



# Petroleum Act 1998

## 1998 CHAPTER 17

### PART IV

#### ABANDONMENT OF OFFSHORE INSTALLATIONS

##### Modifications etc. (not altering text)

- C1** Pt. 4 (ss.29-45): power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. 1 para. 4(1)(b)** (with ss. 139(2), 143(2)); S.I. 1998/2789 art. 2
- C2** Pt. 4 applied (6.4.2009) by **Energy Act 2008 (c. 32)**, ss. **30(1)**, 110(2); S.I. 2009/45, art. 4(a)(ii)

#### [<sup>F1</sup>28A Restriction on abandonment

- (1) A person to whom a notice may be given under section 29(1) in relation to an offshore installation or submarine pipeline may not abandon, or begin or continue the decommissioning of, the installation or pipeline unless an abandonment programme approved by the Secretary of State has effect in relation to the installation or pipeline.
- (2) A person who without reasonable excuse contravenes subsection (1) is guilty of an offence.]

##### Textual Amendments

- F1** S. 28A inserted (1.10.2016) by **Energy Act 2016 (c. 20)**, s. 84(3), **Sch. 2 para. 2**; S.I. 2016/920, reg. 2(c)

#### 29 Preparation of programmes.

- (1) The Secretary of State may by written notice require—
- the person to whom the notice is given; or
  - where notices are given to more than one person, those persons jointly,

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to submit to the Secretary of State a programme setting out the measures proposed to be taken in connection with the abandonment of an offshore installation or submarine pipeline (an “abandonment programme”).

- [<sup>F2</sup>(1A) The power to give a notice under subsection (1) is exercisable—
- (a) on the Secretary of State's own motion, or
  - (b) at the request of any person to whom the notice may be given (whether or not the notice is given to that person).]
- (2) A notice under subsection (1) shall either specify the date by which the abandonment programme is to be submitted or provide for it to be submitted on or before such date as the Secretary of State may direct.
- [<sup>F3</sup>(2A) A person to whom a notice under subsection (1) is given—
- (a) must consult the OGA before submitting the abandonment programme to the Secretary of State, and
  - (b) must frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (2B) When consulted under paragraph (a) of subsection (2A) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) how to comply with paragraph (b) of that subsection.]
- (3) A notice under subsection (1) may require the person to whom it is given to carry out such [<sup>F4</sup>other] consultations as may be specified in the notice before submitting an abandonment programme.
- (4) An abandonment programme—
- (a) shall contain an estimate of the cost of the measures proposed in it;
  - (b) shall either specify the times at or within which the measures proposed in it are to be taken or make provision as to how those times are to be determined;
  - (c) if it proposes that an installation or pipeline be left in position or not wholly removed, shall include provision as to any continuing maintenance that may be necessary.
- (5) A person who submits an abandonment programme to the Secretary of State under this section shall at the same time pay to him such fee in respect of his expenditure under this Part of this Act as may be determined in accordance with regulations under section 39.
- (6) The Secretary of State may exercise his powers under this section notwithstanding that an abandonment programme has previously been submitted for the installation or pipeline in question, but only if he rejected that programme under section 32 or has withdrawn his approval of it under section 35.

#### Textual Amendments

**F2** S. 29(1A) inserted (1.10.2016) by Energy Act 2016 (c. 20), s. 84(3), Sch. 2 para. 3(2); S.I. 2016/920, reg. 2(c)

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- F3** S. 29(2A)(2B) inserted (1.10.2016) by Energy Act 2016 (c. 20), s. 84(3), Sch. 2 para. 3(3); S.I. 2016/920, reg. 2(c)
- F4** Word in s. 29(3) inserted (1.10.2016) by Energy Act 2016 (c. 20), s. 84(3), Sch. 2 para. 3(4); S.I. 2016/920, reg. 2(c)

### **30 Persons who may be required to submit programmes.**

- (1) A notice under section 29(1) shall not be given to a person in relation to the abandonment of an offshore installation unless at the time when the notice is given he is within any of the following paragraphs—
- (a) the person having the management of the installation or of its main structure;
  - (b) a person to whom subsection (5) applies in relation to the installation;
  - [<sup>F5</sup>(ba) a person to whom subsection (5)(a) and (b) applied in relation to the installation, but who—
    - (i) transferred the right mentioned in that subsection to another person, and
    - (ii) has not obtained a consent required under the licence in relation to the transfer;]
  - (c) a person outside paragraphs (a) and (b) who is a party to a joint operating agreement or similar agreement relating to rights by virtue of which a person is within paragraph (b);
  - (d) a person outside paragraphs (a) to (c) who owns any interest in the installation otherwise than as security for a loan;
  - (e) a [<sup>F6</sup>body corporate] which is outside paragraphs (a) to (d) but is associated with a [<sup>F6</sup>body corporate] within any of those paragraphs.
- (2) A notice under section 29(1) shall not be given to a person in relation to the abandonment of a submarine pipeline unless at the time when the notice is given he is within any of the following paragraphs—
- (a) a person designated as the owner of the pipeline by an order made by the Secretary of State under section 27;
  - (b) a person outside paragraph (a) who owns any interest in the whole or substantially the whole of the pipeline, otherwise than as security for a loan;
  - (c) a [<sup>F7</sup> body corporate] which is outside paragraphs (a) and (b) but is associated with a [<sup>F7</sup> body corporate] within one of those paragraphs.
- (3) The Secretary of State may by written notice require a person appearing to the Secretary of State to be within any of the paragraphs of subsection (1) or (2) to give him, within such time as may be specified in the notice, the name and address of every other person whom the recipient of the notice believes to be within any of those paragraphs in relation to the installation or pipeline concerned.
- (4) A person who without reasonable excuse fails to comply with a notice under subsection (3) shall be guilty of an offence.
- (5) This subsection applies to a person in relation to an offshore installation if—
- [<sup>F8</sup>(a) the person has the right—
    - (i) to exploit or explore mineral resources in any area,
    - (ii) to unload, store or recover gas in any area or to convert any natural feature in any area for the purpose of storing gas, or

