

# ENERGY ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Measures for Reducing Carbon Emissions**

##### ***Section 107: Abandonment: infrastructure converted for CCS demonstration projects***

299. *Subsection (1)* provides for the Energy Act 2008 to be amended as described at *subsections (2) to (5)*. *Subsection (2)* inserts two new sections – sections 30A and 30B - into the Energy Act 2008. The new sections 30A(1) and 30B(1) provide the Secretary of State with a discretionary power to designate offshore installations and pipelines.
300. Section 30A(2) provides that the Secretary of State may not make a designation order under section 30A(1) in relation to an installation licensed by Scottish Ministers or located in Scotland. Section 30A(3) provides that, if a designated installation becomes an installation that is licensed by the Scottish Ministers, the designation order ceases to have effect.
301. Sections 30A(4) and 30B(2) provide that designated installations and pipelines qualify for change of use relief if they have been used as part of a CCS demonstration project and the trigger event occurs during the time they were used in that way.
302. Sections 30A(5) and 30B(3) define the trigger event by reference to the point at which captured carbon dioxide is first present at installations or pipelines used in a particular CCS demonstration project. Captured carbon dioxide is defined in section 30A(12) and 30B(7).
303. Sections 30A(6) and 30B(4) set out the consequences where an installation or pipeline has been designated and the trigger event has happened. Section 30A(6)(a) provides that a notice under s.29(1) of the Petroleum Act 1998 (requiring the submission of an abandonment programme for an installation) cannot be served on a person if the only basis for serving such a notice is that one or more of subsections (7) to (9) applies to that person. Sections 30A(6)(b) and 30B(4) provide that a decommissioning obligation may not be imposed under s.34 of the Petroleum Act 1998 on a person if the only basis for proposing such a person for decommissioning obligations is that one or more of sections 30A(7) to (10) or 30B(5) (respectively) apply to that person. This does not prevent an organisation that could have been made liable for decommissioning of a facility when used for oil and gas, also being made liable for decommissioning when it is used for carbon dioxide storage, if a decommissioning obligation could be imposed on it on another basis.
304. Sections 30A(11) and 30B(6) provide that the power to make a designation order does not include a power to revoke it (such a power would otherwise be implied pursuant to section 14 of the Interpretation Act 1978). However, a designation order will only have effect to qualify an installation or pipeline for change of use relief if it is used as part of a CCS demonstration projects and once the trigger event has taken place.

*These notes refer to the Energy Act 2011 (c.16)  
which received Royal Assent on 18 October 2011*

305. *Subsection (5)* revises section 105(2) of the Energy Act 2008 with the effect that the Secretary of State will be able to make a designation order under subsections 30A (1) and 30B (1) without a further parliamentary process.