

PETROLEUM LAW GUIDE 1984

**A Guide to Sources for
Directors, Managers, Planners
and Designers**

W.P. WINSTON

APPLIED SCIENCE PUBLISHERS

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Managers, Planners and Designers

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INTRODUCTION

This book is in four parts:

Part 1—Law

Part 2—Acts of Parliament

Part 3—Statutory Instruments

Part 4—Statutory Licence Requirements.

Anyone engaged in planning, constructing or operating an installation, whether offshore or onshore, will meet the law in some form. The siting, design, construction and operation of an installation are controlled by the law. Also installations require various authorisations from public bodies. For convenience in this book such authorisations are described by the generic term of 'licence'. Obtaining a licence involves making an application in the correct form. Obtaining and assembling data for a licence application can be a task requiring some months to execute. The public body may require time to evaluate the application. In addition there may be a statutory process which must be observed, such as advertising the proposed works for a prescribed period. This book has been written as a guide to where the law may be found for those engaged in such work.

This book has not been written by a lawyer and is not intended to be used by students of law for whom there are textbooks and reference books. Should a point of law arise, that is there is uncertainty about what the law requires in a particular instance, it is recommended that reference be made to the original documents

such as the appropriate Act of Parliament. It is suggested that readers will find it useful to obtain copies of Acts of Parliament, statutory instruments and codes of practice which are relevant to their particular fields of activity. While care has been taken to avoid errors and to give up-to-date information, neither the author nor the publisher accepts responsibility for any errors or omissions. Further, it should be remembered that detailed requirements such as are given in statutory instruments and codes of practice may be changed at very short notice.

Part 1 of this book is about law. Law is introduced starting with statute law and leading on to statutory instruments and other forms of law such as codes of practice and licences. Mention is also made of international law and government administration. The court system is not reviewed since normally planning, construction and operating issues do not reach the courts. Arbitration may arise but it is not peculiar to the gas and oil industries.

Details of selected Acts of Parliament are given in Part 2. Thus Part 2 sets out where the law may be found. Acts are listed chronologically and under their short titles. The full titles of Acts are given since often this is a useful guide to the contents of an Act. Where appropriate, notes have been added on the application of the Act, in particular with reference to the planning, construction and operation of gas and oil installations.

Details of selected statutory instruments are given in Part 3. Statutory instruments are grouped under subject headings and are listed by number and title. The details given are intended to act as a guide as to whether a particular statutory instrument is likely to be of interest. Thus amendments to a statutory instrument are listed under that instrument. If a particular requirement is modified which has no bearing on the matter in hand, it will not then be necessary to obtain a copy of the amending statutory instrument.

In Part 4 are set out some of the commoner licences required for gas and oil installations offshore and onshore, together with details of law and procedures. As already mentioned, the term 'licence' is used in this book as a generic term covering all forms of authorisation.

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Part 1 LAW

STATUTE LAW

Acts of Parliament are always referred to by their short titles. At the head of an Act there is a full title. The full title of the Pipe-lines Act 1962 is:

‘An Act to regulate and facilitate the construction, and secure the safe operation, of pipe-lines and make provision for matters arising thereout; and to provide that certain pipe-lines shall be plant or machinery for the purposes of the enactments relating to rating in England and Wales.’

This title illustrates three common features of law, namely to regulate, to facilitate, and to provide for associated matters. In the Pipe-lines Act 1962 the regulatory feature is found at the outset. Section 1 requires a ‘pipe-line construction authorisation’ to be obtained for a cross-country pipeline. Schedule 1 of the Act gives the procedure for obtaining an authorisation. This regulatory feature of the Act goes further and Sections 9 and 10 provide for the joint use of a pipeline to avoid superfluous pipelines.

The Act also makes provision for facilitating construction of pipelines. For instance, there are provisions for the compulsory acquisition of land, and the compulsory acquisition of rights over land to construct a pipeline, and for laying a pipeline in a street or road. Without these provisions a person seeking to lay a cross-country pipeline might find it necessary to go to Parliament to secure

an authorising Act for the particular pipeline. The Act also deals with other matters. Thus Section 37 sets out the organisations which must be informed if there is a leak.

Statute law consists of Acts of Parliament. An Act is initiated as a Bill. A Bill becomes an Act, that is becomes statute law, when it has been passed by the House of Commons and the House of Lords and has received Royal Assent. During the passage of a Bill it is usual for its wording to be examined in detail and significant changes may be made. Hence it is unsafe to rely on the text of a Bill as a reference for the provisions in the subsequent Act. Reference should always be made to the Act. Copies of Bills and Acts may be obtained from HM Stationery Office.

An Act when passed is statute law. An Act does not necessarily come into operation, that is into force, on being passed. To discover if an Act is in operation, or when it will come into operation, it is necessary to examine its text. Thus Section 41 of the Pipe-lines Act 1962 came into operation on the passing of the Act. The remainder of the Act came into operation 'on such day as her Majesty may by Order in Council approve', which was 1st January 1963. The text of an Act may provide for its provisions to be brought into operation on different dates and these dates may vary from one part of the country to another. It is possible for an Act, or a provision in an Act, never to be brought into operation.