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- (iii) to explore any area with a view to, or in connection with, the exercise of a right within sub-paragraph (i) or (ii), and]
- [<sup>F9</sup>(b) either—
- (i) any activity mentioned in subsection (6) is carried on from, by means of or on the installation, or
  - (ii) the person intends to carry on an activity mentioned in that subsection from, by means of or on the installation,]
- or if he had such a right when any such activity was last so carried on.
- (6) The activities referred to in subsection (5) are—
- [<sup>F10</sup>(a) the exploitation or exploration of mineral resources in the exercise of the right mentioned in subsection (5)(a);
- (aa) the unloading, storage or recovery of gas in the exercise of that right;
  - (ab) the conversion, in the exercise of that right, of any natural feature for the purpose of storing gas;
  - (ac) the exploration in exercise of that right with a view to, or in connection with, the exercise of a right within subsection (5)(a)(ii);]
  - (b) the conveyance in the area so mentioned, by means of a pipe or system of pipes, of minerals got, or gas being stored or recovered, in the exercise of that right; and
  - (c) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within paragraph (a) [<sup>F11</sup>to (b)] or this paragraph.
- (7) The fact that an installation has been maintained for the carrying on of an activity within subsection (6) shall be disregarded for the purposes of paragraph (c) of that subsection if, since it was so maintained, the installation—
- (a) has been outside relevant waters or, where it was so maintained in a part of a foreign sector of the continental shelf adjacent to those waters, the area consisting of those waters and that part; or
  - (b) has been maintained for the carrying on of an activity which is not within that subsection.
- [<sup>F12</sup>(8) For the purposes of this section, one body corporate is associated with another if one of them controls the other or a third body corporate controls both of them; and subsections (8A) to (8D) set out the circumstances in which one body corporate (“A”) controls another (“B”).
- (8A) Where B is a company, A controls B if A possesses or is entitled to acquire—
- (a) one half or more of the issued share capital of B,
  - (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B,
  - (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
  - (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive one half or more of the assets of B which would then be available for distribution among the shareholders.
- (8B) Where B is a limited liability partnership, A controls B if A—

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- (a) holds a majority of the voting rights in B,
  - (b) is a member of B and has a right to appoint or remove a majority of other members, or
  - (c) is a member of B and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in B.
- (8C) In subsection (8B)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.
- (8D) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes.]
- (9) In determining whether, by virtue of [F13subsections (8) to (8D)] , one [F14body corporate] controls another, the first-mentioned [F14body corporate] shall be taken to possess—
- (a) any rights and powers possessed by a person as nominee for it; and
  - (b) any rights and powers possessed by a [F14body corporate] which it controls (including rights and powers which such a[F14body corporate] would be taken to possess by virtue of this paragraph).

#### Textual Amendments

- F5** S. 30(1)(ba) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(2)(a)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F6** Words in s. 30(1)(e) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(2)(b)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F7** Words in s. 30(2)(c) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(3)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F8** S. 30(5)(a) substituted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), **Sch. 1 para. 10(a)**; S.I. 2009/2809, art. 2 (with art. 4)
- F9** S. 30(5)(b) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(4)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F10** S. 30(6)(a)-(ac) substituted for s. 30(6)(a) (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), **Sch. 1 para. 10(b)**; S.I. 2009/2809, art. 2 (with art. 4)
- F11** Words in s. 30(6)(c) substituted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), **Sch. 1 para. 10(c)**; S.I. 2009/2809, art. 2 (with art. 4)
- F12** S. 30(8)-(8D) substituted for s. 30(8) (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(5)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F13** Words in s. 30(9) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(6)(a)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F14** Words in s. 30(9) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(6)(b)**, 110(2); S.I. 2009/45, art. 2(b)(i)

#### Modifications etc. (not altering text)

- C3** S. 30(8)-(9) applied by 2008 c. 32, s. 30A(13) (as inserted (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 107(2)**, 121(3))
- C4** S. 30(8)-(9) applied (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **s. 80(8)**

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### 31 Section 29 notices: supplementary provisions.

[<sup>F15</sup>(A1) The Secretary of State may not give a notice under section 29(1) in relation to an offshore installation to a person (“P”) who, in relation to the installation, falls within paragraph (b) or (c) of section 30(1), if—

- (a) P is not entitled to derive, and never has been entitled to derive, any financial or other benefit from any activity within section 30(6)—
  - (i) which has been or is carried on (or is intended to be carried on) from, by means of or on the installation, and
  - (ii) is an activity to which subsection (B1) applies, and
- (b) P is not, and never has been, a person within section 30(1)(a), (ba), (d) or (e) in relation to the installation.

(B1) This subsection applies to an activity if—

- (a) where the activity is the exploitation or exploration of mineral resources, it relates to an oil field for which the installation is or is to be established or maintained;
- (b) where the activity is the conveyance of minerals, the minerals are got, or to be got, from such an oil field;
- (c) where the activity is the unloading, storage or recovery of gas, it relates to a controlled place (within the meaning of Chapter 2 or 3 of Part 1 of the Energy Act 2008) for which the installation is or is to be established or maintained;
- (d) where the activity is the conveyance of gas being stored or recovered, the storage or recovery of the gas relates to such a controlled place;
- (e) where the activity is within section 30(6)(c)—
  - (i) the installation is in an oil field in respect of which P has an interest, or
  - (ii) the installation is in a controlled place in respect of which P has a licence under Part 1 of the Energy Act 2008.

(C1) For the purposes of subsection (B1)—

- (a) “oil field” means an area which the appropriate authority (within the meaning of paragraph 1(2) of Schedule 1 to the Oil Taxation Act 1975) has determined to be an oil field for the purposes of Part 1 of that Act,
- (b) P has an interest in an oil field if P is entitled to derive, or has at any time been entitled to derive, any financial or other benefit from activities within section 30(6) (other than paragraph (c)) carried on in the field.

(D1) The Secretary of State may not give a notice under section 29(1) in relation to an offshore installation to a body corporate if—

- (a) the body corporate falls within paragraph (e) of section 30(1) (and no other paragraph of that section), and
- (b) the body corporate falls within that paragraph by reason only that it is associated (within the meaning given by section 30(8)) with a person to whom the Secretary of State may not give a notice in relation to the installation by virtue of subsection (A1).]

