

*Status: Point in time view as at 12/07/2016. This version of this schedule contains provisions that are not valid for this point in time.*  
*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2016, SCHEDULE 2. (See end of Document for details)*

VALID FROM 01/10/2016

## SCHEDULES

### SCHEDULE 2

Section 72

#### ABANDONMENT OF OFFSHORE INSTALLATIONS

##### *Petroleum Act 1998*

1 Part 4 of the Petroleum Act 1998 (abandonment of offshore installations) is amended as follows.

2 Before section 29 insert—

##### **Restriction on abandonment**

“28A(1) A person to whom a notice may be given under section 29(1) in relation to an offshore installation or submarine pipeline may not abandon, or begin or continue the decommissioning of, the installation or pipeline unless an abandonment programme approved by the Secretary of State has effect in relation to the installation or pipeline.

(2) A person who without reasonable excuse contravenes subsection (1) is guilty of an offence.”

3 (1) Section 29 (preparation of programmes) is amended as follows.

(2) After subsection (1) insert—

“(1A) The power to give a notice under subsection (1) is exercisable—

- (a) on the Secretary of State's own motion, or
- (b) at the request of any person to whom the notice may be given (whether or not the notice is given to that person).”

(3) After subsection (2) insert—

“(2A) A person to whom a notice under subsection (1) is given—

- (a) must consult the OGA before submitting the abandonment programme to the Secretary of State, and
- (b) must frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.

(2B) When consulted under paragraph (a) of subsection (2A) the OGA must (in particular) consider and advise on—

- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and

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- (b) how to comply with paragraph (b) of that subsection.”
- (4) In subsection (3), after “such” insert “ other ”.
- 4 (1) Section 32 (approval of programmes) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The modifications or conditions may (in particular) include modifications or conditions—
- (a) which are intended (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) to reduce the total cost of carrying out the programme, provided that they do not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme;
- (b) requiring the persons who submitted the programme to carry out and publish or make available to the Secretary of State and the OGA a review of the programme and its implementation including, where relevant, recommendations as to the contents and implementation of future abandonment programmes.”
- (3) At the end insert—
- “(6) Before reaching a decision under this section the Secretary of State must—
- (a) consult the OGA, and
- (b) take into account the cost of carrying out the programme that has been submitted and whether it is possible to reduce that cost by modifying the programme or making it subject to conditions.
- (7) When consulted under subsection (6)(a), the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
- (b) whether section 29(2A)(b) has been complied with and, if it has not been, modifications or conditions that would enable it to be complied with.”
- 5 In section 33 (failure to submit programme), after subsection (3) insert—
- “(3A) When preparing an abandonment programme under this section the Secretary of State must—
- (a) consult the OGA, and
- (b) frame the programme so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying it out is kept to the minimum that is reasonably practicable in the circumstances.
- (3B) When consulted under paragraph (a) of subsection (3A), the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and

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- (b) how to comply with the requirement in paragraph (b) of that subsection.”
- 6 (1) Section 34 (revision of programmes) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) A person who makes a proposal under subsection (1) that is likely to have an effect on the cost of carrying out the programme must frame it so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be altered is kept to the minimum that is reasonably practicable in the circumstances.
- (4B) Where the Secretary of State makes a proposal under subsection (1)(a) the purpose of which is to reduce the total cost of carrying out a programme, the proposal may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.”
- (3) After subsection (7) insert—
- “(7A) If it appears to the Secretary of State that what is proposed under subsection (1) is likely to have an effect on the cost of carrying out the programme, the Secretary of State must, before making a determination under subsection (7)—
- (a) consult the OGA, and
- (b) take that effect into account.
- (7B) When consulted under subsection (7A)(a) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
- (b) whether subsection (4A) applies and, if so, whether it has been complied with.”
- 7 After section 34 insert—
- “34A Amendment of programmes**
- (1) This section applies where an abandonment programme approved by the Secretary of State includes provision by virtue of which the programme may be amended.
- (2) A person who proposes to make an amendment under such a provision that is likely to have an effect on the cost of carrying out the programme must frame the amendment so as to ensure (whether by means of the timing of the measures proposed, the inclusion of provision for collaboration with other persons, or otherwise) that the cost of carrying out the programme as proposed to be amended is kept to the minimum that is reasonably practicable in the circumstances.
- (3) If it appears to the person who proposes to make the amendment that subsection (2) applies, the person must consult the OGA before making the amendment.

