



# Energy Act 2008

## 2008 CHAPTER 32

### PART 4

#### PROVISIONS RELATING TO OIL AND GAS

##### *Third party access*

#### **78 Third party access to infrastructure**

- (1) In section 66(1) of the Pipe-lines Act 1962 (c. 58) (interpretation)—
- (a) in the definition of “gas processing operation”, omit “and” after paragraph (b) and after paragraph (c) insert—
    - “(d) separating, purifying, blending, odourising or compressing gas, for the purpose of—
      - (i) converting it into a form in which a purchaser is willing to accept delivery from a seller, or
      - (ii) enabling it to be loaded for conveyance to another place (whether inside or outside Great Britain); and
    - (e) loading gas—
      - (i) at a facility which carries out operations of a kind mentioned in paragraph (d), or
      - (ii) piped from such a facility,for the purpose of enabling the gas to be conveyed to another place (whether inside or outside Great Britain);”
  - (b) in the definition of “terminal”, omit “and” after paragraph (b) and after paragraph (c) insert “; and
    - (d) oil processing facilities (within the meaning given by section 81(8) of the Energy Act 2008);”
  - (c) in the definition of “upstream petroleum pipe-line” after paragraph (c) insert — “including all apparatus, works and services associated with the operation of such a pipe-line or network.”

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- (2) In section 12 of the Gas Act 1995 (c. 45) (rights to use gas processing facilities)—
- (a) in subsection (6), in the definition of “gas processing operation”, omit “and” at the end of paragraph (b) and after paragraph (c) insert—
    - “(d) separating, purifying, blending, odourising or compressing gas for the purpose of—
      - (i) converting it into a form in which a purchaser is willing to accept delivery from a seller, or
      - (ii) enabling it to be loaded for conveyance to another place (whether inside or outside Great Britain); and
    - (e) loading gas—
      - (i) at a facility which carries out operations of a kind mentioned in paragraph (d), or
      - (ii) piped from such a facility,
 for the purpose of enabling the gas to be conveyed to another place (whether inside or outside Great Britain);”, and
  - (b) for subsection (7) substitute—
    - “(7) For the purposes of this section “associate”, in relation to the owner of a gas processing facility, is to be construed in accordance with section 82 of the Energy Act 2008 (and for this purpose the reference in subsection (1) of that section to the owner of an oil processing facility is to be read as a reference to the owner of a gas processing facility).”
- (3) In section 26 of the Petroleum Act 1998 (c. 17) (meaning of “pipeline”)—
- (a) in subsection (1) for “any apparatus and works associated with such a pipe or system” substitute “all apparatus, works and services associated with the operation of such a pipe or system”, and
  - (b) omit subsection (2).
- (4) In section 28 of that Act (interpretation of Part 3)—
- (a) in the definition of “gas processing operation”, omit “and” after paragraph (b) and after paragraph (c) insert—
    - “(d) separating, purifying, blending, odourising or compressing gas, for the purpose of—
      - (i) converting it into a form in which a purchaser is willing to accept delivery from a seller, or
      - (ii) enabling it to be loaded for conveyance to another place (whether inside or outside Great Britain); and
    - (e) loading gas—
      - (i) at a facility which carries out operations of a kind mentioned in paragraph (d), or
      - (ii) piped from such a facility,
 for the purpose of enabling the gas to be conveyed to another place (whether inside or outside Great Britain);”,
  - (b) after the definition of “notice” insert—
    - ““oil processing facility” means any facility in Great Britain, the territorial sea adjacent to the United Kingdom or the sea in any

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area designated under section 1(7) of the Continental Shelf Act 1964 which carries out oil processing operations;

“oil processing operations” means any of the following operations—

- (a) initial blending and such other treatment of petroleum 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) receiving stabilised crude oil and other hydrocarbon liquids piped from an oil processing facility carrying out operations of a kind mentioned in paragraph (a), or storing oil or other hydrocarbon liquids so received, prior to their conveyance to another place (whether inside or outside Great Britain);
  - (c) loading stabilised crude oil and other hydrocarbon liquids piped from a facility carrying out operations of a kind mentioned in paragraph (a) or (b) for conveyance to another place (whether inside or outside Great Britain);”
- (c) in the definition of “terminal”, after paragraph (a) insert—  
“(aa) oil processing facilities;”.