- (1) Subject to subsection (3), the Secretary of State shall not give a notice under section 29(1) in relation to an offshore installation to a person within paragraph <sup>F16</sup>... (e) of section 30(1) if the Secretary of State has been and continues to be satisfied that adequate arrangements (including financial arrangements) have been made by a person or persons within paragraph (a), (b) or (c) to ensure that a satisfactory abandonment programme will be carried out.

*Status: Point in time view as at 18/07/2018.*

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- (2) Subject to subsection (3), the Secretary of State shall not give a notice under section 29(1) in relation to a submarine pipeline to a person within paragraph (b) or (c) of section 30(2) if the Secretary of State has been and continues to be satisfied that adequate arrangements (including financial arrangements) have been made by a person or persons within paragraph (a) to ensure that a satisfactory abandonment programme will be carried out.
- (3) Subsections (1) and (2) shall not apply if there has been a failure to comply with a notice under section 29(1) or if the Secretary of State has rejected a programme submitted in compliance with such a notice.
- (4) The Secretary of State shall not give a notice to a person under section 29(1) without first giving him an opportunity to make written representations as to whether the notice should be given.
- (5) Where the Secretary of State has given a notice under section 29(1) in relation to an installation or a pipeline, he may at any time before the programme required by it is submitted withdraw the notice or give (subject to the preceding provisions of this section) a further notice under section 29(1) (whether in substitution for or in addition to any notice already given); and if he does so he shall inform the recipients of any other notices which have been given in relation to that installation or pipeline and not withdrawn.
- (6) Neither the withdrawal of a notice given under section 29(1) nor the giving of a further notice shall relieve the recipient of any other notice of his duty to submit a programme (jointly, in a case where more than one notice is given and not withdrawn, with the recipients of the other notices).

#### Textual Amendments

- F15** Ss. 31(A1)-(D1) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 72(7)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F16** Words in s. 31(1) repealed (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), Sch. 5 para. 9, **Sch. 6**; S.I. 2009/45, art. 2(e)(cc)(iv)(vi)

## 32 Approval of programmes.

- (1) The Secretary of State may either approve or reject a programme submitted to him under section 29.
  - (2) If he approves a programme, the Secretary of State may approve it with or without modifications and either subject to conditions or unconditionally.
- <sup>F17</sup>(2A) The modifications or conditions may (in particular) include modifications or conditions—
- (a) which are intended (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) to reduce the total cost of carrying out the programme, provided that they do not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme;
  - (b) requiring the persons who submitted the programme to carry out and publish or make available to the Secretary of State and the OGA

*Status: Point in time view as at 18/07/2018.*

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a review of the programme and its implementation including, where relevant, recommendations as to the contents and implementation of future abandonment programmes.]

- (3) Before approving a programme with modifications or subject to conditions, the Secretary of State shall give the persons who submitted the programme an opportunity to make written representations about the proposed modifications or conditions.
- (4) If he rejects a programme, the Secretary of State shall inform the persons who submitted it of his reasons for doing so.
- (5) The Secretary of State shall act without unreasonable delay in reaching a decision as to whether to approve or reject a programme.
- [<sup>F18</sup>(6) Before reaching a decision under this section the Secretary of State must—
  - (a) consult the OGA, and
  - (b) take into account the cost of carrying out the programme that has been submitted and whether it is possible to reduce that cost by modifying the programme or making it subject to conditions.
- (7) When consulted under subsection (6)(a), the OGA must (in particular) consider and advise on—
  - (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) whether section 29(2A)(b) has been complied with and, if it has not been, modifications or conditions that would enable it to be complied with.]

#### Textual Amendments

**F17** S. 32(2A) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 4\(2\)](#); S.I. 2016/920, reg. 2(c)

**F18** S. 32(6)(7) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 4\(3\)](#); S.I. 2016/920, reg. 2(c)

#### Modifications etc. (not altering text)

**C5** S. 32(1) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)

S. 32(1) modified (1.7.1999) by [S.I. 1999/1750](#) arts. 1(1), 4, [Sch. 3](#)

**C6** S. 32(2) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)

### 33 Failure to submit programmes.

- (1) If a notice under section 29(1) is not complied with, or if the Secretary of State rejects a programme submitted in compliance with such a notice, the Secretary of State may himself prepare an abandonment programme for the installation or pipeline concerned.
- (2) With a view to exercising his powers under subsection (1) of this section, the Secretary of State may by written notice require any of the persons to whom notice was given under section 29(1) to provide him, within such time as may be specified in the notice, with such records and drawings and such other information as may be so specified.
- (3) A person who without reasonable excuse fails to comply with a notice under subsection (2) shall be guilty of an offence.



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- [<sup>F19</sup>(3A) When preparing an abandonment programme under this section the Secretary of State must—
- (a) consult the OGA, and
  - (b) frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (3B) When consulted under paragraph (a) of subsection (3A), the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) how to comply with the requirement in paragraph (b) of that subsection.]

(4) The Secretary of State may recover from any of the persons to whom a notice was given under section 29(1) any expenditure incurred by the Secretary of State in preparing an abandonment programme under this section, and any fee that would have been payable on the submission of a programme by those persons.

(5) A person liable to pay any sum to the Secretary of State by virtue of subsection (4) shall also pay interest on that sum for the period beginning with the day on which the Secretary of State notified him of the sum payable and ending with the date of payment.

(6) The rate of interest payable in accordance with subsection (5) shall be a rate determined by the Secretary of State as comparable with commercial rates.

(7) Where the Secretary of State prepares an abandonment programme under this section, he shall inform the persons to whom notice was given under section 29(1) of its terms; and when he has done so, the following provisions of this Part of this Act shall have effect as if the programme had been submitted by those persons and approved by the Secretary of State.

#### Textual Amendments

**F19** S. 33(3A)(3B) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 5](#); S.I. 2016/920, reg. 2(c)

#### Modifications etc. (not altering text)

**C7** S. 33(1) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)  
S. 33(1) modified (1.7.1999) by [S.I. 1999/1750](#) arts. 1(1), 4, Sch. 3

### 34 Revision of programmes.

- (1) Where the Secretary of State has approved a programme submitted to him under section 29—
- (a) either he or the persons who submitted it acting together may propose an alteration to the programme or to any condition to which it is subject; and
  - (b) either he or any of those persons may propose that any person who by virtue of section 36 has a duty to secure that the programme is carried out shall cease to have that duty, or that a person who does not already have that duty shall have it (either in addition to or in substitution for another person).

