35, respectively, of the ^{M3}Health and Safety at Work (Northern Ireland) Order 1978; and
- (b) the reference to the Health and Safety Executive were a reference to [^{F14}the Health and Safety Executive for Northern Ireland].
- (5) A statutory instrument containing regulations under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F14 Words in s. 20(4)(b) substituted (1.4.1999) by S.R. 1999/150, reg. 2, Sch.

Marginal Citations

M2 1974 c. 37.

M3 S.I. 1978/1039 (N.I. 9).

21 Enforcement.

- (1) Any person who—
- (a) contravenes any provision of section 14(1); or
- (b) contravenes any provision of a notice under [^{F15}section 16, 17 or 17F(9)] served on him in his capacity as the owner of the pipeline to which the notice relates in a case where no authorisation for the use of the pipeline is required by section 14(1); or
- (c) makes a statement which he knows is false in a material particular, or recklessly makes a statement which is false in a material particular, for the purpose of inducing the Secretary of State—
- (i) to issue any authorisation; or
- (ii) to agree under section 18(1)(b) that an authorisation is to cease to be in force; or
- (iii) to specify a period under section 18(3)(b); or
- (iv) not to serve a notice under section 18(6),
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

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- (2) If a person executes any works in contravention of section 14(1) the Secretary of State may at any time serve on him a notice requiring him to remove such of the works as are specified in the notice as works to be removed.
- (3) The recipient of a notice under subsection (2) shall comply with the notice within the period specified in the notice; and if he fails to do so the Secretary of State may comply with the notice on his behalf and recover from him any expenses reasonably incurred in doing so.
- (4) If a person executes any works in contravention of section 14(1) and the Secretary of State considers that it is urgently necessary to do such things in relation to the works as he could have required that person to do by a notice under subsection (2), the Secretary of State may do those things and recover from that person any expenses reasonably incurred in doing so.
- (5) The fact that any thing is done or omitted—
 - (a) by the recipient of a notice under subsection (2) for the purpose of complying with the notice; or
 - (b) by the Secretary of State under subsection (3) or (4),
 shall not relieve him from liability for any damage which is attributable to the act or omission and for which he would have been liable had the act or omission not been authorised by this section; but the Secretary of State shall be entitled to recover from the person who executed the works in question the amount of any damages which, in consequence of the works, are paid by the Secretary of State by virtue of this subsection.

Textual Amendments

F15 Words in s. 21(1)(b) substituted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 7](#)

22 Criminal proceedings.

- (1) Proceedings for an offence under section 21(1) or created by regulations made under this Part of this Act (a “relevant offence”) may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.
- (2) Proceedings for a relevant offence alleged to have been committed in, under or over controlled waters shall not be instituted in England and Wales except—
 - (a) by the Secretary of State or by a person authorised in that behalf by the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (3) Proceedings for a relevant offence alleged to have been committed in, under or over controlled waters shall not be instituted in Northern Ireland except—
 - (a) by the Secretary of State or by a person authorised in that behalf by the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) Subsections (2) and (3) do not apply to proceedings for an offence created by regulations made under section 20.

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- (5) In proceedings for a relevant offence an averment in the information, complaint or indictment that anything was done or situated in, under or over controlled waters shall, unless the contrary is proved, be sufficient evidence of the matter stated in the averment.
- (6) Where a relevant offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) In subsection (6), in relation to a body corporate which—
- (a) is established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking; and
 - (b) is a body whose affairs are managed by its members,
- “director” means a member of the body corporate.
- (8) In any proceedings for—
- (a) an offence under paragraph (a) of subsection (1) of section 21 of executing works or using a pipeline otherwise than in accordance with the terms of the relevant authorisation; or
 - (b) an offence under paragraph (b) of that subsection of contravening any provision of a notice,
- it shall be a defence to prove that the accused used all due diligence to comply with those terms or, as the case may be, with that provision.
- (9) Section 3 of the^{M4}Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions) shall not apply to any proceedings for a relevant offence.

Marginal Citations

M4 1878 c. 73.