The regulatory powers granted in an Act need not be exercised unless it is mandatory to do so. Thus an Act may authorise the making of regulations or rules; it does not necessarily follow that any regulations or rules have been made. Alternatively there may be no cause to exercise available powers. Thus the Petroleum (Consolidation) Act 1928 gives a local government authority the power to refuse to license a petrol filling station on a site judged to be unsuitable. Today it is unlikely that this power would be exercised as subsequent legislation makes it necessary to obtain planning permission for such a development. If the site were judged unsuitable today, planning permission would be refused.

Parliament may legislate for the United Kingdom and to some extent for other countries. To determine where an Act applies it is necessary to examine its text. The Town and Country Planning Act

1971 applies to England and Wales. There is a similar Act for Scotland: the Town and Country Planning (Scotland) Act 1972. The Harbours Act 1964 applies to Great Britain, which is England, Scotland and Wales. The Petroleum and Submarine Pipe-lines Act 1975 applies to the United Kingdom, which is England, Northern Ireland, Scotland and Wales (but some provisions of the Act do not apply in Northern Ireland). The Dumping at Sea Act 1974 makes it an offence to dump anywhere from a British ship without a licence. The Channel Islands and the Isle of Man have special status. This book is generally confined to law in Great Britain, which is England, Scotland and Wales and the associated part of the continental shelf.

The short title by which an Act is known is cited in the Act. Necessarily the short title may not be informative. At the head of an Act is a full title which is informative. Thus the full title of the Offshore Petroleum Development (Scotland) Act 1975 is:

‘An Act to provide for the acquisition by the Secretary of State of land in Scotland for purposes relating to exploration for and exploitation of offshore petroleum; to enable the Secretary of State to carry out works and facilitate operations for those purposes; to regulate such operations in certain sea areas; to provide for the reinstatement of land used for those purposes; and for purposes connected with those matters.’

The full title of an Act is a useful guide to what it embraces. The full title does not indicate exemptions from the Act. Thus the full title of the Pipe-lines Act 1962 does not disclose that in general it applies in practice only to gas and oil pipelines. To discover such details the Act must be read.

An Act may be repealed in whole or in part or it may be amended. Amendment may be achieved by a subsequent Act of similar title. The Building (Scotland) Act 1970 amends the Building (Scotland) Act 1959. More usually repeal or amendment is secured by an Act of different title. Thus the Energy Act 1976 repeals Section 9 of the Continental Shelf Act 1964. The connection is that Section 9 relates to natural gas. For some of the commoner Acts encyclopaedias are published. These are loose-leaf books and the publishers at intervals issue updating sheets for amendments and repeals. These encyclo-

paedias also include statutory instruments.

Acts are classified as 'public general' and 'local and personal'. The difference between the two classes may be seen by comparing the preambles to Acts. The Prevention of Oil Pollution Act 1971 is a public general Act and its preamble is:

'Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—'

By way of comparison the Orkney County Council Act 1974 is a local Act. In the preamble to the Act are set out the reasons for seeking powers. The preamble then ends with the words:

'May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—'

The powers sought by the county council and granted in the Act are summarised in the title of the Act, which is:

'An Act to authorise the county council of the county of Orkney to exercise harbour jurisdiction and powers in respect of development, including powers to license the construction of works and dredging, in certain areas of and adjacent to the county, and in connection therewith to acquire lands compulsorily; and for other purposes.'

It will be seen that this Act gives the county council regulatory powers over industrial development, and also powers to facilitate such development. This Act also illustrates another feature of law. Shortly after the passing of the Act the Orkney County Council was superseded by the Orkney Islands Council as part of the reorganisation of local government throughout Great Britain (except London) which took place at about this time. This did not invalidate the Orkney County Council Act 1974; its powers devolved on to the Orkney Islands Council.

Copies of both public general Acts and local and personal Acts may be obtained from HM Stationery Office. However, only public general Acts are included in the bound volumes of statute law published annually by HM Stationery Office. Similarly published tables of Acts, as for instance in *Index to Government Orders* also published by HM Stationery Office, may not include local and personal Acts. Hence to discover if there is a local Act relevant to a particular project it may be necessary to make inquiries locally.

Industrial legislation may involve considerable administrative and technical detail. Depending on the amount of detail it may be found:

- in the Act;
- in a schedule or schedules to the Act;
- in statutory instruments or byelaws;
- in design/equipment/operating specifications.

To illustrate: works which obstruct or may obstruct navigation require consent under the Coast Protection Act 1949. Such procedure as there is for obtaining consent is given in the Act. The construction of an offshore pipeline requires consent under the Petroleum and Submarine Pipe-lines Act 1975. The procedure is in the Act and Schedule 4 to the Act. The Merchant Shipping Act 1974 provides for the registration of submersible craft. The regulations for registration are in Statutory Instrument 1976 No. 940 The Merchant Shipping (Registration of Submersible Craft) Regulations 1976. Statutory Instrument 1980 No. 1965 The Air Navigation Order 1980 provides for the licensing of aerodromes (landing-grounds, airstrips, runways, etc.). Licensing is by the Civil Aviation Authority and its requirements are in its publication 'Licensing of Aerodromes Cap 168'.