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- (2) In the case of a proposal of the kind mentioned in subsection (1)(b), any person who would if the proposed change were made have a duty to secure that the programme is carried out must be a person who—
- (a) if the programme relates to an offshore installation, is within paragraph (a), (b), [<sup>F20</sup>(ba), ] (c), (d) or (e) of section 30(1) when the proposal is made, or has been within one of those paragraphs at some time since the giving of the first notice under section 29(1) in relation to the installation; and
  - (b) if the programme relates to a submarine pipeline, is within paragraph (a), (b) or (c) of section 30(2) when the proposal is made, or has been within one of those paragraphs at some time since the giving of the first notice under section 29(1) in relation to the pipeline.
- (3) The Secretary of State shall not propose that a person who is or has been within paragraph<sup>F21</sup>... (e) (but no other paragraph) of section 30(1) or paragraph (b) or (c) (but not paragraph (a)) of section 30(2) shall have a duty to secure that a programme is carried out unless it appears to the Secretary of State that a person already under that duty has failed or may fail to discharge it.
- [<sup>F22</sup>(3A) A proposal that a person who is or has been within paragraph (b) or (c) of section 30(1) is to have a duty to secure that a programme is carried out may not be made if the Secretary of State would be prevented from giving a notice under section 29(1) to the person by virtue of section 31(A1) if the programme had not already been approved under this section.]
- (4) A proposal under subsection (1) shall be made by written notice given—
- (a) if the proposal is the Secretary of State's, to each of the persons by whom the programme was submitted; and
  - (b) in any other case, to the Secretary of State;
- and a person giving notice to the Secretary of State shall at the same time pay to him such fee in respect of his expenditure under this Part of this Act as may be determined in accordance with regulations under section 39.
- [<sup>F23</sup>(4A) A person who makes a proposal under subsection (1) that is likely to have an effect on the cost of carrying out the programme must frame it so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be altered is kept to the minimum that is reasonably practicable in the circumstances.
- (4B) Where the Secretary of State makes a proposal under subsection (1)(a) the purpose of which is to reduce the total cost of carrying out a programme, the proposal may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.]
- (5) Where the Secretary of State has made a proposal under subsection (1)(a), he shall give an opportunity to make written representations about it to each of the persons who submitted the programme.
- (6) Where a proposal has been made under subsection (1)(b), the Secretary of State shall give an opportunity to make written representations about it to every person (other than one who made the proposal) who will if the proposed change is made—
- (a) have a duty to secure that the programme is carried out; or
  - (b) cease to have that duty.

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- (7) The Secretary of State shall determine whether a change proposed under subsection (1) is to be made and shall then give notice of his determination, and of his reasons for it, to—
- (a) every person who, before the determination was made, had a duty to secure the carrying out of the programme; and
  - (b) any person who has that duty as a result of the determination.
- [<sup>F24</sup>(7A) If it appears to the Secretary of State that what is proposed under subsection (1) is likely to have an effect on the cost of carrying out the programme, the Secretary of State must, before making a determination under subsection (7)—
- (a) consult the OGA, and
  - (b) take that effect into account.
- (7B) When consulted under subsection (7A)(a) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) whether subsection (4A) applies and, if so, whether it has been complied with.]

(8) Where the Secretary of State determines that a change proposed in accordance with this section shall be made, this Part of this Act shall thereafter have effect as if the programme had been approved by the Secretary of State after being submitted under section 29 with the alterations, or as the case may be by the persons, specified in the determination.

#### Textual Amendments

- F20** Word in s. 34(2)(a) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 5 para. 10\(a\)](#); S.I. 2009/45, art. 2(e)(iv)
- F21** Words in s. 34(3) repealed (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 5 para. 10\(b\)](#), [Sch. 6](#); S.I. 2009/45, art. 2(e)(dd)(iv)(vi)
- F22** S. 34(3A) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), [ss. 72\(8\)](#), 110(2); S.I. 2009/45, art. 2(b)(i)
- F23** S. 34(4A)(4B) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 6\(2\)](#); S.I. 2016/920, reg. 2(c)
- F24** S. 34(7A)(7B) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 6\(3\)](#); S.I. 2016/920, reg. 2(c)

#### Modifications etc. (not altering text)

- C8** S. 34(1) and (7) modified (1.7.1999) by S.I. 1999/672, arts. 1(2), 5, [Sch. 2](#)
- C9** S. 34(7) modified (1.7.1999) by S.I. 1999/1750, art. 4, [Sch. 3](#)

#### [<sup>F25</sup>34A Amendment of programmes

- (1) This section applies where an abandonment programme approved by the Secretary of State includes provision by virtue of which the programme may be amended.
- (2) A person who proposes to make an amendment under such a provision that is likely to have an effect on the cost of carrying out the programme must frame the amendment so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost

*Status: Point in time view as at 18/07/2018.*

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

of carrying out the programme as proposed to be amended is kept to the minimum that is reasonably practicable in the circumstances.

- (3) If it appears to the person who proposes to make the amendment that subsection (2) applies, the person must consult the OGA before making the amendment.
- (4) When consulted under subsection (3) the OGA must (in particular) consider and advise on—
  - (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) whether subsection (2) applies and, if so, whether it has been complied with.
- (5) Any person who has the function of approving amendments made under a provision mentioned in subsection (1) must, when exercising the function, take into account the effect of the proposed amendment on the cost of carrying out the programme.]

#### Textual Amendments

**F25** S. 34A inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 7](#); [S.I. 2016/920](#), reg. 2(c)

### 35 Withdrawal of approval.

- (1) The Secretary of State may at the request of one or more of the persons who submitted an abandonment programme withdraw his approval of the programme.
- (2) If a request under subsection (1) is made by some but not all of the persons who submitted the programme, the Secretary of State shall give the others an opportunity to make written representations as to whether his approval should be withdrawn.
- (3) The Secretary of State shall after determining whether to withdraw his approval of an abandonment programme give notice of his determination to each of the persons who submitted the programme.