23 Civil liability for breach of statutory duty.

- (1) Breach of a duty imposed on any person by regulations made under this Part of this Act which state that this subsection applies to such a breach shall be actionable so far, and only so far, as the breach causes personal injury.
- (2) References in—
- (a) the^{M5}Fatal Accidents Act 1976; and
 - (b) Article 3(1) of the^{M6}Fatal Accidents (Northern Ireland) Order 1977,
- to a wrongful act, neglect or default shall include references to any such breach which is so actionable.
- (3) Nothing in subsections (1) and (2) prejudices any action which lies apart from the provisions of those subsections.

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- (4) A defence to a charge which is available by virtue of section 25(3)(c) shall not be a defence in any civil proceedings whether they are brought by virtue of this section or otherwise.
- (5) For the purposes of subsection (1) any such regulations as are mentioned in that subsection shall bind the Crown, and references in those regulations to employees shall for those purposes include persons in the service of the Crown; but nothing in this subsection—
- (a) confers any right of action on a person as a member of the armed forces of the Crown; or
 - (b) authorises proceedings against Her Majesty in her private capacity or in right of the Duchy of Lancaster or against the Duke of Cornwall.
- (6) In subsection (1) “personal injury” includes any disease, any impairment of a person’s physical or mental condition and any fatal injury.

Marginal Citations

M5 1976 c. 30.

M6 S.I. 1977/1251 (N.I. 18).

24 Application of Part III.

- (1) Where no initial or terminal point of a pipeline is situated in the United Kingdom or controlled waters, the pipeline shall be disregarded for the purposes of this Part of this Act except this subsection and subsection (2).
- (2) The Secretary of State may by order provide that specified provisions of this Part of this Act shall apply, subject to such modifications (if any) as are specified, to the whole or any part of a pipeline of a kind mentioned in subsection (1); but an order under this subsection shall contain only such provisions as the Secretary of State considers are consistent with the jurisdiction which belongs to the United Kingdom under international law.
- (3) The Secretary of State may in regulations provide that specified provisions of this Part of this Act shall not apply to a pipeline of a specified kind or shall not apply to such a pipeline while any specified condition is satisfied.
- (4) In this section “specified”, in relation to an order or regulations, means specified in the order or, as the case may be, the regulations.
- (5) A statutory instrument containing an order under subsection (2) or regulations under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25 Orders and regulations.

- (1) Before making any regulations under this Part of this Act, the Secretary of State shall consult such organisations in the United Kingdom as he considers are representative of persons who will be affected by the regulations.

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Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part III. (See end of Document for details)

- (2) In making regulations under section 20, the Secretary of State shall have regard to the extent of the jurisdiction which belongs to the United Kingdom under international law.
- (3) Any regulations under this Part of this Act may provide—
 - (a) for the creation of offences which, subject to paragraph (b), are punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
 - (b) for the maximum punishment for an offence created by the regulations to be less than that authorised by paragraph (a) and for such an offence to be punishable only on summary conviction; and
 - (c) for the matters which are to be a defence to a charge of an offence created by the regulations.
- (4) Regulations under this Part of this Act—
 - (a) may be limited so as to apply only in prescribed cases or may exclude prescribed cases from the application of the regulations;
 - (b) may provide for a case to be excluded from the application of the regulations only so long as conditions specified in the regulations are satisfied.
- (5) The Health and Safety Executive may, by directions given to such persons as it considers appropriate, provide for any such regulations not to apply in a case specified in the directions so long as conditions so specified are satisfied.
- (6) In its application to Northern Ireland, subsection (5) shall have effect as if the reference to the Health and Safety Executive were a reference to [^{F16}the Health and Safety Executive for Northern Ireland].
- (7) Any order or regulations under this Part of this Act—
 - (a) may make different provision for different circumstances; and
 - (b) may include such incidental, supplemental and transitional provision as the Secretary of State considers appropriate in connection with the order or regulations.
- (8) Without prejudice to the generality of paragraph (b) of subsection (7), provision that may be included in regulations by virtue of that paragraph includes provision for the payment of fees in respect of consents and certificates required by the regulations.
- (9) Section 14 of the ^{M7}Interpretation Act 1978 (implied power to amend) shall not apply in relation to the power conferred by section 24(2).
- (10) Any power conferred by this Part of this Act to make an order or regulations shall be exercisable by statutory instrument.

Textual Amendments

F16 Words in s. 25(6) substituted (1.4.1999) by S.R. 1999/150, reg. 2, Sch.

