



# Energy Act 2008

## 2008 CHAPTER 32

### PART 4

#### PROVISIONS RELATING TO OIL AND GAS

##### *Third party access*

#### **82 Meaning of “associate”**

- (1) For the purposes of section 80(9) a person is an associate of the owner of an oil processing facility if—
  - (a) either or both of them is a body corporate, and
  - (b) one of them controls the other, or both are controlled by the same person or persons,and subsections (2) to (6) set out the circumstances in which one person (“A”) controls another (“B”).
- (2) Where B is a company, A controls B if A possesses or is entitled to acquire—
  - (a) one half or more of the issued share capital of B,
  - (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B,
  - (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
  - (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive one half or more of the assets of B which would then be available for distribution among the shareholders.
- (3) Where B is a limited liability partnership, A controls B if A—
  - (a) holds a majority of the voting rights in B,
  - (b) is a member of B and has a right to appoint or remove a majority of other members, or

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*Status: This is the original version (as it was originally enacted).*

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- (c) is a member of B and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in B.
- (4) In subsection (3)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.
- (5) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A’s wishes.
- (6) In determining whether, by virtue of subsections (2) to (5), A controls B, A shall be taken to possess—
  - (a) any rights and powers possessed by a person as nominee for it, and
  - (b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).