#### Modifications etc. (not altering text)

**C10** S. 35(1) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)  
 S. 35(1) modified (1.7.1999) by [S.I. 1999/1750](#) arts. 1(1), 4, [Sch. 3](#)

### 36 Duty to carry out programmes.

Where an abandonment programme is approved by the Secretary of State, it shall be the duty of each of the persons who submitted it to secure that it is carried out and that any conditions to which the approval is subject are complied with.

#### [<sup>F26</sup>36A Reduction of costs of carrying out programmes

- (1) This section applies where an abandonment programme approved by the Secretary of State has effect in relation to an installation or pipeline.

*Status: Point in time view as at 18/07/2018.*

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

- (2) The Secretary of State may, for the purpose of reducing the total cost of carrying out the programme, by written notice require any person who submitted the programme to take, or refrain from taking, action of a description specified in the notice.
- (3) The notice may, in particular, require—
  - (a) changes to the times at which the measures proposed in the programme are to be carried out;
  - (b) the persons who are under a duty to secure that the programme is carried out to collaborate with other persons.
- (4) The programme, and any condition to which it is subject, has effect subject to any notice given under this section.
- (5) A notice given under this section may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.
- (6) The Secretary of State may not give a notice to a person under this section without first giving the person an opportunity to make written representation as to whether the notice should be given.
- (7) A person to whom a notice is given under this section who without reasonable excuse fails to comply with the notice is guilty of an offence.
- (8) If a notice under this section is not complied with, the Secretary of State may—
  - (a) do anything necessary to give effect to the notice, and
  - (b) recover from the person to whom the notice was given any expenditure incurred under paragraph (a).
- (9) A person liable to pay any sum to the Secretary of State by virtue of subsection (8) must also pay interest on that sum for the period beginning with the day on which the Secretary of State notified the person of the sum payable and ending with the date of payment.
- (10) The rate of interest payable in accordance with subsection (9) is a rate determined by the Secretary of State as comparable with commercial rates.]

#### **Textual Amendments**

**F26** S. 36A inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 8](#); S.I. 2016/920, reg. 2(c)

### **37 Default in carrying out programmes.**

- (1) If an abandonment programme approved by the Secretary of State is not carried out or a condition to which the approval is subject is not complied with, the Secretary of State may by written notice require any of the persons who submitted the programme to take such remedial action as may be specified in the notice within such time as may be so specified.
- [<sup>F27</sup>(1A) If it appears to the Secretary of State that the proposed remedial action is likely to have an effect on the cost of carrying out the programme, the Secretary of State must—
- (a) consult the OGA before giving a notice under subsection (1), and

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

- (b) take that effect into account when deciding whether to give the notice.
- (1B) When consulted under subsection (1A)(a), the OGA must consider and advise on the likely effect of the proposed remedial action on the cost of carrying out the programme.]
- (2) A person who fails to comply with a notice given to him under subsection (1) shall be guilty of an offence unless he proves that he exercised due diligence to avoid the failure.
- (3) If a notice under subsection (1) is not complied with, the Secretary of State may carry out the remedial action required by the notice, and may recover any expenditure incurred by him in doing so from the person to whom the notice was given.
- (4) A person liable to pay any sum to the Secretary of State by virtue of subsection (3) shall also pay interest on that sum for the period beginning with the day on which the Secretary of State notified him of the sum payable and ending with the date of payment.
- (5) The rate of interest payable in accordance with subsection (4) shall be a rate determined by the Secretary of State as comparable with commercial rates.

#### Textual Amendments

**F27** S. 37(1A)(1B) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 9](#); S.I. 2016/920, reg. 2(c)

#### Modifications etc. (not altering text)

**C11** S. 37(1) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)  
 S. 37(1) modified (1.7.1999) by [S.I. 1999/1750](#) arts. 1(1), 4, Sch. 3

### 38 Financial resources.

[<sup>F28</sup>(1) The Secretary of State may, for a purpose specified in subsection (1A), give a notice to a person within subsection (1B) requiring the person, within a time specified in the notice—

- (a) to provide specified information relating to the person's financial affairs;
- (b) to supply copies of specified documents, or documents of a specified description, relating to those affairs.

(1A) Those purposes are—

- (a) determining whether to give a notice under section 29 to a person in respect of an installation or pipeline;
- (b) determining whether to make a proposal under section 34(1) to impose a duty on a person under section 36;
- (c) where a person has made such a proposal, determining whether to impose the duty on the person proposed.

(1B) A person falls within this subsection if—

- (a) a notice under section 29(1) may be given to the person,
- (b) the person falls within section 34(2)(a) or (b) and the Secretary of State is considering proposing, in accordance with section 34(1)(b), that the person should have a duty under section 36, or

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*Status: Point in time view as at 18/07/2018.*

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

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- (c) the person falls within section 34(2)(a) or (b) and the Secretary of State is considering whether to impose a duty on the person under section 36 in accordance with a proposal made under section 34(1)(b).]
- (2) In order to satisfy himself that a person [<sup>F29</sup>falling within subsection (2A) will be capable of carrying out any abandonment programme which has been submitted (whether or not it is approved) or may be submitted in relation to an installation or pipeline], the Secretary of State may at any time by written notice require that person, within such time as may be specified in the notice—
- (a) to provide such information [<sup>F30</sup>(which may relate to the estimated costs of abandonment of the installation or pipeline or to any other financial or other matter)]; and
- (b) to supply copies of such documents,
- as may be so specified.
- [<sup>F31</sup>(2A) A person falls within this subsection if—
- (a) a notice under section 29(1) has been given to the person, or
- (b) the person has a duty under section 36 to secure that an abandonment programme is carried out.]
- (3) A person who—
- (a) without reasonable excuse fails to comply with a notice under subsection (1) or (2); or
- (b) in purported compliance with such a notice provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular,
- shall be guilty of an offence.
- [<sup>F32</sup>(4) The Secretary of State may, after consulting the Treasury, give written notice to a person to whom subsection (4A) applies, requiring the person to take such action as may be specified in the notice within such time as may be so specified.
- (4A) This subsection applies to a person if—
- (a) the person falls within subsection (2A), and
- (b) the Secretary of State is not satisfied that the person will be capable of carrying out any duty which has been, or is likely to be, imposed on the person by section 36.]
- (5) The Secretary of State shall not give notice to a person under subsection (4) without first giving him an opportunity to make written representations as to whether the notice should be given.
- (6) A person who fails to comply with a notice under subsection (4) shall be guilty of an offence unless he proves that he exercised due diligence to avoid the failure.
- [<sup>F33</sup>(7) It is an offence for a person to disclose information obtained by virtue of a notice under subsection (1) or (2) unless the disclosure—
- (a) is made with the consent of the person by or on behalf of whom the information was provided,
- (b) is for the purpose of the exercise of the Secretary of State's functions under this Part, Chapter 3 of Part 2 of the Energy Act 2004 or Part 1 of the Energy Act 2008, or
- (c) is required by or under an enactment.]