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- (4) When consulted under subsection (3) the OGA must (in particular) consider and advise on—
- (a) alternatives to abandoning or decommissioning the installation or pipeline, such as re-using or preserving it, and
  - (b) whether subsection (2) applies and, if so, whether it has been complied with.
- (5) Any person who has the function of approving amendments made under a provision mentioned in subsection (1) must, when exercising the function, take into account the effect of the proposed amendment on the cost of carrying out the programme.”

8 After section 36 insert—

**“36A Reduction of costs of carrying out programmes**

- (1) This section applies where an abandonment programme approved by the Secretary of State has effect in relation to an installation or pipeline.
- (2) The Secretary of State may, for the purpose of reducing the total cost of carrying out the programme, by written notice require any person who submitted the programme to take, or refrain from taking, action of a description specified in the notice.
- (3) The notice may, in particular, require—
  - (a) changes to the times at which the measures proposed in the programme are to be carried out;
  - (b) the persons who are under a duty to secure that the programme is carried out to collaborate with other persons.
- (4) The programme, and any condition to which it is subject, has effect subject to any notice given under this section.
- (5) A notice given under this section may not increase the total costs to be met by any person who is to be subject to obligations under the programme or under any other abandonment programme.
- (6) The Secretary of State may not give a notice to a person under this section without first giving the person an opportunity to make written representation as to whether the notice should be given.
- (7) A person to whom a notice is given under this section who without reasonable excuse fails to comply with the notice is guilty of an offence.
- (8) If a notice under this section is not complied with, the Secretary of State may—
  - (a) do anything necessary to give effect to the notice, and
  - (b) recover from the person to whom the notice was given any expenditure incurred under paragraph (a).
- (9) A person liable to pay any sum to the Secretary of State by virtue of subsection (8) must also pay interest on that sum for the period beginning with the day on which the Secretary of State notified the person of the sum payable and ending with the date of payment.

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- (10) The rate of interest payable in accordance with subsection (9) is a rate determined by the Secretary of State as comparable with commercial rates.”
- 9 In section 37 (default in carrying out programmes), after subsection (1) insert—
- “(1A) If it appears to the Secretary of State that the proposed remedial action is likely to have an effect on the cost of carrying out the programme, the Secretary of State must—
- (a) consult the OGA before giving a notice under subsection (1), and
- (b) take that effect into account when deciding whether to give the notice.
- (1B) When consulted under subsection (1A)(a), the OGA must consider and advise on the likely effect of the proposed remedial action on the cost of carrying out the programme.”
- 10 In section 40 (offences: penalties)—
- (a) after “section” insert “ 28A, ”, and
- (b) after “33,” insert “ 36A, ”.
- 11 (1) Section 41 (offences: general) is amended as follows.
- (2) In subsection (1)—
- (a) after “section” insert “ 28A, ”, and
- (b) after “33,” insert “ 36A, ”.
- (3) In subsection (2)—
- (a) after “section” insert “ 28A, ”, and
- (b) after “33,” insert “ 36A, ”.
- (4) In subsection (3)—
- (a) after “section” insert “ 28A, ”, and
- (b) after “33,” insert “ 36A, ”.
- (5) In subsection (5), after “section” insert “ 28A, 36A or ”.
- 12 (1) Section 42 (validity of Secretary of State's acts) is amended as follows.
- (2) In subsection (2), after paragraph (e) insert—
- “(ea) the giving of a notice under section 36A(2);”.
- (3) In subsection (5), after paragraph (e) insert—
- “(ea) in relation to the giving of a notice under section 36A(2), means the requirements of section 36A(6);”.
- Energy Act 2008*
- 13 (1) Section 30 of the Energy Act 2008 (abandonment of carbon storage installations) is amended as follows.
- (2) In subsection (1), after “subsections” insert “ (1A), ”.
- (3) After that subsection insert—

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“(1A) For the purposes of subsection (1), the amendments made to Part 4 of the 1998 Act by Schedule 2 to the Energy Act 2016 are to be disregarded.”

(4) For subsection (4A) substitute—

“(4A) The power in subsection (4)—

- (a) may (in particular) be exercised to make modifications corresponding to the amendments made by Schedule 2 to the Energy Act 2016, and
- (b) is subject to section 30A.”

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