#### Commencement Information

**II** S. 78 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(c\)](#)

## 79 Modification of pipelines

- (1) The Pipe-lines Act 1962 (c. 58) is amended as follows.
- (2) After section 10F (reducing necessity for constructing additional pipelines) insert—

### “10G Compulsory modifications of pipe-lines

- (1) In the case of an upstream petroleum pipe-line, the Secretary of State may, on the application of a person other than the owner, give a notice (a “pipe-line modification notice”) to the applicant and the owner.
- (2) The Secretary of State may give a pipe-line modification notice only if the Secretary of State is satisfied—
  - (a) that the capacity of the pipe-line can and should be increased by modifying the apparatus and works associated with the pipe-line, or
  - (b) that the pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the pipe-line.
- (3) A pipe-line modification notice must—
  - (a) specify the modifications which the Secretary of State thinks should be made,
  - (b) specify the sums, or the method of determining the sums, which the Secretary of State thinks should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications,

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- (c) require the applicant to make such arrangements as the Secretary of State thinks appropriate to secure that those sums will be paid to the owner if the owner carries out the modifications or satisfies the Secretary of State that they will be carried out,
  - (d) specify the period within which the applicant must make the arrangements mentioned in paragraph (c),
  - (e) require the owner, if the applicant makes the arrangements mentioned in paragraph (c) within the period specified under paragraph (d), to carry out the modifications within a period specified in the notice, and
  - (f) authorise the owner to recover the sums mentioned in paragraph (b) from the applicant if the works are carried out or the Secretary of State is satisfied that they will be carried out.
- (4) Before giving a pipe-line modification notice, the Secretary of State must give the owner of the pipe-line an opportunity to be heard.
- (5) References in this section to modifications include, in the case of apparatus and works, references to changes in, substitutions for and additions to the apparatus and works.
- (6) This section does not apply in relation to a pipe-line if and to the extent that section 14 of the Petroleum Act 1998 applies in relation to it.

### **10H Enforcement**

- (1) It is an offence for the owner of a pipe-line to contravene any provision of a pipe-line modification notice under section 10G in respect of the pipe-line.
- (2) A person guilty of the offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (3) It is a defence, in any proceedings for the offence, to prove that the accused exercised due diligence to comply with the provisions of the pipe-line modification notice.
- (4) Proceedings for the offence may not be instituted in England and Wales except—
- (a) by the Secretary of State or by a person authorised to do so by the Secretary of State, or
  - (b) by or with the consent of the Director of Public Prosecutions.
- (5) Where the offence is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and dealt with accordingly.
- (6) Where the affairs of a body corporate are managed by its members, subsection (5) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

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- (7) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity.”
- (3) In section 10E (third party access to upstream petroleum pipelines), in subsection (1) after “pipe-lines” insert “ (but does not apply to a pipe-line if and to the extent that section 14 of the Petroleum Act 1998 applies in relation to it) ”.
- (4) In section 10F (supplemental provision relating to third party access), after subsection (4) add—
- “(5) Before giving a notice under section 10G(1), the Secretary of State must give the person who applied for that notice—
- (a) particulars of the modifications which it is proposed to specify in the notice, and
  - (b) an opportunity to make applications under section 10E in respect of the pipeline;
- and section 10E and subsections (1) to (4) of this section have effect for this purpose as if references to a pipe-line were references to the pipe-line as it would be with those modifications.”

**Commencement Information**

**I2** S. 79 in force at 6.4.2009 by [S.I. 2009/45](#), [art. 4\(c\)](#)

**<sup>F1</sup>80 Third party access to oil processing facilities**

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**Textual Amendments**

**F1** S. 80-82 repealed (21.3.2012) by [Energy Act 2011 \(c. 16\)](#), s. 121(1), [Sch. 2 para. 17](#); [S.I. 2012/873](#), [art. 2\(b\)\(i\)](#) (with [art. 4](#))

**<sup>F1</sup>81 Directions under section 80: supplemental**

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**<sup>F1</sup>82 Meaning of “associate”**

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