STATUTORY INSTRUMENTS AND BYELAWS

Statutory instruments and byelaws are termed 'subordinate legislation'. They are made under powers granted by statute law and hence are enforceable in the same way as statute law. A statutory

instrument may be termed an order, regulations or rules depending on its purpose. Byelaws may be made under the authority of a public general Act, but more usually are made under a local Act.

A statutory instrument (SI) is identified by the year in which it is made (it may come into operation in the next year), a serial number within the year, and its title. It is the practice to give SIs subject headings. These are used for grouping SIs. The title of an SI is specified in its text and groups of SIs may be given group titles. SIs may be amended, replaced or revoked. This is usually done by an SI of similar title. The titles of SIs together with amendments are published in *Table of Government Orders* (HM Stationery Office). The SIs are listed in serial order and those which have been revoked or replaced are identified. These revoked SIs may still apply to agreements reached or to works authorised prior to later SIs coming into operation. This can be established only by examination of the text of the SI in question. Current SIs are listed by subject in *Index to Government Orders* (HM Stationery Office). This publication also contains a list of Acts.

Byelaws are made by local bodies such as local government authorities or a harbour board. They are of local application. To obtain a copy it is usual to apply to the authority which made them. An alternative to byelaws is an order made by the Secretary of State in the form of an SI on behalf of the local body. Such byelaws and SIs of local application are not included in the HM Stationery Office publications *Table of Government Orders* and *Index to Government Orders*.

The provisions in an SI relating to the design or equipment of some work must be observed unless the wording of the SI allows latitude. This feature of an SI acts to inhibit adoption of developments in technology. To meet this contingency, an SI may contain an escape clause on the lines of ‘. . . may allow the . . . to be constructed in other manner provided such other construction is at least as effective as that required by these rules’. If there is no escape clause in an SI it may be found in the Act empowering the making of the SI. Such an escape clause allows a designer to propose an alternative and the enforcing authority to consider the proposal. It should be remembered that the wording of the escape clause may

require what is proposed to be at least as effective. For example, it may be necessary to show that there will be no reduction in the standard of safety. The onus is on the proposer to demonstrate that what is proposed is at least as effective.

DESIGN/EQUIPMENT/OPERATING SPECIFICATIONS

The description 'design/equipment/operating specifications' embraces a wide range of documents which act as codes of practice or specifications. They may be published in book or pamphlet form. Alternatively they may be published in loose-leaf form and the issuing authority may issue revisions in page form as required. In gas and oil work, codes of practice and specifications are issued in particular by:

United Kingdom:

British Standards Institution (BSI)

Institute of Petroleum (IP)

USA

American National Standards Institute (ANSI)

American Petroleum Institute (API)

Codes of practice and specifications are issued by other bodies. There is, for example, Health and Safety Executive Guidance Note CS 5, 'The storage of LPG at fixed installations'.

Codes of practice and specifications are not of themselves requirements of the law. They become so when written into the requirements of a statutory instrument or licence (see below).

LICENCES

By 'licence' is meant an authorisation in writing. Acts, statutory instruments and design/equipment/operating specifications are of general application. They apply nationwide, or at least to a part of the country. A licence is specific to a particular work. For example, a licence is required for a radio beacon for aeronautical purposes. The

licence specifies the station identification signal as one would expect.

The conditions attached to a licence may be of the nature of a code of practice or specification. For example, a pipeline authorisation can be expected to confirm the design specification. Alternatively the conditions may be of a more general nature. Thus a planning permission may contain conditions governing the construction, subsequent operation and, finally, the removal of an installation when it is no longer required.

Before a licence is issued the licensing authority may give the applicant a draft of the conditions it is proposing to apply together with an opportunity to comment. For example, a draft condition attached to a planning permission for an oil installation may be that it shall be painted a dark colour. It is usual to paint refrigerated tanks and pipelines a light colour to minimise heat absorption. Hence if such a condition were proposed for an installation containing refrigerated plant it could be contested, but probably only for the refrigerated part of the installation.

It may be that the conditions that a licensing authority proposes to attach to a licence appear unreasonable. There are various grounds for contesting such discretionary conditions. There may be technological grounds. The case in the previous paragraph of the painting of refrigerated installations illustrates these grounds of appeal. The authority to license derives from an Act. Hence a licence condition must lie within the purpose of the Act. This requirement may serve to exclude irrelevant conditions. It is suggested that a condition must be technically feasible. Also it is suggested that a condition must not be unreasonably burdensome, for example add unreasonably to the cost of works.

INFORMATION SHEETS

Various information sheets are published by government authorities. They serve to draw attention in simple language to changes in the law, and to other matters of interest such as safe working practices and particular hazards. There are two series in particular for offshore work, namely Continental Shelf Operating Notices (CSOs) and Diving Safety Memoranda (DSMs).