Marginal Citations

M7 1978 c. 30.

Status: Point in time view as at 10/08/2000.

Changes to legislation: There are currently no known outstanding effects for the Petroleum Act 1998, Part III. (See end of Document for details)

26 Meaning of “pipeline”.

- (1) Except where the context otherwise requires, in this Part of this Act “pipeline” means a pipe or system of pipes (excluding a drain or sewer) for the conveyance of any thing, together with any apparatus and works associated with such a pipe or system.
- (2) For the purposes of this Part of this Act the apparatus and works associated with such a pipe or system are—
 - (a) any apparatus for inducing or facilitating the flow of any thing through, or through a part of, the pipe or system;
 - (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
 - (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
 - (d) apparatus for supplying energy for the operation of any apparatus or works mentioned in paragraphs (a) to (c);
 - (e) apparatus for the transmission of information for the operation of the pipe or system;
 - (f) apparatus for the cathodic protection of the pipe or system; and
 - (g) any structure used or to be used solely for the support of a part of the pipe or system.
- (3) The Secretary of State may by order provide that a part of a pipeline specified in the order shall be treated for the purposes of this Part of this Act, except this subsection, as a pipeline.

27 Meaning of “owner”.

- (1) For the purposes of this Part of this Act “owner” in relation to a pipeline, and “proposed owner” in relation to a proposed pipeline, mean the person for the time being designated as the owner of the pipeline, or as the case may be as the proposed owner of the proposed pipeline, by an order made by the Secretary of State.
- [^{F17}(1A) For the purposes of this Part of this Act (other than section 16, section 17(1) and the first reference in section 17F(2)), in the case of downstream gas pipelines and controlled petroleum pipelines—

“owner” in relation to a pipeline includes a person in whom the pipeline is vested; and a person who has the right to use capacity in the pipeline, where such right has been acquired by that person on terms that—

 - (a) he is entitled to use the capacity for a period of one year or more; and
 - (b) the right is capable of being assigned or otherwise disposed of to another person; and

“proposed owner” in relation to a proposed pipeline includes a person in whom the pipeline is proposed to be vested.]
- (2) An order designating a person as the proposed owner of a proposed pipeline may also provide for him to be designated as the owner of the pipeline in question at a time determined by or under the order.
- (3) Before designating a person under subsection (1) or (2), the Secretary of State shall give the person an opportunity of being heard with respect to the matter.

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- (4) Where a person for the time being designated under subsection (1) or (2) requests the Secretary of State in writing to cancel the designation, the Secretary of State shall—
- (a) consider the request; and
 - (b) if he considers it appropriate to do so, give the person an opportunity of being heard in connection with the request.

Textual Amendments

F17 S. 27(1A) inserted (10.8.2000) by S.I. 2000/1937, reg. 2(4), Sch. 4 para. 8

28 Interpretation of Part III.

- (1) Except where the context otherwise requires, in this Part of this Act the following expressions have the following meanings—

“authorisation” means an authorisation required by section 14;

“construction”, in relation to a pipeline, includes placing, and cognate expressions shall be construed accordingly;

[^{F18}“controlled petroleum pipeline” means any controlled pipeline or one of a network of controlled pipelines operated or constructed as part of a petroleum production project or used to convey petroleum from the site of one or more such projects—

- (a) directly to premises, in order for that petroleum to be used at those premises for power generation or for an industrial process;
- (b) directly to a place outside Great Britain;
- (c) directly to a terminal; or
- (d) indirectly to a terminal by way of one or more other terminals, whether or not such intermediate terminals are of the same kind as the final terminal;]

“controlled pipeline” and “controlled waters” have the meanings given to them by section 14;

[^{F19}“downstream gas pipeline” means a controlled pipeline, other than a controlled petroleum pipeline, which is used to convey gas to or from a place outside Great Britain;]

“enactment” includes an enactment of the Parliament of Northern Ireland or of the Northern Ireland Assembly;

[^{F20}“gas” means any substance which consists wholly or mainly of—

- (a) methane, ethane, propane, butane, hydrogen or carbon monoxide;
- (b) a mixture of two or more of those gases; or
- (c) a combustible mixture of one or more of those gases and air;

^{F20}“gas processing facility” means any facility in Great Britain operated otherwise than by a public gas transporter which carries out gas processing operations;