*Status: Point in time view as at 18/07/2018.*

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

#### Textual Amendments

- F28** S. 38(1)-(1B) substituted for s. 38(1) (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(2)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F29** Words in s. 38(2) substituted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(3)(a)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F30** Words in s. 38(2)(a) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(3)(b)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F31** S. 38(2A) inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(4)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F32** S. 38(4)(4A) substituted for s. 38(4) (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(5)**, 110(2); S.I. 2009/45, art. 2(b)(i)
- F33** S. 38(7) added (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 73(6)**, 110(2); S.I. 2009/45, art. 2(b)(i)

### [<sup>F34</sup> 38A Protection of funds set aside for the purposes of abandonment programme

- (1) This section applies where any security for the performance of obligations under an approved abandonment programme has been provided by a person (“the security provider”) by way of a trust or other arrangements.
- (2) Subsection (1) applies whether the security is provided before or after the programme is approved.
- (3) In this section a reference to “the protected assets” is a reference to the security and any property or rights in which it consists.
- (4) In this section “security” includes—
  - (a) a charge over a bank account or any other asset;
  - (b) a deposit of money;
  - (c) a performance bond or guarantee;
  - (d) an insurance policy;
  - (e) a letter of credit.
- (5) The manner in which, and purposes for which, the protected assets are to be applied and enforceable (whether in the event of the security provider's insolvency or otherwise) is to be determined in accordance with the trust or other arrangements.
- (6) For the purposes of subsection (5), no regard is to be had to so much of the Insolvency Act 1986, the Insolvency (Northern Ireland) Order 1989 or any other enactment or rule of law as, in its operation in relation to the security provider or any conduct of the security provider, would—
  - (a) prevent or restrict the protected assets from being applied in accordance with the trust or other arrangement, or
  - (b) prevent or restrict their enforcement for the purposes of being so applied.
- (7) In subsection (6) “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or Northern Ireland legislation.

#### Textual Amendments

- F34** Ss. 38A, 38B inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 74**, 110(2); S.I. 2009/45, art. 2(b)(i)



*Status: Point in time view as at 18/07/2018.*

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

### **38B Directions to provide information about protected assets**

- (1) The Secretary of State may direct a security provider to publish specified information about the protected assets.
- (2) A direction under this section may specify—
  - (a) the time when the information must be published, and
  - (b) the manner of publication.
- (3) If a security provider fails to comply with a direction, the Secretary of State, or a creditor of the security provider, may make an application to the court under this section.
- (4) If, on an application under this section, the court decides that the security provider has failed to comply with the direction, it may order the security provider to take such steps as the court directs for securing that the direction is complied with.
- (5) In this section—
  - “court”—
    - (a) in relation to an application in England and Wales or Northern Ireland, means the High Court, and
    - (b) in relation to an application in Scotland, means the Court of Session;
  - “security provider” means a person who has provided security in relation to which section 38A applies;
  - “the protected assets”, in relation to a security provider, means the security, and any property or rights in which it consists.]

#### **Textual Amendments**

**F34** Ss. 38A, 38B inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 74, 110(2)**; [S.I. 2009/45](#), art. 2(b)(i)

### **39 Regulations.**

- (1) The Secretary of State may make regulations relating to the abandonment of offshore installations and submarine pipelines.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may—
  - (a) prescribe standards in respect of the dismantling, removal and disposal of installations and pipelines;
  - (b) prescribe standards and safety requirements in respect of anything left in the water in cases where an installation or pipeline is not wholly removed;
  - (c) make provision for the prevention of pollution;
  - (d) make provision for inspection, including provision as to the payment of the costs of inspection;
  - (e) make provision as to the determination of the amount of any fees that are payable to the Secretary of State under this Part of this Act.
- (3) Regulations under this section may include provision making it an offence, in such cases as may be prescribed in the regulations, to contravene the regulations.

*Status: Point in time view as at 18/07/2018.*

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

- (4) Where regulations under this section create an offence, they shall make provision as to the mode of trial and punishment of offenders; but—
- (a) any provision as to punishment on summary conviction shall not authorise a fine exceeding the statutory maximum or imprisonment; and
  - (b) any provision as to punishment on conviction on indictment shall not authorise imprisonment for a term exceeding two years.
- (5) Before making regulations under this section the Secretary of State shall consult organisations in the United Kingdom appearing to him to be representative of those persons who will be affected by the regulations; and he shall not make regulations relating to the amount of any fees without the consent of the Treasury.
- (6) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

- C12** S. 39(1) modified (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)  
 S. 39(1) modified (1.7.1999) by [S.I. 1999/1750](#) arts. 1(1), 4, Sch. 3

**40 Offences: penalties.**

A person guilty of an offence under section [<sup>F35</sup>28A,] 30, 33, [<sup>F36</sup>36A,] 37 or 38 shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

**Textual Amendments**

- F35** Word in [s. 40](#) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 10\(a\)](#); [S.I. 2016/920](#), reg. 2(c)
- F36** Word in [s. 40](#) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 10\(b\)](#); [S.I. 2016/920](#), reg. 2(c)

**41 Offences: general.**

- (1) Proceedings for an offence under section [<sup>F37</sup>28A,] 30, 33, [<sup>F38</sup>36A,] 37 or 38 or under regulations made under section 39 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.
- (2) Proceedings for an offence under section [<sup>F39</sup>28A,] 30, 33, [<sup>F40</sup>36A,] 37 or 38 or under regulations made under section 39 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.

