

SCHEDULE 3

Regulation 2(3)

AMENDMENTS TO PETROLEUM ACT 1998

1. In section 17C (application of section 17D to certain offshore gas storage facilities)—
 - (a) in subsection (1) for “offshore gas storage facilities other than exempt offshore gas storage facilities” substitute “an offshore gas storage facility unless, or except to the extent that, its capacity is exempt under this section”;
 - (b) in subsection (2) for “An owner” substitute “A person who is or expects to be an owner”;
 - (c) in subsection (2) for “for the facility” substitute “with respect to the facility”;
 - (d) after subsection (3)(b) insert—
 - “(c) so as to have effect—
 - (i) in the case of a facility other than a new facility, in relation to the whole of the capacity of the facility; or
 - (ii) in the case of a new facility, in relation to the whole of the capacity of the facility or any significant increase in the capacity of the facility.”;
 - (e) for subsection (5) substitute—

“(5) The Authority shall give an exemption with respect to a facility (other than a new facility) where it is satisfied that use of the facility by other persons is not necessary for the operation of an economically efficient gas market.

(5A) The Authority shall give an exemption with respect to a new facility where it is satisfied that either—

 - (a) use of the facility by other persons is not necessary for the operation of an economically efficient gas market; or
 - (b) the requirements of subsection (5C) are met.

(5B) In respect of a facility which is or is to be modified to provide for a significant increase in its capacity, an exemption by virtue of subsection (5A)(b) may only be given in relation to that increase in its capacity.

(5C) The requirements of this subsection are that—

 - (a) the facility or (as the case may be) the significant increase in its capacity will promote security of supply;
 - (b) the level of risk is such that the investment to construct the facility or (as the case may be) to modify the facility to provide for a significant increase in its capacity would not be or would not have been made without the exemption;
 - (c) the facility is or is to be owned by a person other than the gas transporter who operates or will operate the pipeline system connected or to be connected to the facility;
 - (d) charges will be levied on users of the facility or (as the case may be) the increase in its capacity;
 - (e) the exemption will not be detrimental to competition, the operation of an economically efficient gas market or the efficient functioning of the pipeline system connected or to be connected to the facility; and
 - (f) the Commission of the European Communities is or will be content with the exemption.

(5D) Subject to subsection (5E), an exemption may not be given by virtue of subsection (5A)(b) more than once in respect of the same facility.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5E) Subsection (5D) does not prevent a further exemption being given by virtue of subsection (5A)(b) in respect of a facility if—

- (a) the facility is or is to be modified to provide for a significant increase in its capacity
- (b) the exemption has effect only in relation to that increase in its capacity; and
- (c) no previous exemption has been given by virtue of subsection (5A)(b) in relation to that increase in its capacity.

(5F) The Authority shall publish its decision to give or refuse to give an exemption together with the reasons for its decision in such manner as it considers appropriate.”; and

(f) for subsection (6) substitute—

“(7) In this section and sections 17D and 17E—

- (a) “the Authority” means the Gas and Electricity Markets Authority;
- (b) “owner”, in relation to an offshore gas storage facility, includes any person occupying or having control of the facility.”

2. In section 17H(1) for “The duties in section 17B(6) and section 17D(7)” substitute “The obligation to comply with any notice under section 17D(11) and the obligation to comply with any duty in section 17B(6) or section 17D(7)”.

3. In section 28(1)—

(a) after the definition of “holder” insert—

““new facility” means—

- (a) an offshore gas storage facility the construction of which is or is to be completed after 3rd August 2003; or
- (b) an offshore gas storage facility the modification of which to provide for a significant increase in capacity is or is to be completed after 3rd August 2003”; and

(b) for the definition of “offshore gas storage facility” substitute—

““offshore gas storage facility” means a facility for the storage of gas in controlled waters other than the territorial sea of the United Kingdom adjacent to Northern Ireland;”.