^{F20}“gas processing operation” means any of the following operations, namely—

- (a) purifying, blending, odourising or compressing gas for the purpose of enabling it to be introduced into a pipeline system operated by a public gas transporter or to be conveyed to an electricity generating station, a gas storage facility or any place outside Great Britain;
- (b) removing from gas for that purpose any of its constituent gases, or separating from gas for that purpose any oil or water; and

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- (c) determining the quantity or quality of gas which is or is to be so introduced, or so conveyed, whether generally or by or on behalf of a particular person;]

“heard” means heard on behalf of the Secretary of State by a person appointed by him for the purpose;

“holder”, in relation to an authorisation, means the person to whom the authorisation was issued;

“notice” means notice in writing;

[^{F21}“offshore gas storage facility” means the facility for the storage of gas known as the “Rough” facility, situated to the east of Hull in the Southern North Sea at grid reference 0° 27iE 53° 50iN;

^{F21}“petroleum” has the same meaning as in Part I of this Act, and includes petroleum which has undergone any processing;

^{F21}“petroleum production project” means a project carried out by virtue of a licence granted under section 3, or an equivalent project in a foreign sector of the continental shelf, and includes such a project which is used for the storage of gas;]

“pipeline”, in relation to an application for a works authorisation, means the proposed pipeline in respect of which the application is made;

“prescribed” means prescribed by regulations; and

[^{F22}“public gas transporter” means a public gas transporter within the meaning of Part I of the Gas Act 1986;

^{F22}“terminal” includes—

- (a) onshore facilities in the United Kingdom for such initial blending and other treatment as may be required to produce stabilised crude oil and other hydrocarbon liquids to the point at which a seller could reasonably make a delivery to a purchaser of such oil and liquids;
- (b) gas processing facilities; and
- (c) a facility for the reception of gas prior to its conveyance to a place outside Great Britain;]

“works authorisation” means an authorisation—

- (a) for works for the construction of a pipeline; or
- (b) for such works and for the use of the pipeline.

- (2) For the purposes of this Part of this Act, works at any place in, under or over controlled waters for the purpose of determining whether the place is suitable as part of the site of a proposed pipeline and the carrying out of surveying operations for the purpose of settling the route of a proposed pipeline are not works for the construction of a pipeline.
- (3) Any reference in this Part of this Act to a contravention of a provision of this Part or regulations made or directions given under this Part includes a reference to a failure to comply with that provision.
- (4) Subsections (1) to (3) of section 49 of the ^{M8}Pipe-lines Act 1962 (service of documents) have effect as if—
 - (a) references to that Act included references to this Part of this Act; and
 - (b) in subsection (3), after “arrangements agreed” there were inserted “ or in accordance with regulations under Part III of the Petroleum Act 1998 ”.
- (5) In the application of subsection (4) to Northern Ireland, section 49(1) to (3) of the Pipe-lines Act 1962 shall have effect as if it extended to Northern Ireland.

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- (6) Except so far as this Part of this Act otherwise expressly provides, nothing in this Part of this Act—
- (a) confers a right of action in any civil proceedings (other than proceedings for recovery of a fine) in respect of any contravention of this Part of this Act or an order or regulations made under it;
 - (b) affects any restriction imposed by or under any other enactment, whether public, local or private; or
 - (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.
- (7) Subsection (6) is subject to section 18 of the ^{M9}Interpretation Act 1978 (duplicated offences).

Textual Amendments

- F18** S.28(1): definition of “controlled petroleum pipeline” inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 9\(a\)](#)
- F19** S. 28(1): definition of “downstream gas pipeline” inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 9\(b\)](#)
- F20** S. 28(1): definitions of “gas”, “gas processing facility” and “gas processing operation” inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 9\(c\)](#)
- F21** S. 28(1): definitions of “offshore gas storage facility”, “petroleum” and “petroleum production project” inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 9\(d\)](#)
- F22** S. 28(1): definitions of “public gas transporter” and “terminal” inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(4\)](#), [Sch. 4 para. 9\(e\)](#)

Marginal Citations

- M8** 1962 c. 58.
M9 1978 c. 30.

Status:

Point in time view as at 10/08/2000.

Changes to legislation:

There are currently no known outstanding effects for the Petroleum Act 1998, Part III.