*Status: Point in time view as at 18/07/2018.*

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

- (3) Where an offence committed by a body corporate under section [F<sup>41</sup>28A,] 30, 33, [F<sup>42</sup>36A,] 37 or 38 or under regulations made under section 39 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.
- (4) Where the affairs of a body corporate are managed by its members, subsection (3) shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) If an offence under section [F<sup>43</sup>28A, 36A or] 37 or under regulations made under section 39 is committed outside the United Kingdom, proceedings for the 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.
- (6) Section 3 of the <sup>M1</sup>Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions) shall not apply to proceedings for an offence to which subsection (1) of this section applies.

#### Textual Amendments

- F37** Word in s. 41(1) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(2\)\(a\)](#); S.I. 2016/920, reg. 2(c)
- F38** Word in s. 41(1) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(2\)\(b\)](#); S.I. 2016/920, reg. 2(c)
- F39** Word in s. 41(2) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(3\)\(a\)](#); S.I. 2016/920, reg. 2(c)
- F40** Word in s. 41(2) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(3\)\(b\)](#); S.I. 2016/920, reg. 2(c)
- F41** Word in s. 41(3) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(4\)\(a\)](#); S.I. 2016/920, reg. 2(c)
- F42** Word in s. 41(3) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(4\)\(b\)](#); S.I. 2016/920, reg. 2(c)
- F43** Words in s. 41(5) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 11\(5\)](#); S.I. 2016/920, reg. 2(c)

#### Marginal Citations

- M1** 1878 c. 73.

## 42 Validity of Secretary of State's acts.

- (1) If any person is aggrieved by any of the acts of the Secretary of State mentioned in subsection (2) and desires to question its validity on the ground that it was not within the powers of the Secretary of State or that the relevant procedural requirements had not been complied with, he may within 42 days of the day on which the act was done make an application to the court under this section.
- (2) The acts referred to in subsection (1) are—
  - (a) the giving of a notice under section 29(1);
  - (b) the approval of a programme under section 32;

*Status: Point in time view as at 18/07/2018.*

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

- (c) the rejection of a programme under section 32;
  - (d) a determination under section 34;
  - (e) a determination under section 35;
  - [<sup>F44</sup>(ea) the giving of a notice under section 36A(2);]
  - (f) the giving of a notice under section 38(4).
- (3) If on an application under this section the court is satisfied that the act in question was not within the powers of the Secretary of State or that the applicant has been substantially prejudiced by a failure to comply with the relevant procedural requirements, the court may quash the act.
- (4) Except as provided by this section, the validity of any of the acts of the Secretary of State referred to in subsection (1) shall not be questioned in any legal proceedings whatever.
- (5) In this section “the relevant procedural requirements”—
- (a) in relation to the giving of a notice under section 29(1), means the requirements of section 31(4);
  - (b) in relation to the approval of a programme under section 32, means the requirements of section 32(3);
  - (c) in relation to the rejection of a programme under section 32, means the requirements of section 32(4);
  - (d) in relation to a determination under section 34, means the requirements of section 34(5), (6) and (7);
  - (e) in relation to a determination under section 35, means the requirements of section 35(2);
  - [<sup>F45</sup>(ea) in relation to the giving of a notice under section 36A(2), means the requirements of section 36A(6);]
  - (f) in relation to the giving of a notice under section 38(4), means the requirements of section 38(5).
- (6) In this section, “the court” means—
- (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session;
  - (c) in relation to Northern Ireland, the High Court.

#### Textual Amendments

**F44** S. 42(2)(ea) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 12\(2\)](#); S.I. 2016/920, reg. 2(c)

**F45** S. 42(5)(ea) inserted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 2 para. 12\(3\)](#); S.I. 2016/920, reg. 2(c)

## 43 Notices.

Any notice or other communication authorised or required to be given by this Part of this Act may be sent by post (but this is without prejudice to any other method of transmission).

*Status: Point in time view as at 18/07/2018.*

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

#### **44 Meaning of “offshore installation”.**

- (1) In this Part of this Act, “offshore installation” means any installation which is or has been maintained, or is intended to be established, for the carrying on of any activity to which subsection (2) applies.
- (2) This subsection applies to any activity mentioned in subsection (3) which is carried on from, by means of or on an installation which is maintained in the water, or on the foreshore or other land intermittently covered with water, and is not connected with dry land by a permanent structure providing access at all times and for all purposes.
- (3) The activities referred to in subsection (2) are—
  - (a) the exploitation, or the exploration with a view to exploitation, of mineral resources in or under the shore or bed of relevant waters;
  - [<sup>F46</sup>(aa) the exploration of any place in, under or over relevant waters with a view to the storage of gas in such a place;
  - (ab) the conversion of any place in, under or over relevant waters for the purpose of storing gas;]
  - (b) the storage of gas [<sup>F47</sup>in, under or over] relevant waters or the recovery of gas so stored;
  - [<sup>F48</sup>(ba) the unloading of gas at any place in, under or over relevant waters;]
  - (c) the conveyance of things by means of a pipe, or system of pipes, constructed or placed on, in or under the shore or bed of relevant waters; and
  - (d) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity falling within [<sup>F49</sup>any of paragraphs (a) to (c)] or this paragraph.
- (4) In this Part of this Act, “relevant waters” means—
  - (a) tidal waters and parts of the sea in or adjacent to the United Kingdom up to the seaward limits of the territorial sea;
  - (b) waters in an area designated under section 1(7) of the <sup>M2</sup>Continental Shelf Act 1964; and
  - (c) such inland waters as may for the time being be specified for the purposes of this paragraph by Order in Council;but Her Majesty may by Order in Council provide that, in such cases and subject to such exceptions and modifications as may be prescribed by the Order, this Part of this Act shall have effect as if—
  - (i) any reference in this Part of this Act to relevant waters included a reference to waters in any area specified under section 10(8); and
  - (ii) in relation to an installation which is or has been maintained, or is intended to be established, in relevant waters, any reference in subsection (3) to relevant waters included a reference to waters in a foreign sector of the continental shelf which are adjacent to such waters.
- (5) For the purposes of this section—
  - [<sup>F50</sup>“gas” means gas within the meaning of section 2(4) of the Energy Act 2008;]
  - “inland waters” means waters within the United Kingdom other than tidal waters and parts of the sea;
  - “installation” includes—

