



# Energy Act 2011

## 2011 CHAPTER 16

### PART 3

#### MEASURES FOR REDUCING CARBON EMISSIONS

##### *Decommissioning*

#### **106 Agreement about modifying decommissioning programme**

- (1) Section 46 of the Energy Act 2008 (approval of a decommissioning programme) is amended as follows.
- (2) After subsection (3) insert—
  - “(3A) When approving a programme the Secretary of State may agree to exercise, or not to exercise, the section 48 power—
    - (a) in a particular manner;
    - (b) within a particular period.
  - (3B) An agreement under subsection (3A) may subsequently be amended by the Secretary of State and the other party to the agreement.
  - (3C) The Secretary of State may not make such an agreement or amend such an agreement unless satisfied that the agreement (or the agreement as amended) includes adequate provision for the modification of the programme in the event that the provision made by it for the technical matters (including the financing of the designated technical matters) ceases to be prudent.
  - (3D) Provision in such an agreement (including the provision mentioned in subsection (3C)) may include provision—
    - (a) for a determination by a third party in relation to a relevant matter specified in the agreement, and
    - (b) for the Secretary of State to be bound by such a determination.

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*Status: This is the original version (as it was originally enacted).*

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- (3E) A “relevant matter” is a matter relating to the provision made by the programme for the technical matters.
  - (3F) Subsections (3A) to (3D) apply notwithstanding that the agreement or amendment fetters the Secretary of State’s discretion.
  - (3G) In subsection (3A) “section 48 power” means the power of the Secretary of State under section 48 to propose a modification of the programme or a modification of the conditions to which the approval of the programme is subject.”
- (3) In subsection (4) for “(3)” substitute “(3B)”.