

# ENERGY ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Sustainability and Renewable Energy Sources**

#### ***Chapter 3: Decommissioning of Offshore Installations***

#### ***Section 105: Requirement to prepare decommissioning programmes***

265. This section gives a discretionary power to the Secretary of State to impose an obligation on a person to submit a costed decommissioning programme before a renewable energy installation (or part of it) or a related electric line has been installed. The Secretary of State may impose this obligation on a person at any time after at least one of the relevant statutory consents has been granted (or has been applied for and is likely to be granted) so that arrangements for decommissioning are in place at an early stage. Equally the Secretary of State can also issue a notice requiring a decommissioning programme to be submitted at subsequent stages in the life cycle of these assets. This section works in conjunction with section 112 which makes it an offence for a person not to inform the Secretary of State when he becomes responsible for these assets.
266. The decommissioning programme may be accompanied by details of the security arrangements, whether financial or otherwise, which the recipient of the notice proposes to put in place to ensure that funds are available to carry out the decommissioning programme. A non-exhaustive list of things that will constitute security for this purpose is given at section 114(2).

#### ***Sections 106 and 107: Approval of decommissioning programmes and failure to submit or rejection of decommissioning programmes***

267. These sections set out a process for the approval of decommissioning programmes by the Secretary of State and provide for situations where either the person responsible for submitting the programme fails to do so or the programme which is submitted is considered by the Secretary of State to be inadequate and is rejected. In these latter two cases the Secretary of State has the power to prepare himself a suitable decommissioning programme and recover costs from the responsible person.

#### ***Section 108: Reviews and revisions of decommissioning programmes***

268. Subsection (1) sets out the Secretary of State's duty to review approved decommissioning programmes from time to time. Subsections (2) to (9) set out the process for dealing with modification of decommissioning programmes and the transfer of ownership of renewable energy installations or related electric lines. The process can be initiated either by the Secretary of State or the person who has the duty to carry out the decommissioning programme. Again the powers in the section are supplemented by the requirement at section 112 to inform the Secretary of State where a person becomes responsible for a renewable energy installation or related electrical lines.

***Section 109: Carrying out of decommissioning programmes and section 110:  
Default in carrying out decommissioning programmes***

269. In the normal course of events these sections come into play when the renewable energy installation or related electric line is ready to be decommissioned. In most cases decommissioning will take place many years after the initial decommissioning programme was drawn up. Section 110 sets out a process to cover such situations where either the decommissioning does not take place or is not in accordance with the approved programme. These sections also provide sanctions if a condition relating to decommissioning, such as the obligation to maintain the required security, is breached before the decommissioning stage actually commences.