*Status: Point in time view as at 18/07/2018.*

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

- (a) any floating structure or device maintained on a station by whatever means; and
- (b) in such cases and subject to such exceptions as may be prescribed by Order in Council, any apparatus or works which are by virtue of section 26 to be treated as associated with a pipe or system of pipes for the purposes of Part III of this Act,

but, subject to paragraph (b), does not include any part of a pipeline within the meaning of that section;

“modifications” includes additions, omissions and alterations.

- (6) The fact that an installation has been maintained for the carrying on of an activity falling within subsection (3) shall be disregarded for the purposes of this section if, since it was so maintained, the installation—
  - (a) has been outside relevant waters or, where it was so maintained in a part of a foreign sector of the continental shelf adjacent to those waters, the area consisting of those waters and that part; or
  - (b) has been maintained for the carrying on of an activity not falling within that subsection.
- (7) Any statutory instrument containing an Order under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F46** S. 44(3)(aa)(ab) inserted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 1 para. 11\(a\)](#); [S.I. 2009/2809](#), art. 2 (with art. 4)
- F47** Words in s. 44(3)(b) substituted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 1 para. 11\(b\)](#); [S.I. 2009/2809](#), art. 2 (with art. 4)
- F48** S. 44(3)(ba) inserted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 1 para. 11\(c\)](#); [S.I. 2009/2809](#), art. 2 (with art. 4)
- F49** Words in s. 44(3)(d) substituted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 1 para. 11\(d\)](#); [S.I. 2009/2809](#), art. 2 (with art. 4)
- F50** Words in s. 44(5) inserted (13.11.2009 for specified purposes) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 1 para. 11\(e\)](#); [S.I. 2009/2809](#), art. 2 (with art. 4)

#### Marginal Citations

- M2** 1964 c. 29.

## 45 Interpretation of Part IV.

In this Part of this Act—

“abandonment programme” has the meaning given by section 29;

“foreign sector of the continental shelf” has the meaning given by section 48(1);

“offshore installation” has the meaning given by section 44;

“relevant waters” has the meaning given by section 44(4);

“submarine pipeline” means a pipeline within the meaning of section 26 which is [<sup>F51</sup>, or is intended to be established,] in, under or over waters in—

- (a) the territorial sea adjacent to the United Kingdom; or
- (b) an area designated under section 1(7) of the <sup>M3</sup>Continental Shelf Act 1964.

*Status: Point in time view as at 18/07/2018.*

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

[<sup>F52</sup>but does not include any such pipeline which, by virtue of an order under subsection (2A) of section 24, is to be disregarded for the purposes of Part 3 of this Act (other than that subsection).]

#### Textual Amendments

- F51** Words in s. 45 inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), [Sch. 5 para. 11](#); S.I. 2009/45, art. 2(e)(iv)
- F52** Words in s. 45 inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 8](#) (with s. 111); S.I. 2010/298, art. 2, Sch. para. 10

#### Marginal Citations

- M3** 1964 c. 29.

### [<sup>F53</sup>45A Abandoned wells

- (1) This section applies in relation to a person who has drilled, or commenced drilling, a well in pursuance of a petroleum licence or a licence under section 4 of the Energy Act 2008 (gas storage and unloading licences).
- (2) The [<sup>F54</sup>appropriate authority] may give a notice requiring the person—
  - (a) to provide specified information relating to the person's financial affairs, or
  - (b) to supply copies of specified documents, or documents of a specified description, relating to those affairs.
- (3) A notice under subsection (2) must specify the time within which the information or documents must be provided.
- (4) Subsection (5) applies if—
  - (a) the person fails to provide information or documents required by such a notice within the period specified in the notice, or
  - (b) on receiving information or documents required by a notice under subsection (2) the [<sup>F55</sup>appropriate authority] is not satisfied that the person will be capable of plugging and abandoning the well.
- (5) Where this subsection applies the [<sup>F56</sup>appropriate authority] may give the person a notice, after consulting the Treasury, requiring the person to take the action specified in the notice within the time so specified.
- (6) The [<sup>F57</sup>appropriate authority] may not give a notice to a person under subsection (5) without first giving the person an opportunity to make written representations as to whether the notice should be given.
- (7) It is an offence for a person to fail to comply with a notice under subsection (2) or (5) unless it is proved that the person exercised due diligence to avoid the failure.
- (8) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (9) Section 41 (other than subsection (5)) applies in relation to prosecutions for offences under this section as it applies in relation to prosecutions for offences under Part 4.

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(10) In this section—

[<sup>F58</sup>“appropriate authority” means—

(a) in relation to a person who has drilled, or commenced drilling, a well in the Scottish onshore area in pursuance of a petroleum licence, the Scottish Ministers;

(b) otherwise, the OGA;]

“petroleum licence” means a licence under section 2 of the Petroleum (Production) Act 1934 or section 3 above;

[<sup>F59</sup>“Scottish onshore area” has the meaning given in section 8A(3);]

“well” includes a borehole.]

#### Textual Amendments

- F53** S. 45A inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#), ss. 75, 110(2); S.I. 2009/45, art. 2(b)(ii)
- F54** Words in s. 45A(2) substituted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(2)**
- F55** Words in s. 45A(4)(b) substituted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(2)**
- F56** Words in s. 45A(5) substituted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(2)**
- F57** Words in s. 45A(6) substituted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(2)**
- F58** Words in s. 45A(10) inserted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(3)(a)**
- F59** Words in s. 45A(10) inserted (18.7.2018) by [The Scotland Act 2016 and Wales Act 2017 \(Onshore Petroleum\) \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/797\)](#), regs. 1(2)(a), **2(3)(b)**



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**Changes to legislation:**

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