

*Status: Point in time view as at 26/12/2023.*

*Changes to legislation: Marine and Coastal Access Act 2009, Part 2 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 8

#### LICENSING: MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 2

#### OTHER AMENDMENTS

*The Food and Environment Protection Act 1985 Electronic communications apparatus: operations in tidal waters etc*

5 In the Food and Environment Protection Act 1985 after section 8 (licences) insert—

**“8A Electronic communications apparatus: operations in tidal waters etc**

- (1) The Scottish Ministers must not issue a licence to carry out any operation which amounts to, or involves the exercise of, a right conferred by paragraph 11 of the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984 unless they are satisfied that adequate compensation arrangements have been made.
- (2) For the purposes of subsection (1) “adequate compensation arrangements” are adequate arrangements for compensating any persons—
  - (a) who appear to the Scottish Ministers to be owners of interests in the tidal water or lands on, under or over which the right is to be exercised,
  - (b) for any loss or damage sustained by those persons in consequence of the operation being carried out.”.

**Commencement Information**

**II** Sch. 8 para. 5 in force at 6.4.2011 by S.I. 2011/556, art. 3(2)(a)

*Electronic communications: emergency works*

- 6
- (1) Section 9 of the Food and Environment Protection Act 1985 (offences relating to the licensing system) is amended as follows.
  - (2) In subsection (1) (which is expressed to be subject to certain later subsections) in the words preceding paragraph (a), before “below” insert “ and (8) ”.
  - (3) After subsection (7) insert—

“(8) It shall be a defence for a person charged with an offence under subsection (1) in relation to any operation to prove that—

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- (a) for the purposes of paragraph 23 of the electronic communications code (undertaker's works), the person is the operator or a relevant undertaker, and
- (b) the activity was carried out for the purpose of executing emergency works, within the meaning of that code.

In this subsection “the electronic communications code” means the code set out in Schedule 2 to the Telecommunications Act 1984.”.

#### **Commencement Information**

**I2** Sch. 8 para. 6 in force at 6.4.2011 by S.I. 2011/556, art. 3(2)(a)

#### *The Petroleum Act 1998 Application of Part 3 in relation to submarine pipelines*

- 7 (1) Section 24 of the Petroleum Act 1998 (c. 17) (application of Part 3) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) If a pipeline—
- (a) is specified in an order made by the Secretary of State under this subsection, or
  - (b) is of a description so specified,
- the pipeline shall be disregarded for the purposes of this Part of this Act (other than this subsection) or shall be so disregarded while any specified condition is satisfied.”.
- (3) After subsection (3) insert—
- “(3A) The Secretary of State may by order provide that specified provisions of this Part of this Act shall apply, subject to such modifications (if any) as are specified, in relation to a controlled pipeline—
- (a) which is specified or of a specified description, and
  - (b) which meets the conditions in subsection (3B).
- (3B) The conditions are—
- (a) that the pipeline is used in connection with exploration for, or exploitation of, petroleum, or the importation of petroleum into the United Kingdom;
  - (b) that, by virtue of the date when construction of the pipeline was begun, section 14(1)(b) would not apply in relation to use of the pipeline but for an order under this subsection.”.

(4) In subsection (5) (negative resolution procedure) after “an order under subsection (2)” insert “, (2A) or (3A) ”.

(5) Any authorisation issued under section 14(1)(b) of the Petroleum Act 1998 (use of certain pipelines) continues to have effect notwithstanding the provisions of any order under section 24(2A) of that Act.

(6) Where an order under subsection (3A) of section 24 of the Petroleum Act 1998 (c. 17) comes into force in relation to a pipeline, the Secretary of State must grant an authorisation under section 14(1)(b) of that Act in respect of the conveyance, on and

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after the day on which the order comes into force, of any substances for which the pipeline was normally used before the coming into force of the order.

- (7) Sub-paragraph (6) is without prejudice to the provision that may be included in the authorisation with respect to information to be provided by the owner of the pipeline.

#### Commencement Information

- I3** Sch. 8 para. 7 partly in force; Sch. 8 para. 7 in force for specified purposes at Royal Assent see s. 324(1)(c)  
**I4** Sch. 8 para. 7 in force at 1.4.2010 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 10

#### *Exception of certain pipelines from being “submarine pipelines” for the purposes of Part 4*

- 8 (1) Section 45 of the Petroleum Act 1998 (interpretation of Part 4) is amended as follows.  
(2) In the definition of “submarine pipeline”, after the paragraphs, insert—

“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).”.

#### Commencement Information

- I5** Sch. 8 para. 8 in force at 1.4.2010 by S.I. 2010/298, art. 2, Sch. para. 10

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