



# Energy Act 2011

## 2011 CHAPTER 16

### PART 2

#### SECURITY OF ENERGY SUPPLIES

### CHAPTER 3

#### UPSTREAM PETROLEUM INFRASTRUCTURE

#### **88 Enforcement**

- (1) A person is guilty of an offence if, in circumstances falling within subsection (2), the person provides false information to the [F<sup>1</sup>OGA] for the purpose of—
  - (a) inducing the [F<sup>1</sup>OGA] to exercise or not to exercise any of the functions conferred on the [F<sup>1</sup>OGA] by sections 82 to 85; or
  - (b) inducing the [F<sup>1</sup>OGA] to exercise any of those functions in a particular way.
- (2) Those circumstances are that, at the time the information is provided, the person—
  - (a) knows or believes the information to be false; or
  - (b) is reckless as to whether or not it is false.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level five on the standard scale.
- (4) Proceedings for an offence under subsection (1) 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 an offence under subsection (1) is committed by a body corporate and it 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

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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2011, Section 88. (See end of Document for details)*

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body corporate) is guilty of the offence and is liable to be proceeded against and dealt with accordingly.

- (6) Where an offence under subsection (1) is committed by a Scottish partnership and it is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner of the partnership, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and dealt with accordingly.
- (7) The duty of a person to comply with a notice under subsection (11) of section 82 or subsection (2) of section 84 is a duty owed to any person who may be affected by a failure to comply with it.
- (8) Where a duty is owed by virtue of subsection (7) to any person, the duty may be enforced as if it were contained in a contract between that person and the person who owes the duty.
- (9) The duty of a person to comply with a notice under section 87 is enforceable by civil proceedings by the [F<sup>2</sup>OGA]—
- (a) for an injunction or interdict;
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
  - (c) for any other appropriate relief or remedy.
- (10) Civil proceedings under subsection (9) are to be brought—
- (a) in England and Wales, in the High Court, or
  - (b) in Scotland, in the Court of Session.
- (11) In this section—
- “officer”, in relation to a body corporate, means—
- (a) any director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person purporting to act in any such capacity;
- “partner”, in relation to a Scottish partnership, includes any person who was purporting to act as a partner in the partnership.
- (12) In subsection (11) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

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**Textual Amendments**

- F1** Words in s. 88(1) substituted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 1 para. 70\(2\)](#); [S.I. 2016/920](#), reg. 2(a)
- F2** Word in s. 88(9) substituted (1.10.2016) by [Energy Act 2016 \(c. 20\)](#), s. 84(3), [Sch. 1 para. 70\(3\)](#); [S.I. 2016/920](#), reg. 2(a)
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**Commencement Information**

- I1** S. 88 in force at 21.3.2012 by [S.I. 2012/873](#), [art. 2\(b\)\(i\)](#) (with art. 4)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2011, Section 88.